

8213971

8213971
04/24/2002 01:22 PM NO FEE
Book - 8590 Pg - 5905-5912
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
GRANGER-HUNTER IMP. DISTRICT
PO BOX 701110
WVC UT 84170
BY: TAS, DEPUTY - WI 8 P.

WHEN RECORDED, RETURN TO:

D. Brent Rose, Esq.
Clyde Snow Sessions & Swenson, P.C.
One Utah Center, Suite 1300
201 South Main Street
Salt Lake City, Utah 84111-2216

**ACKNOWLEDGMENT AND RELEASE
(RIVERSIDE MOBILE HOME PARK)**

THIS ACKNOWLEDGMENT AND RELEASE is made effective as of this 23rd
day of April, 2002, by and between the GRANGER-HUNTER
IMPROVEMENT DISTRICT, a body politic of the State of Utah (the "District"),
DEVELOPMENT WEST, INC., a corporation licensed to do business in the State of Utah
("Development West"), and RIVERSIDE MHP, LLC, a Utah limited liability company
("Riverside"). (Development West and Riverside are sometimes referred to herein collectively as
the "Developer"). (The District, Development West and Riverside are sometimes referred to
herein individually as a "Party" and collectively as the "Parties.")

RECITALS

A. Development West has constructed a sewer system, including a certain sewer pump
station consisting of a wet pit/dry pit-type sewer lift station including a concrete base slab, wet
well, pumping system and related equipment and facilities (the "Lift Station"), in connection with
the development of the sanitary sewer system for the Riverside Mobile Home Park (the "Park"), a
real estate project developed by Development West on land within the boundaries of the District
in Salt Lake County, Utah, being more particularly described as follows:

8K8590PG5905

Beginning at a point North 00°02'28" West 781.39 feet and South 89°59'10" East 722.09 feet from the west quarter corner of Section 35, Township 1 South, Range 1 West, Salt Lake Base and Meridian and running thence North 89°59'10" West 232.305 feet to the east line of a Utah Power & Light corridor; thence North 30°48'00" West 10.801 feet to the center of a canal; thence North 51.863 feet along said canal to a curve; thence Northerly 79.171 feet along a curve to the right, center bears East with a central angle of 20°10'50" and a radius of 224.78 feet along said canal; thence North 20°10'50" East 56.41 feet along said canal to a curve; thence Northerly 76.828 feet along a curve to the left, center bears North 69°49'10" West with a central angle of 39°21'50" and a radius of 111.823 feet along said canal; thence North 19°11'00" West 178.00 feet along said canal to a curve; thence Northerly 59.703 feet along a curve to the right, center bears North 70°49'00" East with a central angle of 13°57'00" and a radius of 245.215 feet along said canal; thence North 05°14'00" West 19.00 feet along said canal to a curve; thence Northerly 69.336 feet along a curve to the left, center bears South 84°46'00" West with a central angle of 19°19'00" and a radius of 205.659 feet along said canal; thence North 24°33'00" West 62.00 feet along said canal to a curve; thence Northerly 99.486 feet along a curve to the left, center bears South 65°27'00" West with a central angle of 14°13'35" and a radius of 400.672 feet along said canal; thence North 38°46'35" West 203.144 feet along said canal to the East right-of-way line of 1300 West Street which is also a point on a curve; thence Northeasterly 215.588 feet along a curve to the right, center bears South 62°36'00" East with a central angle of 07°35'23" and a radius of 1627.502 feet along said East right-of-way; thence Northeasterly 67.747 feet along a curve to the right, center bears South 55°00'37" East with a central angle of 02°23'06" and a radius of 1627.502 feet along said East right-of-way to a fence; thence South 44°58'47" East 477.687 feet along a fence; thence South 46°45'50" East 14.057 feet to a point 5.00 feet South of a fence; thence East 1057.39 feet parallel with and 5.00 South of said fence; thence South 08°45'00" East 128.196 feet; thence North 89°06'00" East 138.326 feet to the west bank of the Jordan River; thence Southerly 167.201 feet along a curve to the right, center bears South 68°13'05" West with a central angle of 19°08'28" and a radius of 500.493 feet along the west bank of said Jordan River to a point of reverse curvature; thence Southerly 453.141 feet along a curve to the left, center bears North 87°21'32" East with a central angle of 21°38'09" and a radius of 1200.00 feet along the west bank of said Jordan River to a point of reverse curvature; thence Southwesterly 57.977 feet along a curve to the right, center bears South 65°43'23" West with a central angle of 111°45'20" and a radius of 29.724 feet along the west bank of said Jordan River; thence South 87°28'43" West 119.312 feet along the north bank of said Jordan River to a curve; thence Westerly 68.236 feet along a curve to the right, center bears North 02°31'17" West with a central angle of 20°13'35" and a radius of 193.293 feet along the north bank of said Jordan River to a point of reverse curvature; thence Westerly 131.893 feet along a curve to the left, center bears

South 17°42'18" West with a central angle of 17°38'03" and a radius of 428.538 feet along the north bank of said Jordan River to a point of a compound curve; thence Westerly 127.056 feet along a curve to the left, center bears South 00°04'15" West with a central angle of 24°32'49" and a radius of 296.565 feet along the north bank of said Jordan River; thence North 89°59'10" West 889.866 feet to the point of beginning.
Contains 28.67 acres.

B. In an effort to avoid threatened litigation and settle disputed claims between Development West, Riverside and the District, the District has allowed connection of the Park's private, internal, sanitary sewer system (the "Park System"), to the District's sanitary sewer collection and treatment system (the "District System"), subject to and in conformance with the terms and provisions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, the Parties agree as follows:

1. **Park System a Private System**. The Developer and the District, and their respective successors-in-interest and assigns, hereby affirmatively represent and agree that: (i) as per District policy, the Park System, including the Lift Station, is a private sanitary sewer system serving the Park; (ii) the Developer and their successors-in-interest shall have the sole and separate obligation and responsibility, at their sole expense, to operate the Park System, and to maintain, repair and replace any and all facilities and equipment associated with the Park System, up to the point of connection of the Park System to the District System; (iii) the District shall have no ownership interest in, and no obligation or responsibility, whatsoever, for the operation, maintenance, repair and replacement of the Park System, or any facilities and equipment

associated therewith, and (iv) subject to the terms and conditions of this Agreement, Developer and their successors-in-interest shall be entitled to receive sanitary sewer service for the Park from the District in conformance with the then current policies and procedures of the District and payment of the applicable sewer service fees and charges.

2. **Waiver of Capital Sewer Fees, Release and Settlement.** In order to terminate further controversy between the Parties regarding the Park System and the payment of capital sewer fees and charges, and in the spirit of settlement and compromise, the District agrees to waive any and all capital sewer fees and charges which may remain due by the Developer to the District relative to the connection of the Park System with the District System. As further consideration for the District's waiver of such fees and charges, the Developer and their successors-in-interest and assigns, hereby knowingly and voluntarily, and fully and unconditionally, release the District, its officers, directors, employees, representatives and assigns, of and from any and all claims, demands, liability or causes of action, of whatsoever kind or nature, including all unknown and unanticipated claims, demands, liability or causes of action, which the Developer has or may ever have had against the District, which either directly or indirectly results from, arises out of, or is otherwise attributable or related in any way to the planning, location, design, bidding, material acquisition, supervision, installation and construction of the Park System, and its connection with the District System, and all related costs and expenses associated therewith. It is hereby understood and agreed that the Parties hereby admit no liability of any sort, and that the release, settlement and compromise occasioned hereby is made to terminate further controversy respecting all claims that have or could have been asserted by the Developer against the District, or which the Developer's officers, directors, employees,

representatives or assigns may hereafter assert against the District as a result of or arising from the planning, location, design, bidding, material acquisition, supervision, installation and construction of the Park System and its connection with the District System

3. **Recordation.** The Parties acknowledge and agree that this Agreement shall be recorded in the office of the County Recorder of Salt Lake County, Utah, as a covenant running with the land described in Recital A. above.

4. **Indemnification.**

(a) The Developer shall indemnify, defend and otherwise hold the District and its agents, employees and officers, harmless from and against any and all liability, losses, damages, claims, demands, suits, and proceedings, of whatsoever kind or nature, as well as any and all costs and expenses incurred in connection therewith, including court costs and reasonable attorney's fees, which arise out of any obligation of the Developer under this Agreement, the release herein, or for any injury or damage to persons or property, whether real or personal, which arises out of, results from, or is otherwise attributable, in any way, to the design, construction, ownership, operation, maintenance, repair or replacement of the Park System, or any facility or equipment associated therewith including, without limitation, the Lift Station.

(b) The District shall indemnify, defend and otherwise hold the Developer, its agents, employees and officers, harmless from and against any and all liability, losses, damages, claims, demands, suits, and proceedings, of whatsoever kind or nature, as well as any and all costs and expenses incurred in connection therewith, including court costs and reasonable attorney's fees, which arise out of any obligation of the District under this Agreement, the release herein, or for any injury or damage to persons or property, whether real or personal, which arises out of,

results from, or is otherwise attributable, in any way, to the Developer in connection with design, construction, ownership, operation, maintenance, repair or replacement by the District of the District System.

5. **Disparaging Remarks Prohibited.** Without admitting that any such remarks have been made, it is mutually agreed that the District shall refrain from making disparaging remarks to third parties regarding the construction of the Park System, and the Developer shall refrain from making disparaging remarks to third parties regarding the District, and its officials and representatives, regarding the District's review of the Park System and its policies and procedures pertaining to mobile home parks. The Parties further agree that they will cooperate, in good faith, in addressing any future regulatory and statutory obligations regarding the District System and the Park System. The violation of this Paragraph 5 by either Party shall constitute a breach of this Agreement, and the non-violating Party shall have and may pursue all remedies at law or in equity.

6. **Costs and Attorney's Fees.** If any action, at law or in equity, shall be brought to enforce any of the terms, covenants and conditions of this Agreement, the prevailing Party shall be entitled to recover from the other Party all costs and expenses so incurred, including court costs and reasonable attorney's fees.

7. **Partial Invalidity.** If any term, part, section, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be void, invalid or unenforceable, then the remaining terms, parts, sections, provisions, covenants and conditions hereof shall nevertheless remain in full force and effect.

8. **Integration.** This Agreement constitutes the full and complete Agreement by and between the Parties, and shall supersede all prior written or oral discussions or representations concerning the subject matter herein contained.

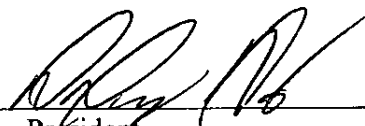
9. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors-in-interest and assigns.

IN WITNESS WHEREOF, the Parties have hereunto set their hands as of the day and year first set forth above.

GRANGER-HUNTER IMPROVEMENT DISTRICT

By: 
Chairman, Board of Trustees

DEVELOPMENT WEST, INC.

By: 
Vice - President

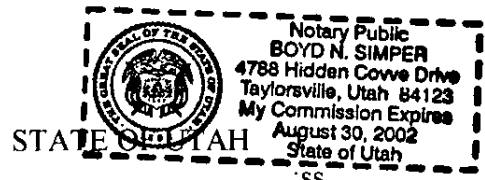
RIVERSIDE MHP LLC

By: 
Manager - Regent

ACKNOWLEDGEMENTS

STATE OF UTAH)
: SS.
County of Salt Lake)

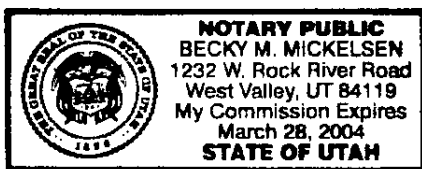
On the 22nd day of April, 2002, appeared before me _____, personally known to me, or proved to me on the basis of satisfactory evidence, to be Chairman of the Granger-Hunter Improvement District, who duly acknowledged that the within and foregoing instrument was signed on behalf of said District by authority of a duly adopted resolution of its Board of Trustees, and that said District executed the same.



Boyd N. Simper
NOTARY PUBLIC

County of Salt Lake)

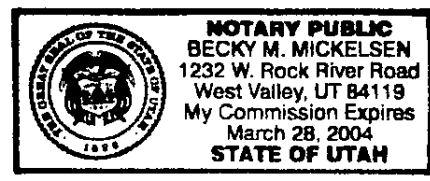
On the 22 day of April, 2002, personally appeared before me Greg Hales, known to me or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument as President on behalf of Development West, Inc., the corporation therein named, who duly acknowledged to me that the corporation executed the same.



Becky M. Mickelsen
NOTARY PUBLIC

STATE OF UTAH)
: SS.
County of Salt Lake)

On the 22 day of April, 2002, personally appeared before me Greg Hales, known to me or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument as Manager on behalf of Riverside MHP LLC, the limited liability company therein named, who duly acknowledged to me that the company executed the same.



Becky M. Mickelsen
NOTARY PUBLIC

DK8590PG5912