

DEVELOPMENT AGREEMENT

THIS AGREEMENT, made and entered into this 14th day of December, 2009, by and between the CITY OF FRUITLAND, a municipal corporation of the State of Idaho, party of the first part, hereinafter called the "CITY", and Fruitland Commercial Complex, party of the second part, hereinafter called the "Developers", whose address is P.O. Box 403, Fruitland, ID 83619:

WITNESSETH:

WHEREAS, Developers are the owner in law and/or equity, of a certain tract of land in the County of Payette, State of Idaho, described in Exhibit "A", which is attached hereto and by this reference incorporated herein as if set forth in full; and

WHEREAS, the State of Idaho legislature, in 1991, passed Idaho Code, 67-6511A, Development Agreements, which provides that cities may enter into development agreements with developers; and

WHEREAS, the CITY has adopted Ordinance No. 306 allowing the CITY to require or permit Development Agreements; and

WHEREAS, the DEVELOPER has submitted an application for replatting of that certain property described in Exhibit "A", and has submitted a subdivision preliminary plat for said property which has been recommended for approval by the Fruitland Planning and Zoning Commission; and

WHEREAS, the DEVELOPER made some representations before the Fruitland Planning & Zoning Commission and Fruitland City Council as to how the land would be developed and what improvements would be made; and

WHEREAS, the CITY has authority to place conditions and restrictions upon property; and

WHEREAS, the DEVELOPER deems it to be in its best interest to be able to enter into this agreement and acknowledges that this agreement was entered into voluntarily and at its urging and request; and

WHEREAS, the DEVELOPER, as owner of said land, has made request to the CITY to have the same replatted, and has submitted to the CITY a Plat thereof which has been recommended for approval by the CITY and as part of the rezoning the CITY adopted and approved Findings of Fact and Conclusions of Law; and

WHEREAS, the Findings of Fact and Conclusions of Law required that the DEVELOPER enter into a Development Agreement, based upon the DEVELOPER'S request.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

DEVELOPER agrees, and hereby binds his, its, or their heirs, successors and assigns to this agreement, in consideration for the replat designation of the area as follows:

1. That the above recitals are contractual and binding and are incorporated herein as if set forth in full.
2. The DEVELOPER, in accordance with its representations before the CITY, shall, on the land described in Exhibit "A" as provided by Associated Land Surveyors (ALS), only construct 9 building lots for 9 commercial properties.
3. That the property replatted "Commercial", described in Exhibit 'A', shall meet all of the requirements of the "Commercial" zone, except as otherwise agreed in writing.
4. After recordation of the final subdivision plat and prior to construction, the DEVELOPER shall file, or cause to be filed with the City Engineer, a complete set of "Commercial Improvement Plans" showing all streets, utilities, pressurized irrigation facilities, sewer, water, drainage, street and other similar signing and barricades, and other such improvements shown thereon shall meet the approval of the City Engineer. DEVELOPER shall be responsible for all review costs.
5. The DEVELOPER shall, at his or their own expense, construct and install all sanitary sewers, storm drains, pumping stations, water mains and appurtenances, fire hydrants, curbs and gutter, pressurized irrigation system, electrical transmission lines, natural gas lines, telephone lines, sidewalks, cross drains, street, street surfacing, street signs, and barricades as well as any and all other improvements shown on the Subdivision Improvement Plans. DEVELOPER shall also install telephone, electrical power, gas lines, and television as required for the development. Payments associated with respective lots are identified in attachment "B". In the event that one or more of the properties are going to be developed for usages that qualify the developer for State Economic Development fund grants that can assist with relocation of a business to Idaho. The common area would be dedicated to the city through a metes and bounds description and all grant money would be used to improve the 30' wide common area as a public right of way for common access. The access would include 2' high back curbs, one side with 5' commercial sidewalk, and 21' of pavement. Necessary new utilities would be placed within this public right of way including storm water collection and storage, water, phone, natural gas, cable, fiber, as may be required by the

terms of any such grant. If such a grant can be obtained, the 30' common area easement language in Exhibit "B" would no longer apply to the subdivision.

6. If such a grant is issued, the entire 30' cross access easement will be offered for dedication. Should grant monies cover only a portion of the improvement costs, the balance will be covered proportionately by Lots 6, 7 and 8 (33.33%) as defined in Exhibit B.
7. That DEVELOPER shall construct and install all such improvements in accordance with the filed and approved plat and Subdivision Improvement Plans, and the 1999 Idaho Standards for Public Works Construction and most current City of Fruitland supplement to the I.S.P.W.C., or as otherwise agreed between the DEVELOPER and the CITY if the standards and specifications are more restrictive and onerous at the time of construction than at the time of execution of this Agreement. Such improvements will only extend to those necessary for obtaining a commercial building permit for each of the proposed lots.
8. That DEVELOPER shall provide the City Engineer with at least fifteen (15) days advance written notification of when and of what portion, or portions, of said improvements he intends to complete and the time schedule therefore; and agrees to make such modifications and/or construct any temporary facilities necessitated by such phased construction work as shall be required and approved by the City Engineer.
9. That DEVELOPER shall, immediately upon the completion of any such constructed portion, portions, or the entirety of said development, notify the City Engineer and request his inspection and written acceptance of such completed improvements.
10. That DEVELOPER agrees that building permits will be issued by CITY as long as each lot can obtain a single access that has been improved or will be improved as set forth on the above referenced plat (Exhibit A) and the lot has access to necessary water, sewer and other services. The CITY agrees to issue building permits to each of the 9 lots under constraints of the necessary building codes for commercial buildings.
11. That DEVELOPER agrees, in recognition of the unique and peculiar circumstances relative to this development, to the special conditions set forth in Exhibit "B" attached hereto and by reference made a part hereof.

12. That DEVELOPER agrees that any notice required by the Agreement shall be given at the following address:

CITY:	DEVELOPER:
City Clerk	Fruitland Commercial Complex
City of Fruitland	P.O. Box 403
P.O. Box 324	Fruitland, ID 83619
Fruitland, ID 83619	

13. That DEVELOPER agrees to pay all recording fees necessary to record this Agreement with the Payette County Recorder's office.

14. All covenants and conditions set forth herein shall be appurtenant to and run with the land and shall be binding upon DEVELOPER'S heirs, successors or assigns. The existing CCR's as recorded previously for Fruitland Commercial Complex or as they may be properly amended will remain attached to the land in perpetuity.

15. This Agreement shall become valid and binding only upon its approval by the City Council and execution of the Mayor and City Clerk.

16. That DEVELOPER agrees to abide by all ordinances, except for variances, of the CITY of Fruitland and the property shall be subject to replatting if the owner or his assigns, heirs, or successors shall not meet the conditions contained in the Findings of Fact and Conclusions of Law, this Development Agreement, and the Ordinances of the CITY of Fruitland.

DATED the date, month and year first appearing.

Frank D. Teunissen
Stan D. Beltman

Frank D. Teunissen
Laurie Beltman

Frank D. Teunissen
Frank Teunissen, Attorney-in-fact

STATE OF IDAHO)
)ss.
County of Payette)

On this 14 day of NOVEMBER, 2009, before me, a Notary Public for Idaho, personally appeared Frank D. Teunissen, known to me to be the person whose name is subscribed to the within instrument as the attorney-in-fact of Stan D. Beltman and Laurie Beltman, , and acknowledged to me that he subscribed the name of Stan D. Beltman and Laurie Beltman, and his own name as attorney-in-fact, executed the same as representatives of the Fruitland Commercial Complex.



Susan Jeffries
Notary Public
Residing in: Payette
My Commission Expires: 8/23/2013

