

DEVELOPMENT AGREEMENT
AND
COVENANT RUNNING WITH THE LAND

(The Villages on 12th)

THIS AGREEMENT entered into this 29th day of September, 2017, by and between Heber City, hereinafter referred to as "City" and the undersigned as "Developer".

WHEREAS, the Developer/petitioner has proposed the Villages on 12th Development, consisting of 120 Condominiums;

NOW, THEREFORE, the parties hereby agree as follows:

1. With respect to Exhibit A (the approved final subdivision plat for Phase 1 and the remaining unsubdivided property), the Developer shall, prior to recording plats for each phase of the development, transfer to the City all required diversion water rights necessary for that portion of the development.
2. Developer agrees to the applicable annexation requirements in the agreement attached as Exhibit B.
3. Landscaped berms shall be used on 820 East and 1200 South to screen the parking areas from the public right of way. An 8-foot wide public trail shall be constructed with ADA compliant ramps, signage, and striping along this same public right of way, including a crossing on the north end at 820 East, connecting into the existing public trail.
4. Each portion of the trail, berms, and landscaping along the public right of way shall be completed with the associated phase as outlined in the Phasing Plan shown in Exhibit C. These trails will be dedicated to and available for use by the general public, and maintained by the HOA.
5. All lighting within the development shall be full cut-off. Public street lighting shall meet the City's residential standard.
6. The right of way on 1200 South and 820 East shall be dedicated with Phase 1.
7. Curb, gutter, asphalt, and full utilities on 1200 South and 820 East shall be completed with Phase 1.
8. All streets, utilities, and improvements will be constructed to property lines.
9. All public streets shall be dedicated to Heber City. Roads and storm drainage within the development shall be private and maintained by the HOA.
10. Water and sewer main lines within the development shall be public and within an easement acceptable to, and dedicated to the City.

11. Sewer to this project will be provided by sewer lines installed by a prior developer in 820 East and 1200 South. Developer shall deposit with City \$43,069 (1,300ft x \$33.13) to reimburse prior developer for this projects share of said sewer lines.
12. Water to this project will be provided by a water line installed by a prior developer in 1200 South. Developer shall deposit with City \$25,774 (652ft x \$39.53) to reimburse prior developer for this projects share of said water line.
13. Developer will work with the irrigation company to relocate and install a master planned 18-inch irrigation line in 820 East, running west along 1200 South, and tying into the existing irrigation in 1200 South.
14. A plan for this needs to be agreed upon between WCWEP, the developer, and the City.
15. Developer will establish, prior to recording plats, a Home Owners Association or other joint agreement, approved by Heber City, for the ownership, operation, maintenance, and collection of fees for the continuing maintenance of the common areas including the storm water areas, the park, and all trails and common area landscaping.
16. Developer agrees to abide by nationally accepted best management practices for Storm water Pollution Prevention and obtain and necessary state or federal permits for such.
17. Developer will provide a copy of their noxious weed control plan approved by the Wasatch County Weed Control Board.
18. All aforementioned improvements shall consist of frontage improvements of curbs, sidewalks, pavements, inlets, planting of trees and placing of monuments, as required and consistent with Heber City Standards, including but not limited to the City's subdivision improvement requirements, and the requirements noted on approved construction drawings.
19. Said improvement costs will be paid by the Developer, their assigns, transferees or successors as owners or Developers. The Developer shall be obligated to disclose and notify in writing its immediate successors in ownership or Developers of the requirements of this Agreement.
20. Developer shall execute a performance agreement and provide a cash bond or letter of credit guaranteeing the improvements related to each subdivision phase prior to recording the plat for each phase.
21. The parties agree that the public improvements will be required at the time of development of each phase, and that no building permits shall be issued thereto without the completion of those public improvements required for each phase.
22. Upon the full and complete performance of all of the terms and conditions of this Agreement by the Developer, their assigns, transferees or successors, and upon approval of the improvements, the City agrees to take over roads dedicated to the public, and maintain them as public works and public highways of the City without assessment for the construction of improvements as set out in the plans and specifications. Nothing contained

here shall be construed in any way to render the City liable for any charges, costs, or debts for material, labor, or other expenses incurred in the making of these improvements.

- 23. In the event there is a Failure to Perform under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party and, in addition, such costs and expenses as are incurred in enforcing this Agreement.
- 24. This Agreement contains the entire agreement between the parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified or altered except in writing approved by the parties.
- 25. Time is of the essence of this Agreement. In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law, and/or pursuant to the terms of this Agreement.
- 26. This Agreement shall be a covenant running with the land, and shall be binding upon the parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder.

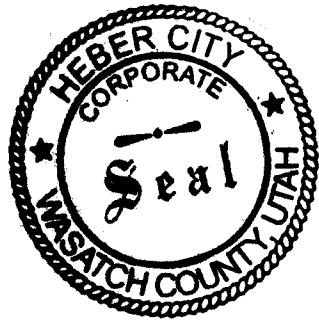
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

DATED this 4 day of OCT., 2017.

HEBER CITY:

By: *Alan McDonald*
Alan McDonald, Mayor

ATTEST:
Amy M. Bridge
Heber City Recorder



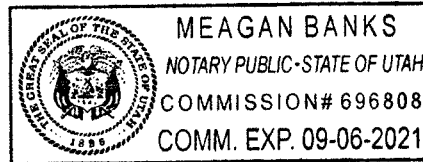
OWNER, 12th South Investments LLC

By: Joel Johnson
Joel Johnson

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)

On this 29th day of September, 2017, personally appeared before me the above named Owner, who duly acknowledged to me that he is the owner in fee and executed the same as such.

Meagan Banks
NOTARY PUBLIC



LEGAL DESCRIPTION OF TRACT

EXHIBIT "A"

THE VILLAGE ON 12th CONDOMINIUMS

DESCRIPTION

BEGINNING AT A SET REBAR WITH CAP MARKED PLS 6854112, SAID POINT BEING LOCATED SOUTH 89°50'38" WEST ALONG THE SECTION LINE 1324.39 FEET AND NORTH 16.53 FEET FROM THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 89°50'43" WEST 651.93 FEET TO A PK NAIL IN THE ASPHALT; THENCE NORTH 00°23'24" WEST 698.52 FEET TO A FOUND REBAR WITH CAP MARKED SUMMIT ENGINEERING; THENCE NORTH 89°51'13" EAST 650.54 FEET ALONG A FIELD FENCE TO A FOUND REBAR WITH CAP MARKED PLS 178851; THENCE SOUTH 89°36'05" EAST 4.55 FEET ALONG THE SOUTH LINE OF THE SWIFT CREEK SUBDIVISION PHASE 2 TO A SET NAIL; THENCE SOUTH 00°07'51" EAST 698.38 FEET ALONG THE WEST LINE OF THE MAJESTIC MOUNTAIN SUBDIVISION AND AN EXISTING FIELD FENCE LINE TO THE POINT OF BEGINNING.

AREA = 10.48 ACRES

EXHIBIT B
(Annexation Agreement Dated 2/26/09)

~~Ent 346331 Bk 987 Pg 204-208~~
~~Date: 01-APR-2009 3:22PM~~
~~Fees: \$18.00 Check Filed By: MG~~
~~ELIZABETH PREATER, Recorder~~
~~WASATCH COUNTY CORPORATION~~
~~For: SUMMIT ENGINEERING GROUP~~

ANNEXATION AGREEMENT
AND
COVENANT RUNNING WITH THE LAND
(Wishalan Annexation)

THIS AGREEMENT entered into this 26 day of FEBRUARY, 2009, by and between Heber City, hereinafter referred to as "City" and the undersigned as "Developer".

WHEREAS, the petitioner has proposed annexation of 10.40 acres; and

WHEREAS, unique conditions exist resulting from the features on and around the property and the layout and design proposed by the developer; and

NOW, THEREFORE, the parties hereby agree as follows:

1. The property shall be zoned R-3 Residential, consistent with the Heber City General Plan;
2. Developer is responsible to reimburse off site developers for construction of off-site utilities that serve this property. Details for reimbursement are available from the Heber City Engineer;
3. The developer of the property shall, at the time of development of the property, transfer to the City all required water rights necessary for said development;
4. Developer shall construct streets and utilities to property lines;
5. The developer shall comply with Chapter 18.102 of Heber City Code (the Affordable Housing Ordinance), through participation with the Wasatch County Housing Authority;
6. Developer of property shall dedicate land for and construct 820 East to the Collector Street standard including all utilities, connecting 1200 South to the 820 East road stub to the northeast;
7. Developer of property shall dedicate the required right of way to accommodate 1200 South as an 84 foot wide street as identified in the Master Plan, and lining up with 1200 South improvements in adjoining development(s) to the east and west; developer shall widen and construct 1200 South on the north and south sides, from the western to the eastern extent of the annexation area to the 84 foot street standard, including utilities, curb, gutter, and sidewalk; developer shall install a 2 inch over on the existing asphalt along 1200 South, north of the same said frontage;
8. Developer shall dedicate that portion of the property underlying the Humbug Canal easement on the east to Heber City and construct an 8 foot master planned trail on said property;

~~Ent 346331 Bk 0987 Pg 0205~~

9. Developer shall place covenants and restrictions upon development for consistent fencing materials, colors, and heights within the development;
10. Developer shall provide a minimum 20 foot wide strip of open space beyond the right of way along developer's frontage on 1200 South and 820 East. Developer shall fully landscape the open space with trees spaced no more than one tree per 30 feet of frontage, plant ground cover, construct at least 2 foot tall berms, and install an irrigation system for the open space and landscaped right of way area. The open space shall be privately maintained by a Home Owner's Association. In lieu of typical sidewalk within the right of way along developer's frontage, developer may provide a meandering path or sidewalk within the right of way and open space area. The open space shall not be fenced with a privacy fence and the area shall be reserved for the benefit of residents of the development and the public;
11. No individual homes or units within the development shall be permitted direct driveway access to 1200 South or 820 East;
12. Developer is responsible for acquiring and paying for any necessary off site easements or dedications, and off site utility construction for connection and servicing of the development with utilities that meet current standards, including, but not limited to sewer, water, secondary irrigation, streets, electricity, gas, and cable television;
13. Development of the property is conditional upon the construction of off site sewer from Highway 40 to Industrial Parkway. In the event that development precedes sewer line construction, developer will be responsible for construction of said sewer line;
14. Developer shall bury all existing overhead utilities within the property and along all street frontages;
15. At Developer's expense, existing utilities shall be relocated into future public right of ways as needed to avoid conflict with the developer's proposed building pads;
16. This Agreement contains the entire agreement between the parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified or altered except in writing approved by the parties;
17. This Agreement shall be a covenant running with the land, and shall be binding upon the parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder;
18. 18. In the event there is a Failure to Perform under this Agreement and it becomes reasonably necessary for either party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside

~~Ent 445331 Bk 1207 Pg 1525~~

counsel), either with or without litigation, on appeal or otherwise, the prevailing party to the controversy shall be entitled to its reasonable attorney's fees incurred by such party and, in addition, such costs and expenses as are incurred in enforcing this Agreement;

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

DATED this 3rd day of February, 2009.

HEBER CITY:

By: 
David Phillips, Mayor

ATTEST:

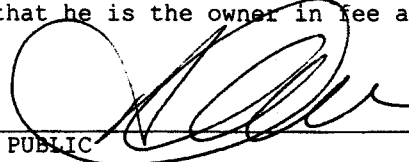

Heber City Recorder

OWNER, 
Justin Booth

By: _____ President,

STATE OF UTAH)
) : ss.
COUNTY OF WASATCH)

On this 26 day of Feb, 2009, personally appeared before me the above named Owner, who duly acknowledged to me that he is the owner in fee and executed the same as such.


NOTARY PUBLIC

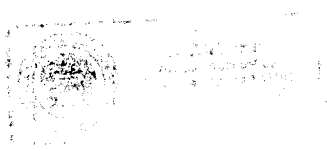


EXHIBIT A

Boundary Description
Wishalan Annexation

Beginning at the Wasatch County Survey Monument for the South one-quarter corner of Section 5, township 4 South, Range 5 East, Salt Lake Base and Meridian:

And running thence North 2.09 feet to a point on the present city boundary of Heber City as evidenced by the Hicken Annexation;

Thence along the present city boundary of Heber City as evidenced by the Hicken Annexation the following four (4) courses: (1) Thence South 89°55'16" East 14.52 feet; (2) Thence North 00°05'16" East 10.43 feet; (3) Thence South 89°33'46" East 669.28 feet; (4) Thence North 00°27'50" West 709.66 feet;

Thence along the present city boundary of Heber City as evidenced by the McNeel-Schneider Annexation the following two (2) courses; (1) Thence North 89°55'48" East 597.13 feet; (2) Thence South 89°40'30" East 59.51 feet;

Thence along the present city boundary and boundary extended of Heber City as evidenced by the Cook-Houston Annexation South 00°07'51" East 713.78 feet to the Section line; Thence South 89°50'38" West 1,336.33 feet along the Section line to the Point of Beginning.

Containing 10.878 Acres

EXHIBIT C

