

SUBDIVISION AGREEMENT
AND
COVENANT RUNNING WITH THE LAND
(STONE CREEK - PHASE 4)

THIS AGREEMENT is entered into this 7th day of June, 2018, by and between Heber City (the "City") and DM Marketing (the "Developer").

WHEREAS, the Developer has proposed a plat for a 34 lot subdivision, Stone Creek ("Phase 4"), in the Planned Community Zone in Heber City, located at approximately 1300 East and 700 North, Heber City, Utah, and described in Exhibit A;

NOW, THEREFORE, the Parties hereby agree as follows:

1. Development shall comply with the approved Master Plan and Master Plan Agreement, in regard to total number of units, density, general configuration, phasing, open space requirements and uses, and improvements, and shall develop the property pursuant to these provisions as well as all other agreements, provisions or requirements associated but not in conflict with this Agreement and Development. The approved master plan for Stone Creek consists of 60 Acres, 125 residential units, and minimum of 30% total open space, pursuant to the PC Zone Amendment, Section 18.61.090 D.8. The 125 unit calculation derives from an allowable density of 2 units per acre, or 120 units total, plus 5 permitted bonus lots pursuant to Section 18.61.020 E.3.
2. Developer shall, upon Council Final Approval and prior to beginning construction or recording a plat for Phase 4, whichever occurs first, transfer in a form acceptable to the City, all required year round diversion water rights necessary for development.
3. Developer shall construct improvements consisting of all utilities, curbs, sidewalks, pavements, landscaping, lighting, signage, etc. as required and consistent with Heber City's Code and Standards.
4. All storm drainage facilities within and serving the development shall be private and maintained by the (Stone Creek Home Owner's Association) SCHOA, including swales, ponds, berms, pipes, manholes, street inlet boxes, etc. Said facilities shall comply with all state and federal storm water rules and regulations.
5. City shall operate and maintain all irrigation, culinary water, and sewer facilities within the private development, up to and including the water meter vaults, irrigation boxes, and sewer cleanouts on the road right of way line serving each lot per City Standards and Code.
6. City shall have unrestricted easements and the right of travel along all city utilities for operation, maintenance, and replacement of said utilities. The City shall not be liable for any damages to private structures resulting from lack of maintenance or plowing of private streets which would prohibit City's timely repair of damaged utilities. The City agrees that all repair work will conform to city standards including street repairs. The Developer and SCHOA agree not to charge the City a fee for access, maintenance, and repair of said utilities, such as a road cut fee.
7. Developer and SCHOA will prohibit structures, fencing, and grade changes along or across all utility easements without written City approval. Lots 107 and 116, shall include 20-foot sewer easements dedicated to the City with language, noted on the plat, acceptable to the City, describing the restrictions on these easements.

8. Developer and SCHOA shall disclose to prospective purchasers and include on each recorded plat the following soils information. "A geotechnical report for the subdivision is available in the Heber City Planning Office. This report provides recommendations for construction to address specific soils in the area. Builders are advised to review this report and follow those recommendations, and to consult with a geotechnical engineer if soil conditions are different than described in the report.
9. Development shall provide City with a noxious weed control plan approved by the Wasatch County Weed Control Board prior to recording the Phase ~~X~~ subdivision plat and implement approved measures prior to project acceptance by the City.⁴
10. Landscaping of open space within each phase of the development shall be constructed as shown on the landscaping improvement plans, including top soil, ground cover, irrigation systems, and trees. Landscaping of the open space shall be completed for each phase by the developer prior to issuing more than 50 percent of the building permits for said phase.
11. SCHOA shall maintain its designated trails within the subdivision, and have the right to make its trail system open for public use at its discretion.
12. If agreed to by Red Ledges, primary access during construction of the subdivision shall be through the Red Ledges Bypass road at 580 North on the east side of the subdivision, with secondary access through the 675 North and 900 North entrances. Developer shall inform contractors and subcontractors of the construction access locations, and place appropriate construction access signs at these entrances; a construction access prohibited sign shall be placed at the north end of 1300 East.
13. Infrastructure improvement costs shall be paid by, and be the sole responsibility of, the Developer, their assigns, transferees or successors as owners or developers except as outlined above.
14. Developer shall execute a performance agreement prior to beginning construction, and provide a cash bond or letter of credit acceptable to the City to guarantee completion of the City's public improvements prior to recording the plat.
15. Developer shall dedicate to the City the 66-foot Connector Bypass Road right of way described by the Easement and Right of Way Agreement, recorded March 2, 2007, prior to beginning construction.
16. This agreement shall not be enforceable by 3rd parties.
17. 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 the City's approval of the improvements and acceptance of the subdivision as complete, which shall not be unreasonably withheld, the City agrees to take over and assume responsibility for those areas shown on the recorded subdivision plat as dedicated to the public and begin issuing building permits. The Developer agrees to construct and the City agrees to maintain such public improvements without assessment for the construction of the improvements as set out in the plans and specifications. Nothing contained herein 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 initial making of these public

improvements.

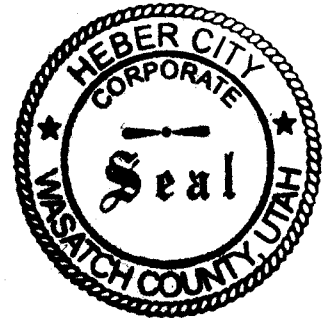
- 18. This Agreement contains the entire agreement between the Parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding. This Agreement may not be enlarged, modified or altered except in writing approved by the Parties.
- 19. 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.
- 20. 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 counsel), either with or without litigation, on appeal or otherwise, the prevailing party in the controversy shall be entitled to recover its reasonable attorney's fees incurred by such party and, in addition, such reasonable 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 7th day of June, 2018.

HEBER CITY:

By: Kelleen Potter
Kelleen Potter, Mayor



ATTEST:

Amy Bridge
Heber City Recorder

DM MARKETING, Developer:

By: [Signature]

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this 7th day of June, 2018, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Stone Creek Phase ~~X~~ and executed the same as such.

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[Signature]
NOTARY PUBLIC



EXHIBIT A: LEGAL DESCRIPTION

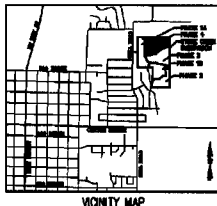
BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 0°02'25" EAST 2170.84 FEET ALONG A SECTION LINE AND EAST 334.02 FEET FROM THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

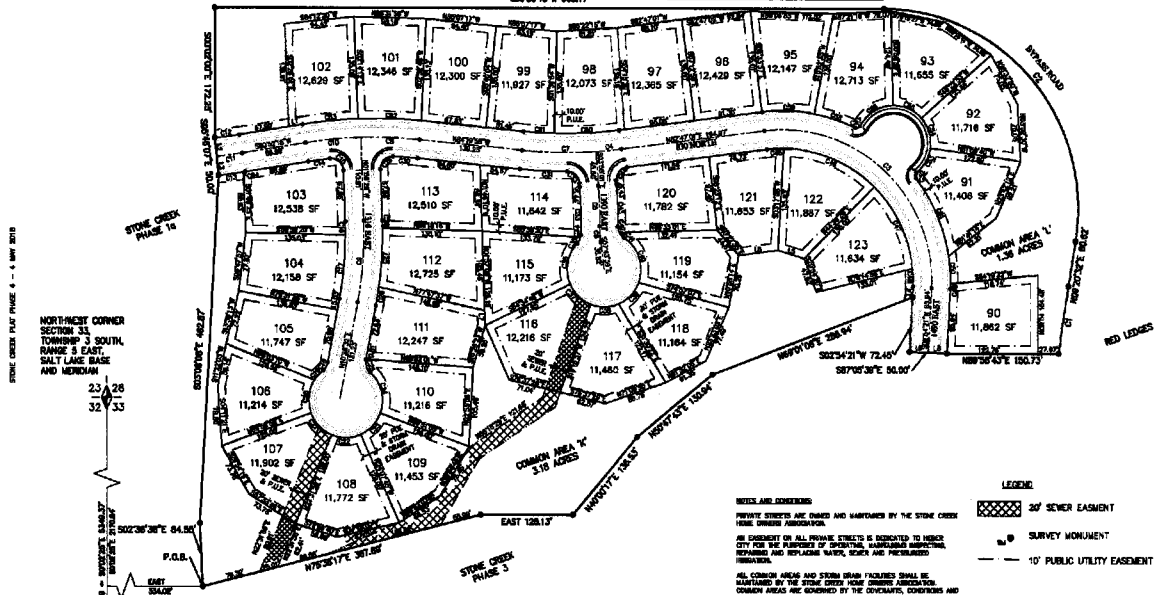
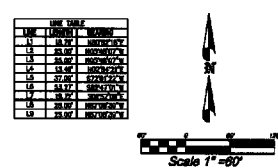
THENCE NORTH 75°38'17" EAST 387.89 FEET; THENCE EAST 125.13 FEET;
 THENCE NORTH 40°00'17" EAST 135.53 FEET; THENCE NORTH 50°47'43" EAST 130.94 FEET;
 THENCE NORTH 69°01'08" EAST 288.94 FEET; THENCE SOUTH 02°54'21" WEST 72.45 FEET;
 THENCE SOUTH 87°05'39" EAST 50.00 FEET; THENCE NORTH 89°58'43" EAST 150.73 FEET;
 THENCE ALONG THE ARC OF A 2333.74 FOOT RADIUS CURVE 90.54 FEET TO THE LEFT (CURVE HAS A CENTRAL ANGLE OF 02°13'22" AND A CHORD BEARING NORTH 08°13'50" EAST 90.53 FEET); THENCE NORTH 09°20'32" EAST 80.62 FEET;
 THENCE ALONG THE ARC OF A 283.71 FOOT RADIUS CURVE 458.35 FEET TO THE LEFT (CURVE HAS A CENTRAL ANGLE OF 89°08'58" AND A CHORD BEARING NORTH 39°54'04" WEST 401.50 FEET);
 THENCE SOUTH 89°59'16" WEST 905.17 FEET;
 THENCE SOUTH 00°02'00" EAST 172.25 FEET;
 THENCE SOUTH 05°46'07" EAST 50.00 FEET;
 THENCE SOUTH 03°08'08" EAST 482.87 FEET;
 THENCE SOUTH 02°36'38" EAST 84.55 FEET TO THE POINT OF BEGINNING.

CONTAINING: 15.08 ACRES

Parcel Serial Number: OHE-1988-0-033-035



OWNER	ADDRESS	AREA	PERCENTAGE	DATE	REMARKS
101	101	12,346 SF			
102	102	12,629 SF			
103	103	12,538 SF			
104	104	12,158 SF			
105	105	11,747 SF			
106	106	11,214 SF			
107	107	11,502 SF			
108	108	11,772 SF			
109	109	11,453 SF			
110	110	11,216 SF			
111	111	12,247 SF			
112	112	12,725 SF			
113	113	12,510 SF			
114	114	11,842 SF			
115	115	11,173 SF			
116	116	12,216 SF			
117	117	11,482 SF			
118	118	11,164 SF			
119	119	11,154 SF			
120	120	11,782 SF			
121	121	11,853 SF			
122	122	11,887 SF			
123	123	11,634 SF			
90	90	11,862 SF			
91	91	11,400 SF			
92	92	11,716 SF			
93	93	11,655 SF			
94	94	12,713 SF			
95	95	12,147 SF			
96	96	12,428 SF			
97	97	12,365 SF			
98	98	12,073 SF			
99	99	11,927 SF			
100	100	12,300 SF			



NORTHWEST CORNER SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN

32 28
32 33

32 33
5 4

SOUTHWEST CORNER SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN

32 33
5 4

SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN

FROM CORNER 89-58-43

DATE OF SURVEY: SEPT 2007

ADDRESS TABLE

LOT	ADDRESS	LOT	ADDRESS
90	3002 NORTH 1880 EAST	101	3002 EAST 870 NORTH
91	3002 NORTH 1880 EAST	102	3002 EAST 870 NORTH
92	3002 NORTH 1880 EAST	103	3002 EAST 870 NORTH
93	3002 NORTH 1880 EAST	104	3002 EAST 870 NORTH
94	3002 NORTH 1880 EAST	105	3002 EAST 870 NORTH
95	3002 NORTH 1880 EAST	106	3002 EAST 870 NORTH
96	3002 NORTH 1880 EAST	107	3002 EAST 870 NORTH
97	3002 NORTH 1880 EAST	108	3002 EAST 870 NORTH
98	3002 NORTH 1880 EAST	109	3002 EAST 870 NORTH
99	3002 NORTH 1880 EAST	110	3002 EAST 870 NORTH
100	3002 NORTH 1880 EAST	111	3002 EAST 870 NORTH
101	3002 NORTH 1880 EAST	112	3002 EAST 870 NORTH
102	3002 NORTH 1880 EAST	113	3002 EAST 870 NORTH
103	3002 NORTH 1880 EAST	114	3002 EAST 870 NORTH
104	3002 NORTH 1880 EAST	115	3002 EAST 870 NORTH
105	3002 NORTH 1880 EAST	116	3002 EAST 870 NORTH
106	3002 NORTH 1880 EAST	117	3002 EAST 870 NORTH
107	3002 NORTH 1880 EAST	118	3002 EAST 870 NORTH
108	3002 NORTH 1880 EAST	119	3002 EAST 870 NORTH
109	3002 NORTH 1880 EAST	120	3002 EAST 870 NORTH
110	3002 NORTH 1880 EAST	121	3002 EAST 870 NORTH
111	3002 NORTH 1880 EAST	122	3002 EAST 870 NORTH
112	3002 NORTH 1880 EAST	123	3002 EAST 870 NORTH
113	3002 NORTH 1880 EAST		
114	3002 NORTH 1880 EAST		
115	3002 NORTH 1880 EAST		
116	3002 NORTH 1880 EAST		
117	3002 NORTH 1880 EAST		
118	3002 NORTH 1880 EAST		
119	3002 NORTH 1880 EAST		
120	3002 NORTH 1880 EAST		
121	3002 NORTH 1880 EAST		
122	3002 NORTH 1880 EAST		
123	3002 NORTH 1880 EAST		

ADDRESSING TO BE COMPLETED BY INDAH COUNTY OR DEPARTMENT

NEEDS AND ACKNOWLEDGMENTS

PRIVATE STREETS ARE OWNED AND MAINTAINED BY THE STONE CREEK HOME OWNERS ASSOCIATION.

AN EASEMENT OF ALL PRIVATE STREETS IS DESIGNATED TO INDAH COUNTY FOR THE PURPOSES OF SPRAWLING, MAINTENANCE, REPAIRS AND REPLACING MARKS, SIGNS AND MISPLACED MARKERS.

ALL COMMON AREAS AND STORM DRAIN FACILITIES SHALL BE MAINTAINED BY THE STONE CREEK HOME OWNERS ASSOCIATION. COMMON AREA I AND II ARE DESIGNATED AS STORM DRAIN EASEMENTS TO THE HOA.

USE OF THE PRIVATE ROADS WITHIN STONE CREEK IS LIMITED TO LOT OWNERS, THEIR AGENTS AND INVITEES, PURSUANT TO INDAH COUNTY, INDAH COUNTY PUBLIC WORKS (TRAFFIC COLLECTION) AND PUBLIC UTILITY COMPANIES. THE STONE CREEK HOME OWNERS ASSOCIATION RESERVES THE RIGHT TO CONTROL THE USE OF PRIVATE ROADS WITHIN THE DEVELOPMENT.

COMMON AREA I, II & X ARE DESIGNATED AS STORM DRAIN EASEMENTS TO THE HOA.

A GEOTECHNICAL REPORT FOR THE SUBSESION IS AVAILABLE IN THE INDAH CITY CLERK'S OFFICE. USE OF PRIVATE ROADS WITHIN THE AREA IS LIMITED TO LOT OWNERS AND INVITEES. A GEOTECHNICAL ENGINEER AS DESIGNATED IN THE REPORT.

LEGEND

- 30' SEWER EASEMENT
- SURVEY MONUMENT
- 10' PUBLIC UTILITY EASEMENT

COUNTY RECORDER

COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS _____ DAY OF _____, 20__

NAME _____

COUNTY SURVEYOR