



"W3045053"

3045053 PG 1 OF 19
LEANN H KILTS, WEBER COUNTY RECORDER
02-APR-20 159 PM FEE \$40.00 DEP THU
REC FOR: TERRACE PARK

**CITY OF WASHINGTON TERRACE
SUBDIVISION DEVELOPMENT AGREEMENT**

The Parties to this Subdivision Development Agreement ("Agreement") are DRM Construction, Incorporated, ("Developer") and the City of Washington Terrace ("City"). The Effective Date of this Agreement is the date of the last party to sign below.

RECITALS

WHEREAS, Utah Code §10-9a-604.5 authorizes the City to enter a Development Agreement; and

WHEREAS, the Developer seeks permission to subdivide property within City, to be known as TERRACE PARK SUBDIVISION ("Subdivision"), which property is more particularly described in the attached as Exhibit "A" and incorporated herein by this reference ("Property"); and

WHEREAS, the City seeks to protect the health, safety, and general welfare of the residents by requiring the completion of various improvements in the Subdivision and thereby to limit the harmful effects of substandard development; and

WHEREAS, the purpose of this Agreement is to protect the City from the cost of completing the improvements required as part of the approval of this Subdivision itself and is not executed for the benefit of material, men, laborers, or others providing work, services or material to the Subdivision; and

WHEREAS, the mutual promises, covenants, and obligations contained in this Agreement are authorized by state law and the City's Municipal Code;

NOW, THEREFORE, the Parties hereby agree as follows:

DEVELOPER'S OBLIGATIONS

1. **Improvements.** The Developer shall construct and install, at his own expense, those on-site and off-site subdivision improvements listed on Exhibit "B" attached hereto and incorporated herein by this reference ("Improvements"). The Developer's obligation to complete the Improvements will arise immediately upon Plat approval by the City, will be independent of any obligations of the City contained herein and will not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the development.
2. **Financial Guarantee.** To secure the performance of his obligations hereunder, the Developer will make a Cash Deposit ("Financial Guarantee") to be held in Escrow based upon an Escrow Agreement established in the form and manner approved by the City

Attorney and attached hereto as Exhibit "C" incorporated by this reference. The Financial Guarantee is to be in the amount specified in the total of all Improvements

including related costs and contingency calculated as part of the Improvements. The Financial Guarantee will be established at American Secure Title ("Escrow Holder"), and Developer hereby warrants that said Financial Guarantee is safe and secure with said Escrow Holder who is capable of administering the same. The Financial Guarantee shall be payable at sight to the City. The Escrow Agreement shall be executed with the Escrow Holder and the Parties. The Financial Guarantee will be payable to the City at any time upon presentation of:

- a. A sight draft drawn on the issuing Escrow Holder in the amount to which the City is entitled to draw pursuant to the terms of this Agreement; or
 - b. A request executed by the City Attorney or City Recorder stating that the City is entitled to make a draw or Developer is in default under this Agreement;
 - c. A request by the City under this Agreement or for Inspection/Subdivision Fees. Developer hereby authorizes the release of any and all outstanding Inspection/Subdivision Fees as specified in the Exhibit "B".
3. **Standards.** The Developer will construct the Improvements according to the Public Works Standards and Technical Specifications, municipal code, applicable building or other codes adopted by City, all of which are incorporated herein by this reference.
 4. **Warranty.** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of one (1) year from the date that the City accepts the improvement when completed by the Developer and as requested by the Developer for conditional acceptance and final acceptance as provided in state law.
 5. **Completion Periods.** The Developer shall commence work on the Improvements within one year from the Effective Date ("Commencement Period") and the Improvements, each and every one of them, will be completed within two (2) years from the Effective Date ("Completion Period").
 6. **Compliance.** The Developer will comply with all approval requirements, relevant laws, code requirements, standards, specifications, and regulations in effect at the time of Plat approval when fulfilling his obligations under this Agreement. When necessary to protect public health, the Developer will be subject to laws, ordinances and regulations that become effective after final plat approval. The Developer shall specifically comply as follows:
 - a. Comply with the municipal code and building code, and specifically with the requirements of Chapter 17.10 of the Washington Terrace Municipal Code.
 - b. The recorded Plat shall substantially conform to the approved Plat for the Subdivision attached in Exhibit "D" incorporated herein by this reference, subject to any changes by the City Engineer.
 - c. Comply with the Public Works Standards and Technical Specifications along with all requirements of the City Engineer.
 - d. Conform to the Final Approval granted by the Planning Commission and City Council as set forth in the applicable minutes.

- e. Submit for review and approval by the City Attorney the Covenants, Conditions & Restriction (CC&Rs) and Home Owners' Association (HOA) documents for the Subdivision.
7. **Dedication.** The Developer will dedicate to the City or other applicable agency as designated by the City the Improvements listed on Exhibit "B" attached hereto and incorporated herein by this reference pursuant to the procedure described below. The Developer shall also dedicate to the City or other applicable agency designated by the City all adequate secondary water in the form of bona fide water rights/shares as may be required for approved culinary use and for secondary irrigation.
8. **Inclusion and/or Annexation.** The Developer, each subsequent purchaser, prospective purchaser, transferee, assignee, heir, or any other type of owner (collectively the "Owners") of any or all lot or lots (collectively the "Lots"), and the HOA, hereby consents and agrees not to contest, protect, or object to inclusion and/or annexation into any special assessment area, special district, or similar entity as determined or directed by the City. Owners in the Subdivision hereby and forever acknowledge and accept that such are subject to taxes, assessments, utility fees, monthly user fees, or any fee or assessment imposed by any special assessment area, special district, or similar entity. Owners in the Subdivision hereby and forever acknowledge and hold the City harmless for the Subdivision and its Improvements, any actions or operation related to the same, including the service and operation of any utilities, and specifically any sanitary sewer, culinary water, and secondary water systems. The provisions of this Agreement relating to Owners runs in perpetuity.
9. **Home Owner Association.** The Developer, each subsequent purchaser, prospective purchaser, transferee, assignee, heir, or any other type of owner (collectively the "Owners") of any or all lot or lots (collectively the "Lots") hereby forever acknowledge and consent to being governed by a Home Owner or Home Owners' Association ("HOA") as set forth in such documents and bylaws created for the same, pay any and all fees or assessments for the same, and forever hold the City harmless for the same. The Owners and HOA are joint and severally liable under this Agreement. The Owners and HOA is responsible to maintain the HOA in good standing as a Utah non-profit corporation and shall hold the City harmless for the same. The Owners and HOA shall collect a fee equivalent to the costs of maintaining the HOA as set forth in the Covenants, Conditions, and Restrictions (CC&Rs) and shall also be responsible for any and all snow removal (including the public right-of-way), open space, common area, and landscaping. Failure of the HOA to collect the necessary fees for the maintenance of the HOA, and as additionally provided in this Paragraph, may result in the City taking legal or other enforcement action against the HOA to impose a fair HOA fee upon Owners and/or special assessment to comply with this Paragraph with all costs incurred by the City, including attorney fees and costs, for any action to be reimbursed to the City by the HOA. The Owners and HOA hereby hold the City harmless for the Subdivision and all Improvements. The City does not enforce any Covenants, Conditions, and Restriction (CC&Rs) relating to the Subdivision unless expressly stated in the CC&Rs, enforcement

is to be made by Owners in the Second District Court. Nothing in this Agreement prevents the HOA from contracting with the City to provide services for the HOA.

10. **Special District/Assessment.** At any time, the City may opt to include the Subdivision in one or more special district, service area, special assessment area or other equivalent entity to pay for maintenance of any Improvements in the Subdivision, which for the purpose of this Paragraph includes, but is not limited to: roadways, curb, gutter, sidewalk, snow removal, landscaping, storm drain, flood control, sewer and/or water (culinary and secondary). The Owners and HOA hereby waive any right to protest the City's inclusion of the Subdivision, in whole or part, in any special district, service area, special assessment area or other equivalent entity.
11. **Durability.** The continuing obligations and provisions of this Development Agreement run in perpetuity with the land.

CITY'S OBLIGATIONS

12. **Plat Approval.** The City will grant Final Subdivision Plat ("Plat") approved for the Plat that is substantially similar to the Plat attached in Exhibit "D" and incorporated herein. Approval of the Plat and this Subdivision is subject to the applicable state laws and local ordinances in effect at the time of Plat approval.
13. **Easement and Improvements.** This Paragraph is intended to comply with the mandates enforced upon the City by Phase II of the federal Clean Water Act and other applicable federal and state regulations, and provide access to public improvements and utilities. The Developer, each subsequent purchaser, prospective purchaser, transferee, assignee, heir, or any other type of owner (collectively the "Owners") of any or all lot or lots (collectively the "Lots") hereby acknowledges consents that the City is granted an easement over all storm water and drain facilities, public improvements and utilities, and such easement includes all rights to access at any time for inspection of any storm water and drain facilities in accordance with any regulation imposed by the federal or state governments and as otherwise provided in this Paragraph. In the event that the storm water facilities are not adequately maintained, operated, or controlled by the HOA then all storm water and drain facilities may be assumed and maintained by the City at the expense of each owner or an assessment area, special district, or similar entity may be established for the same at the sole discretion of the City. The City may also inspect and maintain any other public improvements and gain access for the same on any private property to adequately ensure the use, operation, repair, replacement, and maintenance of any public improvement.
14. **Inspection and Certification.** The City will inspect the Improvements as they are being constructed and, if acceptable to the City Engineer, certify such improvement are in compliance with the standards and specifications of the City. Such inspection and certification, if appropriate, will occur within a reasonable time of notice by the Developer that he desires to have the City inspect an improvement. Before obtaining

certification of any such improvement, the Developer will present to the City valid lien waivers from all persons providing materials or performing work on the improvement for which certification is sought. Certification by the City Engineer does not constitute a waiver by the City of the right to draw funds under the Financial Guarantee on account of defects in or failure of any improvement that is detected or which occurs following such certification.

15. **Notice of Defect.** The City will provide timely notice to the Developer whenever inspection reveals that an Improvement does not conform or is defective to the standards and specifications or the approved Subdivision improvement drawings on file with the City or City Engineer. The Developer will have thirty (30) days from the issuance of such notice to cure or substantially cure the defect. The City may not declare a default under this Agreement during the thirty (30) day cure period on account of any such defect unless it is clear that the Developer does not intend to cure the defect. The Developer will have no right to cure defects in or failure of any improvement found to exist or occurring after the City accepts dedication of the Improvement(s).
16. **Acceptance of Dedication.** The City or other applicable agency will accept the dedication of any validly certified Improvement within thirty (30) days of the Developer's offer to dedicate the Improvement. The City's or agency's acceptance of dedication is expressly conditioned on the presentation by the Developer of a policy of title insurance, where appropriate, for the benefit of the City showing that the Developer owns the Improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the City in its reasonable judgment. Acceptance of the dedication of any improvement does not constitute a waiver by the City of the right to draw funds under the Financial Guarantee on account of any defect in or failure of the Improvement that is detected or which occurs after the acceptance of the dedication. The Improvements must be offered to the City in no more than one (1) dedication per month.
17. **Reduction of Security.** After the acceptance of any Improvement, the amount which the City is entitled to draw on the Financial Guarantee may be reduced by an amount equal to ninety (90) percent of the estimated cost of the Improvement as shown on Exhibit "B". At the request of the Developer, the City will execute a Certificate of Release verifying the acceptance of the Improvement and waiving its right to draw on the Financial Guarantee to the extent of such amount. A Developer in default under this Agreement will have no right to such a certificate. Upon the acceptance of all of the Improvements, the balance that may be drawn under the credit will be available to the City for 90 days after expiration of the Warranty Period.
18. **Use of Proceeds.** The City will use funds drawn under the Financial Guarantee only for the purposes of completing the Improvements or correcting defects in or failures of the Improvements.

OTHER PROVISIONS

19. **Events of Default.** The following conditions, occurrences, or actions will constitute a default by the Developer during the Construction Period:
- a. Developer's failure to commence construction of the Improvements within one year of final subdivision plat approval;
 - b. Developer's failure to complete construction of the Improvements within two years of final subdivision plat approval;
 - c. Developer's failure to cure defective construction of any Improvement within applicable cure period;
 - d. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer; or
 - e. Foreclosure of any lien against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure.
- The City may not declare a default until written notice has been given to the Developer.
20. **Measure of Damages.** The measure of damages for breach of this Agreement will be the reasonable cost of completing the Improvements. For Improvements upon which construction has not begun, the estimated cost of the Improvements as shown on Exhibit "B" will be prima facie evidence of the minimum cost of completion. However, neither that amount, or the amount of the Financial Guarantee, establishes the maximum amount of the Developer's liability. The City will be entitled to complete all unfinished Improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether Development ever commenced.
21. **City's Rights Upon Default.** When any event of default occurs, the City may draw on the Financial Guarantee to the extent of the face amount of the credit less ninety (90) percent of the estimated cost (as shown on Exhibit "B") of all Improvements theretofore accepted by the City. The City will have the right to complete Improvements itself or contract with a third party for completion, and the Developer hereby grants to the City, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such improvements. Alternatively, the City may assign the proceeds of the Financial Guarantee to a subsequent developer (or a lender) who has acquired the Subdivision by purchase, foreclosure, or otherwise who will then have the same rights of completion as the City if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished Improvements. In addition, the City also may suspend final plat approval during which time the Developer will have no right to sell, transfer, or otherwise convey lots or homes within the Subdivision without the express written approval of the City or until the Improvements are completed and accepted by the City. These remedies are cumulative in nature except that during the Warranty Period, the City's only remedy will be to draw funds under the Financial Guarantee. The City may file a Certificate of non-compliance on the Subdivision with applicable fines set forth in code, or pursue other remedies at law or equity.


22. **Indemnification and Improvements.** The Developer and any subsequent Owners of any or all Lots in the Subdivision hereby expressly agree to forever indemnify and hold the City and any Affected Entities (includes any other agencies and utilities) harmless from and against all claims, costs, and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work at the development site and elsewhere pursuant to this Agreement. Such Owners further forever agree to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work or any Improvements pursuant to this Agreement or development, maintenance, and operation of the Subdivision. This indemnity obligation shall not be construed to indemnify City and any Affected Entities against the City or the Affected Entities own negligence, to the extent allowed by law. The Owners of any or all Lots in the Subdivision in the hereby expressly acknowledge that the Secondary Water System (the "System") as provided in the Improvements is supplied by a third party irrigation company and is subject to drought, rationing, regulations, and strict conservation measures and agree to conform to such. Also, said System may contain mollusks, crustaceans, moss, algae, debris, or foreign objects that require Owners to provide continuous maintenance and upkeep, winterization measures, and specialized operation or handling.
23. **Employment.** The Developer is not an agent or employee of the City.
24. **No Waiver.** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both City and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.
25. **Amendment or Modification.** The parties to this Agreement may amend or modify this Agreement only by written instrument executed by the City and by the Developer, or authorized agent. Such amendment or modification will be properly notarized before it may be effective.
26. **Attorney's Fees.** Should either party be required to resort to litigation, arbitration, or mediation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator, or mediator awards relief to both parties, each will bear its own costs in their entirety.
27. **Vested Rights.** The City does not warrant by this Agreement that the Developer is or is not entitled to any other approval(s), permits, or licenses required by the City or has

vested right to such, before the Developer is entitled to commence development of the Subdivision or to transfer ownership of property in the Subdivision.

28. **Third Party Rights.** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement, except that if the City does not exercise its rights within sixty (60) days following knowledge of an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the City to exercise its rights.
29. **Scope.** This Agreement constitutes the entire agreement between the Parties and no statement(s), promise(s) or inducement(s) that is/are not contained in this Agreement will be binding on the parties.
30. **Time.** For the purpose of computing the Commencement Period, Abandonment, and Completion Periods, and time periods for City action, such times in which civil disaster, acts of God, or extreme weather conditions occur or exist will not be included if such times prevent the Developer or City from performing his/its obligations under the Agreement.
31. **Severability.** If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
32. **Benefits.** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonable withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also run with the Property, binding the heirs, successors, and assigns of the Developer. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will release the Developer's Financial Guarantee if it accepts new security from another developer or lender who obtains the Property.
33. **Notice.** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:
 - a. Developer: 5946 Park Meadow Drive, Morgan UT 84050.
 - b. City: 5249 South 400 East, Washington Terrace, UT 84405.
34. **Recordation.** Either Developer or City may record a copy of this Agreement at any time in the Recorder's Office of Weber County, Utah.

- 35. **Immunity.** Nothing contained in this Agreement constitutes a waiver of any of the City's immunity under any applicable state law or otherwise.
- 36. **Personal Jurisdiction and Venue.** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement or Financial Guarantee will be deemed proper only if such action is commenced in Second District Court of and for Weber County. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

FOR DEVELOPER:


 Michael A. Mellott, President/Authorized Agent Date
 Developer


APPROVED AS TO FORM:

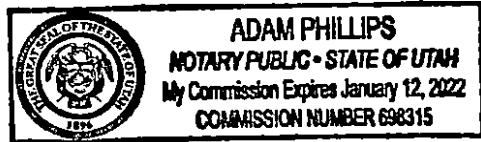

 Attorney for Developer

CORPORATE ACKNOWLEDGMENT


State of Utah)
 Dravis ss:
 County of *Weber*)

On the 20th day of March 2020, personally appeared before me, a Notary Public, Michael A. Mellott, President/Authorized Agent, DRM Construction, Incorporated, the signer of the within instrument, who duly acknowledged to me that he executed the same in his authorized capacity.


 Notary Public



CITY OF WASHINGTON TERRACE:


 MARK ALLEN, Mayor Date 3.23.20

ATTEST:

Amy Rodriguez
City Recorder

APPROVED AS TO FORM:

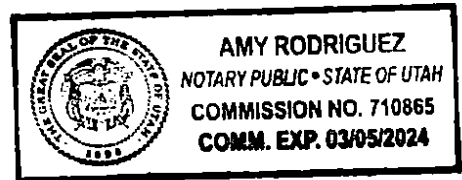
Mark Allen
City Attorney

ACKNOWLEDGMENT

State of Utah)
 ss:
County of Weber)

On the 23 day of March 2020, personally appeared before me MARK ALLEN, and the signer of the foregoing instrument, who duly acknowledged to me that he executed the same in his authorized capacity.

Amy Rodriguez
Notary Public



SCHEDULE OF EXHIBITS

- Exhibit A: Legal Description of Property Description to Be Subdivided
- Exhibit B: City Engineer's Estimate of Required On-site and Off-site Subdivision Improvements
- Exhibit C: Financial Guarantee
- Exhibit D: Approved Final Subdivision Plat

Exhibit "A"

Legal Description – Property
Description to Be Subdivided

TERRACE PARK SUBDIVISION**LEGAL DESCRIPTION**

PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF 4900 SOUTH STREET, SAID POINT BEING S89°08'11"E 2187.98 FEET AND S00°51'49"W 694.61 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 17; THENCE S00°47'56"W ALONG THE EXTENSION OF THE WESTERLY LINE OF TERRACE MEADOWS P.R.U.D., 297.02 FEET; THENCE N89°10'22"W 151.60 FEET TO THE EAST LINE OF HAVEN COVE; THENCE N00°22'43"E ALONG THE EXTENSION OF THE EAST LINE OF HAVEN COVE, 297.04 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF 4900 SOUTH STREET; THENCE S89°10'10"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 153.78 FEET TO THE POINT OF BEGINNING.

CONTAINING 45,353 SQUARE FEET OR 1.041 ACRES MORE OR LESS.

Exhibit "B"

City Engineer's Estimate of Required On-site and Off-site Subdivision Improvements

To: DMR Construction

From: Jake Meibos
 Washington Terrace City Public Works Director



RE: Terrace Park subdivision

Date: 1/31/2020

Our department has inspected the Terrace Park subdivision to verify the installation of the utilities and infrastructure improvements. The following is a list of improvements that remain to be installed or not complete. The items listed will require to be escrowed for.

Description	Item/Unit	Unit Price	Amount
Culinary Water			
• Valve collars	4 ea.	\$400	\$1,600
• Remove existing service	1 ea.	\$1,110.00	\$1,100.00
Sanitary Sewer			
• Manhole Collars	4 ea.	\$400	\$1,600
Strom Drain			
• Retention Basin	1l.s.	50%	\$3,000
Street Improvements			
• St. 4' sidewalk	300 l.f.	\$18.50	\$5,550
• 8" gravel base			
• 3" asphalt	905 s.y.	\$21.75	\$19,683.75
• Saw cutting	66 l.f.	\$1.05	\$69.30
•			
• Remove existing curb & gutter	66 l.f.	\$7.50	\$495.00
• Remove existing sidewalk	66 l.f.	\$5.50	\$363.00
• Remove existing asphalt	22 s.y.	\$5.25	\$115.50
• 5' wide cross gutter	66 l.f.	\$23.60	\$1,557.60
• Slurry Seal	7,860	\$0.45	\$3,537.00
Miscellaneous items			
• Street signs	2 ea.	\$320	\$640.00
• ADA ramp	2 ea.	\$950	\$1,900.00
• SWPPP	1 l.s.		\$6,500.00
Remaining estimated construction cost			\$47,411.15
Total estimated construction cost			\$169,550.65
Contingency (10%)			\$16,955.06
Remaining cost estimate (escrow amount)			<u>\$64,666.22</u>

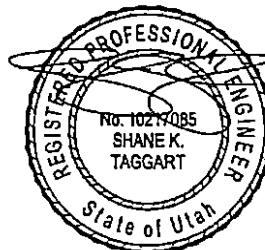


Exhibit "C"

Financial Guarantee



5249 South Southpointe Dr.
801-395-8280

February 4th 2020

City of Washington Terrace
5249 South 400 East
Washington Terrace, UT 84405
Attn: Jake Meibos Public Works Dir.
Ph. (801) 395.8289

American Secure Title
489W 2275N Suite C
Layton UT, 84041
Adam Phillips 435-770-3335

Michael A. Mellott
DRM Construction
5946 Park Meadow Dr. Morgan UT 84050

“ESCROW AGREEMENT”

This Agreement, is by and among City of Washington Terrace (the “Company”), Michael Mellott, (the “Developer”) and American Secure Title (the “Bank”) relating to the construction of the Subdivision and related utilities, for 4900 South 175 West Development and Terrace Park Subdivision improvements (the “Improvements”) on ‘Developer’s’ development known as Terrace Park Subdivision located in Washington Terrace, Utah 84405.

Whereas, the parties hereto hereby appoint the ‘Bank’ as Escrow Agent and it shall hold, in a separate escrow account or loan, the sum of at least \$64,666.22 (hereinafter, the “Escrow Account”), of which (i) \$47,711.15 consists of the estimated cost of the Improvements, amount and (ii) \$16,955.06 consists of a 10% warranty contingency amount.

Whereas, the ‘Bank’ shall release funds from the Escrow Account as the ‘Improvements’ are completed and approved by the ‘Company’. When a portion of the ‘Improvements’ are completed and approved by the ‘Company’, the ‘Bank’ shall pay the subcontractors who performed such work. The ‘Improvements’ will not be deemed complete until the ‘Improvements’ have been inspected and approved by the ‘Company’.

Upon final completion of the ‘Improvements’, the ‘Bank’ may release all of the Escrow Account, minus 10%, which shall remain in Escrow for a period of one year after completion of the Improvements. Upon expiration of such one-year warranty period, the ‘Bank’ shall release the remaining Escrow Account to the ‘Developer’ so long as the ‘Improvements’ remain in good repair. This Agreement is subject to the terms and conditions set forth in the Subdivision Development Agreement for the Terrace Park Subdivision recorded with the Weber County recorder along with this Agreement and all the parties to this Agreement shall abide by the Subdivision Development Agreement for Terrace Park Subdivision, specifically the provisions related to the Financial Guarantee.

Whereas, notwithstanding the provisions of this paragraph for the amount of the escrow account shall not be reduced to less than 10% of the total amount escrowed until certification to the 'Bank' by the 'Company' of the completion of the warranty period. The 'Bank' may not reduce the amount in escrow or make any payments there from to the 'Developer' without first receiving written consent of the 'Company'.

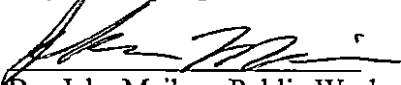
Whereas, in the event the 'Improvements' are not completed by the 'Developer' within one year from the date the 'Developer' commences construction of the 'Improvements', the 'Company' may make demand upon the Escrow Account, for any portion of the remaining work necessary to complete the 'Improvements'.

This Agreement, shall not only be binding upon the parties hereto, but also their respective heirs, executors, administrators, successors and assigns.

Now, Therefore, the 'Bank' will only release funds from the Escrow Account upon written consent of the 'Company' as provided in this Agreement and 'Developer' will hold the 'Bank' harmless for releasing funds from the Escrow Account pursuant to the 'Company's' directions and this Agreement.

THE COMPANY:

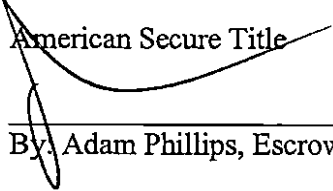
City of Washington Terrace



By: Jake Meibos, Public Works Dir.

THE BANK, ESCROW AGENT:


American Secure Title



By: Adam Phillips, Escrow Assistant

THE DEVELOPER:

Terrace Park Subdivision



By: Michael Mellott, property owner/Developer

Exhibit "D"

Approved Final Subdivision Plat

Terrace Park

PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY
WASHINGTON TERRACE CITY, WEBER COUNTY, UTAH
MAY, 2019



BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE SECTION LINE BETWEEN THE NORTHWEST CORNER AND THE NORTHEAST CORNER OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, SHOWN HEREIN AS S89°07'11\".

NARRATIVE

THE PURPOSE OF THIS PLAN IS TO CREATE A PARCEL SUBDIVISION AS SHOWN. ALL PROPERTY CORNERS WERE SET WITH A 5/8\" PEARL AND PLASTIC CAP SHAPED 'REEVE & ASSOCIATES'. THE NORTH LINE WAS DETERMINED BY FOUND CENTERLINE MONUMENTS AND OFFSETS AS SHOWN. THE EAST LINE IS ALONG THE WEST LINE OF TERRACE MEADOWS PARK, THE WEST LINE IS ALSO THE EAST LINE OF HAVEN COVE, AND THE SOUTH LINE IS BY DEED. ALL LINES MATCH OCCUPATION VERY WELL.

NOTES

1. ALL AREA NOT LABELED PRIVATE UNIT OR LIMITED COMMON AREA IS CONSIDERED COMMON AREA.
2. ALL COMMON AREA IS TO BE CONSIDERED PUBLIC UTILITY AND DRAINAGE EASEMENT.

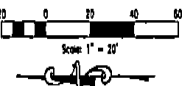
BOUNDARY DESCRIPTION

PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF 4800 SOUTH STREET, 340' POINT FROM S89°07'11\" 2187.38 FEET AND S02°47'58\" 94.81 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 17, THENCE S02°47'58\" ALONG THE EXTENSION OF THE WESTERLY LINE OF TERRACE MEADOWS PARK, 297.02 FEET; THENCE N89°10'22\" 151.00 FEET TO THE EAST LINE OF HAVEN COVE; THENCE N02°21'43\" ALONG THE EXTENSION OF THE EAST LINE OF HAVEN COVE, 293.04 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF 4800 SOUTH STREET; THENCE S89°07'11\" ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 153.78 FEET TO THE POINT OF BEGINNING.

CONTAINING 45,553 SQUARE FEET OR 1.041 ACRES MORE OR LESS

LEGEND

- SECTION CORNER
- 5/8\" PEARL & PLASTIC CAP STAMPED 'REEVE & ASSOCIATES'
- FOUND BRASS CAP CENTERLINE MONUMENT
- BOUNDARY LINE
- SECTION LINE
- ROAD CENTER LINE
- EASEMENT
- EXISTING FENCE
- ADJOINING PROPERTY
- LIMITED COMMON AREA
- PRIVATE UNIT



SUBVOTORY CERTIFICATE

I, JERRY A. BATES, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 36, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS ACT; AND THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAN IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VIEWED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THIS PLAN, AND THAT THIS PLAN OF TERRACE PARK IN WASHINGTON TERRACE CITY, WEBER COUNTY, UTAH HAS BEEN DRAWN CORRECTLY TO THE DESIGNATED SCALE AND IS A TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LANDS INCLUDED IN SAID SUBDIVISION, BASED UPON DATA COMPILED FROM RECORDS IN THE WEBER COUNTY RECORDS OFFICE AND FROM THIS SURVEY MADE BY ME ON THE GROUND. I FURTHER CERTIFY THAT THE REQUIREMENTS OF ALL APPLICABLE STATUTES AND ORDINANCES OF WASHINGTON TERRACE CITY, WEBER COUNTY, UTAH, CONCERNING ZONING REQUIREMENTS REGARDING LOT MEASUREMENTS HAVE BEEN COMPLIED WITH.

SIGNED THIS _____ DAY OF _____ 20____

0031945
UTAH LICENSE NUMBER



OWNER'S DEDICATION AND CERTIFICATION

WE, THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND, DO HEREBY SET APART AND SUBDIVIDE THE SAID INTO LOTS AND STREETS AS SHOWN ON THE PLAN AND NAME SAID TRACT TERRACE PARK, AND DO HEREBY DEDICATE TO WASHINGTON TERRACE CITY ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS STREETS, THE SAME TO BE USED AS PRIVATE THROUGHWAYS AND ALSO GRANT AND ASSOCIATE A PERPETUAL RIGHT AND EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED HEREON AS PUBLIC UTILITY AND PUBLIC SEWER EASEMENT, THE SAME TO BE USED FOR THE INSTALLATION MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINE, STORM DRAINAGE FACILITIES, IRRIGATION CANALS OR FOR THE PREVENTION, PREVENTION OF WATER CHANNELS IN THEIR NATURAL STATE WHEREEVER IS APPLICABLE AS MAY BE AUTHORIZED BY THE GOVERNING AUTHORITY, WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS.

SIGNED THIS _____ DAY OF _____ 20____

ACKNOWLEDGMENT

STATE OF UTAH COUNTY OF _____
ON THE _____ DAY OF _____ 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, (AND) SPOUSE(S) OF THE ABOVE OWNER'S DEDICATION AND CERTIFICATION, WHO BEING BY ME DULY SWORN, DO ACKNOWLEDGE TO ME _____ SIGNED IT FREELY, VOLUNTARILY, AND FOR THE PURPOSES THEREIN MENTIONED.

ACKNOWLEDGMENT

STATE OF UTAH COUNTY OF _____
ON THE _____ DAY OF _____ 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, (AND) SPOUSE(S) OF THE ABOVE OWNER'S DEDICATION AND CERTIFICATION, WHO BEING BY ME DULY SWORN, DO ACKNOWLEDGE TO ME _____ SIGNED IT FREELY, VOLUNTARILY, AND FOR THE PURPOSES THEREIN MENTIONED.

PROJECT INFO

Surveyor: J. BATES
Designer: J. BATES
Scale Date: 4-23-19
Name: Terrace Park
Number: 8871-02
Permits:
Scale: 1\" = 20'
Checked:

WASHINGTON TERRACE CITY PLANNING COMMISSION

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAN WAS DULY APPROVED BY THE WASHINGTON TERRACE CITY PLANNING COMMISSION
THIS _____ DAY OF _____ 20____

Chairman, WASHINGTON TERRACE CITY PLANNING COMMISSION

WASHINGTON TERRACE CITY ACCEPTANCES

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAN, THE DEDICATION OF STREETS AND OTHER PUBLIC WAYS AND FINANCIAL GUARANTEE OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THIS SUBDIVISION, THEREON ARE HEREBY APPROVED AND ACCEPTED BY THE CITY COUNCIL OF WASHINGTON TERRACE.
THIS _____ DAY OF _____ 20____

MAYOR, WASHINGTON TERRACE CITY COUNCIL
ATTEST TITLE

WASHINGTON TERRACE CITY ENGINEER

I HEREBY CERTIFY THAT THE REQUIRED PUBLIC IMPROVEMENTS STANDARDS AND DRAWING FOR THIS SUBDIVISION CONFORM WITH CITY STANDARDS AND THE AMOUNT OF THE FINANCIAL GUARANTEE IS SUFFICIENT FOR THE INSTALLATION OF THESE IMPROVEMENTS.
THIS _____ DAY OF _____ 20____

CITY ENGINEER

WASHINGTON TERRACE CITY ATTORNEY

I HAVE EXAMINED THE FINANCIAL GUARANTEE AND OTHER DOCUMENTS ASSOCIATED WITH THIS SUBDIVISION PLAN AND IN MY OPINION THEY COMPLY WITH THE CITY ORDINANCE APPLICABLE THERETO AND NOW IN FORCE AND EFFECT.
THIS _____ DAY OF _____ 20____

CITY ATTORNEY DATE

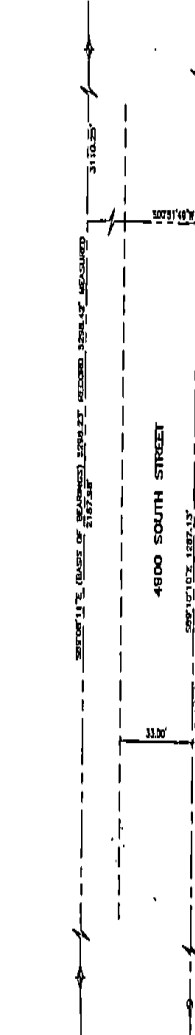
WEBER COUNTY RECORDER

Entry No. _____ Fee Paid _____
Filed For Record And Records, _____ At _____
In Book _____ of the Official Records, Page _____
Recorded For _____

Webb County Recorder Deputy

VICINITY MAP

NORTHEAST CORNER OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, FOUND WEBER COUNTY BRASS CAP MONUMENT DATED 1980



NORTHEAST CORNER OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, FOUND WEBER COUNTY BRASS CAP MONUMENT DATED 1980

FILED 3045053 PG 19 OF 19