

AGREEMENT

This AGREEMENT is entered into as of the 13th day of April, 1999, between Ogden City, a Utah municipal corporation (the "City"), and Silver Creek Development LC (the "Developer"), a Utah Limited Liability Corporation.

WHEREAS, on February 18, 1997, the City adopted a resolution creating the Mountain Road Sanitary and Storm Sewer Special Improvement District (the "District") pursuant to the Utah Municipal Improvement District Act (the "Act") and a "Notice of Intention" adopted on January 7, 1997, (the "Notice of Intention") for the purpose of providing for the construction of a sewer main and a storm drain main (the "Improvements") and the financing thereof of the benefit, in part, to properties owned by the Developer within the District: and

WHEREAS, to provide notice to potential purchasers of property located within the District, the Act requires the City to record in the Weber County Recorder's Office a copy of the authorizing resolution creating the District, which resolution was recorded on February 21, 1997; and

WHEREAS, the City is in the process of levying assessments for the Improvements against property within the District, which includes property owned by the Developer (the "Property"); and 11-277-0001 TO 0019

WHEREAS, the Developer has applied for the subdivision of the Property, which Property will be subdivided by recordation of subdivision(s) to be known as North Star Subdivision No. 4; and

WHEREAS, the City desires that the Developer provide potential purchasers of lots within the Property additional notice that the Property is within the District and may be subject to assessments levied within the District; and

WHEREAS, in exchange for the Developer's agreement to give written notification to purchasers of the Property, the City is willing to proceed with recordation of the plats for such subdivisions prior to approval and publication of the assessment ordinance, and to proceed with the issuance of bonds, the proceeds of which will be used to finance the Improvements constructed within the District.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Representations, Covenants and Warranties of the Developer. The Developer hereby represents, covenants and warrants that it will give prior written notice to all purchasers of the Property, that the Property to be purchased is included within the District and may be subject to an assessment to pay for the Improvements constructed within the District. The Developer further agrees to provide a copy of the Notice of Intention, a copy of which is attached as Exhibit A, to each purchaser and to obtain a written acknowledgment from each purchaser of

E# 1631473 BK2007 PG2740
DOUG CROFTS, WEBER COUNTY RECORDER
28-APR-99 3:12 PM FEE \$1.00 DEP BCT
REC FOR: OGDEN.CITY

the Property to the effect that said purchaser has received said Notice of Intention and the written notice required by this paragraph.

2. **Remedies.** If the Developer fails to provide notice to a purchaser of the Property as required herein, the Developer hereby indemnifies the City for all loss, claims and damages resulting from the Developer's failure to provide such notice.

3. **Governing Law.** This Agreement shall be governed exclusively by the applicable laws of the State of Utah.

4. **Amendments.** This Agreement may be amended, terminated or supplemented only by the written consent of both the Developer and the City.

5. **Severability.** If any covenant, agreement, or provisions, or portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable and shall not be affected, and this Agreement shall remain valid.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 13th day of April, 1999.

CITY:

Ogden City, a Utah Municipal Corporation





Glenn J. Mecham, Mayor

ATTEST:


Gloria J. Berrett
City Recorder

DEVELOPER:

SilverCreek Development L.C.

By: 
Richard M. Webber *Managing Member*

Title: Owner

EX 111317 A

11-006-0001 BK 12242 PG 2742
SOUTH CROFTS, WEBER COUNTY, UTAH
21-FEB-97 1200 AM FEE 9.50 REP W
REC FOR: OGDEN CITY

NOTICE OF INTENTION

PUBLIC NOTICE IS HEREBY GIVEN that on the 7th day of January, 1997, the City Council of Ogden City, Weber County, Utah (the "City"), adopted a resolution declaring its intention to create a special improvement district to be known as Ogden City, Utah Mountain Road Sanitary and Storm Sewer Special Improvement District (the "District"). It is the intention of the City Council to make improvements within the District and to levy special assessments as provided in Title 17A, Chapter 3, Part 3 (formerly Title 10, Chapter 16), Utah Code Annotated 1953, as amended, on the real estate lying within the District for the benefit of which such assessments are to be expended in the making of such improvements.

DESCRIPTION OF DISTRICT

The boundaries of the proposed District are as follows:

All of Parcel 11-006-0001, with the legal description as follows, located within Ogden City limits:

PART OF THE NORTHWEST QUARTER AND SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, U.S. SURVEY; BEGINNING 128.04 FEET NORTH AND 511.50 FEET WEST OF THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; RUNNING THENCE SOUTH 0D15' WEST 1401.51 FEET; THENCE EAST 511.50 FEET, MORE OR LESS, TO THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 4; THENCE NORTH 1273.47 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE NORTH 128.04 FEET TO A POINT EAST OF BEGINNING; THEN WEST 511.50 FEET TO BEGINNING.

11-006-0001, 0025
11-254-0001 TO 0010
11-257-0001 TO 0016

All of Parcel 11-006-0002, with the legal description as follows, located within Ogden City limits:

PART OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY; BEGINNING AT A POINT NORTH 660 FEET, NORTH 89D57'20" EAST 1897.46 FEET, NORTH 0D50' EAST 105 FEET AND NORTH 28D35' EAST 75.19 FEET AND NORTH 0D50' EAST 313.24 FEET AND NORTH 3D WEST 155.35 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 4; THENCE NORTH 0D50' EAST 700.51 FEET; THENCE NORTH 89D10' WEST 104.61 FEET; THENCE NORTH 76D02' WEST 61.61 FEET; THENCE NORTH 89D10' WEST 405.98; THENCE SOUTH 87D40' WEST 147.57 FEET; THENCE SOUTH 82D00' WEST 75.59 FEET; THENCE NORTH 62D45' WEST 85.00 FEET; THENCE NORTH 18D10' WEST 80.00 FEET TO THE MOST NORTHERLY CORNER OF LOT 11, BLOCK 12, EYRE MEADOW SUBDIVISION NO. 2; THENCE NORTH 0D51' WEST 30.00 FEET, LEAVING SAID SUBDIVISION; THENCE NORTH 89D00' EAST 369.04 FEET; THENCE NORTH 1D846' EAST 357.85 FEET ALONG AN EXISTING FENCE; THENCE NORTH 0D1735' EAST 251.69 FEET ALONG THE EAST EDGE OF AN EXISTING CONCRETE WALL; THENCE NORTH 89D50' EAST 681.38 FEET; THENCE SOUTH 1D20' WEST 1462.76 FEET; THENCE SOUTH 89D38' EAST 518.23 FEET; THENCE SOUTH 57.98 FEET; THENCE NORTH 89D38' WEST 703.32 FEET TO THE POINT OF BEGINNING.

11-006-0024, 0022
11-253-0001 TO 0045.

11-006-0001 BK 12242 PG 2742

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REC 1084 OGDEN CITY
1933 MAR 08
31-4-23-11
RECORDED IN BOOK 1271
PAGE 1271

11-005-0007, 0019 11-256-0001 TO 0039
11-277-0001 TO 0019 11-240-0001 TO 0010

All of parcel 11-005-0007, with the legal description as follows, located within Ogden City limits:

11-238-0001 TO 0025

PART OF THE NORTHEAST QUARTER AND SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 4; RUNNING THENCE SOUTH 1651.65 FEET; THENCE SOUTH 83D30' EAST 1016.40 FEET; THENCE NORTH 47.52 FEET; THENCE NORTH 27D45' EAST 66 FEET; THENCE NORTH 15D EAST 145.20 FEET; THENCE NORTH 7D45' WEST 317.46 FEET; THENCE NORTH 27D30' EAST 55.44 FEET; THENCE WEST 3.58 CHAINS; THENCE NORTH 1199.22 FEET TO THE NORTH QUARTER SECTION LINE; THENCE NORTH 141.90 FEET; THENCE WEST 830.28 FEET, MORE OR LESS, TO A POINT 141.90 FEET NORTH OF BEGINNING, THENCE SOUTH 141.90 FEET TO THE BEGINNING

11-239-0001 TO 0014

All of parcel 11-005-0012, with the legal description as follows, located within Ogden City limits:

PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING 427.55 FEET WEST OF THE NORTHEAST CORNER OF SOUTHEAST QUARTER; RUNNING THENCE WEST TO THE EAST LINE OF BOARD OF EDUCATION OF OGDEN CITY PROPERTY, THENCE SOUTH 1D11' WEST 118.80 FEET; THENCE EAST TO THE WEST LINE OF MOUNTAIN ROAD, THENCE NORTH 7D22' EAST 118.80 FEET TO POINT OF BEGINNING.

11-005-0003
11-005-0012

All of parcel 11-005-0001, with the legal description as follows, located within Ogden City limits:

PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT ON THE QUARTER SECTION LINE 30 FEET WEST FROM THE NORTHEAST CORNER OF SAID QUARTER SECTION; RUNNING THENCE SOUTH 7D22' WEST 423.45 FEET; THENCE NORTH 84D29' WEST 330.53 FEET TO EAST LINE OF COUNTY ROAD, THENCE NORTH 7D22' EAST 415.03 FEET; THENCE SOUTH 89D5604' EAST 331.5 FEET TO THE PLACE OF BEGINNING.

All of parcel 11-005-0003, with the legal description as follows, located within Ogden City limits:

PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT 15.75 CHAINS EAST, NORTH 12D27' EAST 1.41 CHAINS, NORTH 77D WEST 50.06 FEET AND NORTH 456.67 FEET FROM THE SOUTHWEST CORNER OF SAID QUARTER SECTION; RUNNING THENCE WEST 242.90 FEET; THENCE SOUTH 54D07' WEST 103.06 FEET; THENCE NORTH 7D1206' EAST 59.51 FEET; THENCE NORTH 83D28'23" EAST 167.06 FEET; THENCE NORTH 53D39'18" EAST 131.61 FEET; THENCE NORTH 45D0009" EAST 120.21 FEET; THENCE NORTH 16D41'48" WEST 77.47 FEET; THENCE NORTH 47.52 FEET; THENCE NORTH 27-3/4D EAST 1.00 CHAIN; THENCE NORTH 15D EAST 145.20 FEET; THENCE NORTH 7 3/4D WEST 4.81 CHAINS; THENCE NORTH 27-1/2D EAST 0.84 CHAINS; THENCE WEST 3.58 CHAINS; THENCE NORTH 16.347 CHAINS TO THE SOUTHWEST CORNER OF PROPERTY CONVEYED TO THE STATE INDUSTRIAL SCHOOL, OF UTAH BY DEED RECORDED IN BOOK 85, PAGE 186; THENCE EAST ALONG SAID PROPERTY TO THE WEST LINE OF MOUNTAIN ROAD, THENCE SOUTHERLY FOLLOWING THE WESTERLY LINE OF SAID MOUNTAIN ROAD, TO A POINT NORTH 13D13' EAST 574.00 FEET FROM THE SOUTH LINE OF SAID QUARTER SECTION, THENCE WEST 1008.16 FEET TO THE PLACE OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO JAY L. STUBBLEFIELD AND WIFE IN BOOK 1416 OF RECORDS PAGE 103.

11-005-0003, 0013

11-268-0001 TO 0016

11-269-0001 TO 0023

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INTENDED IMPROVEMENTS

The improvements to be constructed and their location within the District are as follows:

1. A sanitary sewer main upsizing to service future development within the District. The location of these proposed improvements to be along the following streets:

Along Canfield Drive north to 1400 North then east through the undeveloped area, north and east again as shown on the map attached as Exhibit "A".

2. A storm drain main to service existing development outside the District and future development within the District. The location of these proposed improvements is to be located within the following streets:

From Washington Boulevard at approximately 1350 North east then southeast to Canfield Drive, along Canfield Drive to 1400 North, east through the undeveloped area, north and east as shown on the map attached as Exhibit "A".

The improvements shall in each case include all necessary excavation and resurfacing of streets and all other miscellaneous work necessary to complete the improvements in a proper workmanlike manner.

ESTIMATED COST OF IMPROVEMENTS

The total cost of improvements in the District as estimated by the City Engineer is \$948,000. The City intends to pay for approximately twenty percent (20%) of the cost of the storm sewer improvements, estimated at \$189,600, leaving a remainder of \$758,400 which shall be paid by a special assessment to be levied against the property abutting upon the streets to be improved or upon property which may be affected or specifically benefited by such improvements. The property owners' portion of the total estimated cost of the improvements may be financed during the construction period by the use of interim warrants, in which case the interest on said warrants will be assessed to the property owners. The estimated cost to be assessed against the properties within the District and the method of assessment shall be as follows:

Improvements	Estimated Assessment	Method of Assessment
Storm Drainage	\$3,900	Per acre
Sanitary Sewer	\$1,650	Per acre

A map of the proposed District, itemized preliminary cost estimates, copies of the plans and specifications and preliminary design plans of the proposed improvements and

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other related information are on file in the office of the City Engineer, 2484 Washington Boulevard #211, Ogden, Utah, and will be available to all interested persons.

LEVY OF ASSESSMENTS

It is the intention of the City Council to levy assessments as provided by the laws of Utah on all parcels and lots of real property to be benefited by the proposed improvements within the District. The purpose of the assessment and levy is to pay those costs of the improvements which the City will not assume and pay. The method of assessment shall be by acre as set forth herein.

The assessments may be paid by property owners in not more than ten (10) annual installments with interest on the unpaid balance at a rate or rates fixed by the City Treasurer, or the whole or any part of the assessment may be paid without interest within fifteen (15) days after the ordinance levying the assessment becomes effective. The assessment ordinance will outline provisions for partial lien releases to accommodate the future subdivision of the properties contained in the District and to fairly apportion acreage attributable to streets, public facilities and common areas. The assessments shall be levied according to the benefits to be derived by each property within the District. Other payment provisions and enforcement remedies shall be in accordance with Title 17A, Chapter 3, Part 3, Utah Code Annotated 1953, as amended.

A map of the proposed District, copies of plans, profiles and specifications of the proposed improvements and other related information are on file in the office of the City Engineer who will make such information available to all interested persons.

TIME FOR FILING PROTESTS

Any person who is the owner of record of property to be assessed in the District described in this Notice of Intention shall have the right to file in writing a protest against the creation of the District or to make any other objections relating thereto. Protests shall describe or otherwise identify the property owned of record by the person or persons making the protest and shall indicate the total acreage represented by said protest. Protests shall be filed with the City Recorder of Ogden City, Utah, on or before 5:00 p.m. on the 17th day of February, 1997. Thereafter at 5:00 p.m. on the 18th day of February, 1997, the City Council will meet in public meeting at the offices of the City Council to consider all protests so filed and hear all objections relating to the proposed District.

The protest shall be determined by totaling the assessable acreage of the property owners filing written protests and dividing that figure by the total assessable acreage of all the property within the proposed District. The City Council will rescind its intention to create the District if the written protests represent more than 50% of the total number of assessable acres of property in the District.

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BY ORDER OF THE CITY COUNCIL OF OGDEN CITY, UTAH

is/ Gloria J. Berrett
City Recorder

Published in the Standard Examiner.

Publication Dates: January 15, 22, 29 and February 5, 1997.

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