

STONE CREEK PHASE 1A and 1B  
SUBDIVISION AGREEMENT

This agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by and between Blackstone Creek, LLC (Developer) and Heber City (City) as required by Section 18.61.060.001.E of the P.C. Zone.

WHEREAS, the Developer has proposed a plat for a 37 lot subdivision, Stone Creek Phase 1 in the Planned Community Mixed Use Zone (PCMU) in Heber City;

NOW, THEREFORE, the Parties hereby agree as follows:

1. Area Description. Stone Creek is a phased planned community development (Development) located at approximately 1300 East and 700 North, Heber City, Utah, and described in Exhibit A.
2. Compliance with Master Plan. The Development shall comply with the approved Master Plan (Exhibit B) 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.
3. The parties hereby agree as follows:
  - a. Developer and Owner shall be given five (5) bonus residential units, for a total of 125 residential.
  - b. Developer shall, prior to recording each phase of the Phase 1 Subdivision Plat, transfer to the City all required water rights necessary for that phase.
  - c. Developer shall bear cost for and install, prior to any first Phase 1 acceptance, the North Connector road landscaping from Mill Road to the development's north entryway. This includes enhanced landscaping at Mill

Road as agreed upon with the neighboring property owners to the north and south of Sage Acres Lot 1, per separate letter agreements dated October 25, 2007 and April 18, 2008 respectively.

- d. City shall provide a 66-foot right of way access to the development through Sage Acres Lot 1 for Phase 1 of the development.
- e. Upon acceptance of any portion of the North Connection public road, the Stone Creek Home Owners Association (SCHOA) shall assume responsibility for maintenance of the landscaping and associated irrigation system within the road. The City shall assume responsibility for maintenance of the street, trail, storm drainage, and other public utilities in the road. The City shall also pay for irrigation water used to maintain the landscaping within the public right of way.
- f. The SCHOA will maintain all storm drainage facilities within and serving the development, including swales, ponds, berms, pipes, manholes, street inlet boxes, and any storm drainage from the North Connection public road designed to discharge into the development storm drain system.
- g. Prior to the Phase 1B Subdivision Plat recording, developer shall record an easement agreement between Stone Creek Estates and Red Ledges, "Storm Water Retention Pond Agreement" dated May 8, 2008, for the installation of a regional retention basin near the southern boundary of the development. Developer shall bear the cost to construct said basin. Basin shall contain runoff for both the Stone Creek development and the North Connector road. The SCHOA shall assume all responsibility for the ongoing operation and maintenance of the basin after project acceptance.
- h. Developer will incorporate the existing stub road, located at approximately 410 North 1300 East, as part of the master plan. Use of this stub road into the Stone Creek development is proposed in Phase 2. Narrowing of the road to a minimum width of 26 feet between the stub and the 26 foot private road will be allowed by the City to reduce the conflict between public traffic and private roads.

- i. The SCHOA will create an impound account, prior to acceptance of Phase 1A, for road and storm drain maintenance within the development, with an initial amount acceptable to the City deposited in the account. Developer will also provide Heber City an annual report for review and assessment.
- j. City will 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 serving each lot per city standards.
- k. City shall have 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.
- l. Developer and SCHOA will prohibit structures, fencing, and grade changes along or across all utility easements without written City approval.
- m. Developer is responsible, as part of the Phase 1A construction, to install a 16-inch master planned water line within the eastern portion of the Bypass Road, and coordinate the offsite water line construction with the Bypass grading or construction by Red Ledges, and connect the water system in the development to the system in Lake Creek Road. City will reimburse Developer for the over sizing of waterline from 10-inches to 16-inches, payable upon final acceptance and upon receiving invoices demonstrating actual cost incurred by the developer to install the improvements.
- n. 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."

- o. Developer will dedicate any remaining property on the northeast corner of the development (north east of the bypass connector) as open space maintained by the SCHOA.
  - p. Developer shall, prior to issuance of building permits on Phase 1A, provide a sign at the Mill Road entry way with contact information for access to the subdivision.
  - q. 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.
  - r. Developer shall implement CCR's that require street tree planting in the development for each respective building lot.
  - s. Developer shall provide an 8-foot asphalt paved trail connection, per City standards, from the 675 North Road stub eastward to connect to the proposed private street within Stone Creek and finish 675 North to be a complete finished street;
  - t. Trails within Stone Creek Subdivision will be open to the public. The subdivision plat shall be modified to designate trails as a "public trail easement".
  - u. Access during construction of the subdivision shall be through the Red Ledges Bypass. Developer shall inform contractors and subcontractors of the construction access location and place a construction access sign at the Red Ledges Bypass; a "construction access prohibited" sign shall be placed at the end of 1300 East.
4. The parties agree that the Phase 1A plat (Exhibit C) will be constructed prior to or at the same time as Phase 1B (Exhibit D), and that no building permits shall be issued for each phase until all improvements are completed and the

phase is accepted by the City;

5. 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.
6. Developer shall execute a performance agreement and provide a cash bond or letter of credit acceptable to the City to guarantee completion of the City's public improvements.
7. Developer shall provide City with a noxious weed control plan approved by the Wasatch County Weed Control Board prior to recording Phase 1 of the subdivision plats and implement approved measures prior to project acceptance by the City.
8. 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 plats as dedicated to the public and begin issuing building permits. The City agrees to maintain such public improvements without assessment for the construction of 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.
9. 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.
10. 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.
11. 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.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

HEBER CITY, UTAH

By: \_\_\_\_\_  
ALAN MCDONALD, Mayor

ATTEST:

By: \_\_\_\_\_  
Heber City Recorder

BLACKSTONE CREEK, LLC

By: \_\_\_\_\_  
Rich Hansen - Manager

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, personally appeared before me the above named Owner, who duly acknowledged to me that he is the Owner in fee, and Developer, and executed the same as such.

\_\_\_\_\_  
NOTARY PUBLIC

## EXHIBIT A: LEGAL DESCRIPTION

### BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 0°02'25" EAST 2666.17 FEET ALONG A SECTION LINE AND EAST 441.20 FEET FROM THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE NORTH 00°32'29" EAST 527.33 FEET; THENCE NORTH 00°41'27" WEST 804.50 FEET; THENCE NORTH 89°58'44" EAST 252.13 FEET; THENCE SOUTH 00°47'00" EAST 65.57 FEET; THENCE NORTH 89°59'13" EAST 90.18 FEET; THENCE SOUTH 00°01'17" EAST 174.58 FEET; THENCE SOUTH 05°48'38" EAST 50.00' FEET; THENCE SOUTH 03°08'08" WEST 462.87 FEET; THENCE SOUTH 02°36'38" EAST 84.55 FEET; THENCE SOUTH 39°49'09" EAST 127.43 FEET; THENCE SOUTH 09°59'24" EAST 93.99 FEET; THENCE SOUTH 51°22'52" EAST 77.57 FEET; THENCE SOUTH 63°40'24" EAST 72.31 FEET; THENCE SOUTH 20°59'19" WEST 135.01 FEET; THENCE ALONG THE ARC OF 485.00 FOOT RADIUS CURVE 97.95 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 11°34'17" AND A CHORD BEARING SOUTH 75°13'25" EAST 97.78 FEET); THENCE SOUTH 16°25'19" WEST 50.00 FEET; THENCE ALONG THE ARC OF 15.50 FOOT RADIUS CURVE 27.53 FEET TO THE LEFT (CURVE HAS A CENTRAL ANGLE OF 101°45'28" AND A CHORD BEARING SOUTH 55°32'35" WEST 24.05 FEET); THENCE ALONG THE ARC OF 37.50 FOOT RADIUS CURVE 25.43 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 38°51'34" AND A CHORD BEARING SOUTH 24°05'38" WEST 24.95 FEET); THENCE ALONG THE ARC OF 20.00 FOOT RADIUS CURVE 4.39 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 12°33'47" AND A CHORD BEARING SOUTH 37°14'31" WEST 4.38 FEET); THENCE WEST 693.99 FEET TO THE POINT OF BEGINNING.

CONTAINING: 11.42 ACRES

### BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 0°02'25" EAST 2666.17 FEET ALONG A SECTION LINE AND EAST 494.97 FEET FROM THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE ALONG THE ARC OF 20.00 FOOT RADIUS CURVE 4.39 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 12°33'47" AND A CHORD BEARING SOUTH 37°14'31" WEST 4.38 FEET); THENCE ALONG THE ARC OF A 37.50 FOOT RADIUS CURVE TO THE RIGHT 25.43 FEET (CURVE HAS A CENTRAL ANGLE OF 38°51'34" AND A CHORD BEARING SOUTH 24°05'38" WEST 24.95 FEET); THENCE ALONG THE ARC OF A 15.50 FOOT RADIUS CURVE 27.53 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 101°45'28" AND A CHORD BEARING SOUTH 55°32'35" WEST 24.05 FEET); THENCE NORTH 16°25'19" EAST 77.57 FEET; THENCE ALONG THE ARC OF A 485.00 FOOT RADIUS CURVE 35.05 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 4°08'25" AND A CHORD BEARING NORTH 71°30'29" WEST 35.04 FEET); THENCE NORTH 20°59'19" EAST 135.01 FEET; THENCE SOUTH 72°33'22" EAST 80.07 FEET; THENCE EAST 178.94 FEET; THENCE SOUTH 78°16'11" EAST 369.97 FEET; THENCE SOUTH 89°12'37" EAST 95.30 FEET; THENCE SOUTH 02°54'21" WEST 62.46 FEET; THENCE ALONG THE ARC OF A 2025.00 FOOT RADIUS CURVE 57.23 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 01°37'09" AND A CHORD BEARING NORTH 02°05'46" EAST 21.94 FEET); THENCE NORTH 89°09'43" EAST 50.04 FEET; THENCE ALONG THE ARC OF A 15.50 FOOT RADIUS CURVE 24.44 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 90°20'33" AND A CHORD BEARING SOUTH 43°49'52" EAST 21.99 FEET; THENCE SOUTH 00°01'41" EAST 50.04 FEET; THENCE ALONG THE ARC OF A 15.50 FOOT RADIUS CURVE 24.60 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 90°56'04" AND A CHORD BEARING SOUTH 44°26'16" WEST 22.10 FEET); THENCE NORTH 89°22'15" WEST 50.02 FEET; THENCE ALONG THE ARC OF A 2025.00 FOOT RADIUS CURVE 46.20 FEET TO THE LEFT (CURVE HAS A CENTRAL ANGLE OF 01°18'26" AND A CHORD BEARING NORTH 01°38'32" WEST 46.20 FEET); THENCE SOUTH 02°17'45" EAST 250.59 FEET; THENCE SOUTH 87°42'15" WEST 135.00 FEET; THENCE SOUTH 47°48'58" WEST 220.62 FEET; THENCE SOUTH 89°29'53" WEST 227.52 FEET; THENCE SOUTH 36°36'52" WEST 84.03 FEET; THENCE SOUTH 03°33'41" WEST 80.78 FEET; THENCE SOUTH 68°04'28" WEST 33.23 FEET; THENCE NORTH 03°33'41" EAST 685.47 FEET; THENCE WEST 211.43 FEET TO THE POINT OF BEGINNING. CONTAINING: 9.48 ACRES

**PARCEL SERIAL NUMBER: OHE-1988-0-033-035**





