

When Recorded Return To:

**WEBER COUNTY SURVEY
MONUMENT IMPROVEMENT AGREEMENT**

PARTIES: The parties to the Monument Improvement Agreement (“Agreement”) are _____
the Developer of the herein described land development project (“Developer”), with a mailing address of _____
and the Weber County Surveyor (“County Surveyor”).

RECITALS

WHEREAS, the Developer has entered the process of developing property within the Weber County (“County”), to be known as _____ (the “Development”), which property is shown and described on Exhibit “A” attached hereto; and

WHEREAS, the County seeks to protect the health, safety, and general welfare of the residents of Weber County by requiring the adequate expansion of the survey control systems necessary to provide special control upon which land boundaries, public infrastructure, and real property improvements rely; and

WHEREAS, the purpose of this Agreement is to protect the County from the cost of completing said survey control systems and is not executed for the benefit of any individual, corporation, or entity; and

WHEREAS, the mutual promises, covenants, and obligations contained in this Agreement are authorized by state law and the County’s Ordinance 106-4-1, and 45-6;

THEREFORE, the Parties hereby agree as follows:

DEVELOPER’S OBLIGATIONS

Improvements: The Developer shall construct and install, at his own expense, the monuments as required by the County Surveyor as shown and described on Exhibit “A” attached hereto (the “Improvements”). The Developer’s obligation to complete the Improvements will arise upon execution of this Agreement, independent of any obligations of the County contained herein, and will not be financially conditioned on the commencement of construction in the Development or sale of any lots or improvements within the Development.

Security: To secure the performance of their obligations hereunder, the Developer shall comply with County Ordinance 106-4-3 and 45-6 by depositing with the County Surveyor, on or prior to the date of the execution of this Agreement, the monument construction fees and escrows.

Standards: The Developer shall cause the Professional Licensed Land Surveyor responsible for the land development project to set each monument location and four offset straddles per location to enable proper construction of the Improvements. The monument location shall be installed within 0.07’ plus 50 parts per million from the record locations shown and described on the approved subdivision plat, engineered plans, or construction drawings for the Development described on Exhibit “A” of this agreement. Offset straddles shall be set, one per quadrant, eighteen inches or more from the monument location, in a manner that allows for intersecting lines connecting the straddles to mark the monument location during construction of the Improvements.

The Developer shall cause the Improvements to be constructed by a qualified contractor. The Developer shall cause that the Improvements be constructed according to all the Weber County Public Works Standards Plans SRV1 – SRV7 as applicable.

The Developer shall cause the Professional Licensed Land Surveyor responsible for the land development project to mark the monument cap per Weber County Public Works Standards Plan SRV8.

Completion Periods: The Developer shall install Improvements which meet compliance within a one year time period, after the asphalt (or other equivalent improvements) is installed. The Developer shall install the asphalt (or other equivalent improvements) within two years from the date of the execution of the Agreement. The Developer shall install Improvements which meet compliance within three years of the execution of the Agreement.

Written Request for Inspections: The Developer shall make a written request for the following two inspections:

- a. When the Developers Professional Licensed Land Surveyor completes setting the locations and offset straddles of all monuments.
- b. When the Improvements have been constructed to the standards and specifications of the Agreement, and the Developers Professional Licensed Land Surveyor has marked the monument cap per Weber County Public Works Standards Plan SRV8.

Non-Compliance: Whenever an inspection reveals that the Improvements do not conform to the standards and specifications required by this Agreement the Developer shall reconstruct the non-compliant Improvements within six months of the written statement of non-compliance.

Events of Default: The following conditions, occurrences or actions will constitute a default by the Developer:

- a. Developer's failure to make a written request for inspection as outlined in the agreement.
- b. Developer's failure to install Improvements which meet compliance within three years of the execution of the Agreement.
- c. Developer's failure to complete construction of the Improvements which meet compliance within one year of the installation of the asphalt (or other equivalent improvements);
- d. Developer's failure to install the asphalt (or other equivalent improvements) within two years from the date of the execution and recordation of the Agreement;
- e. Developer's failure to reconstruct non-compliant Improvements within six months of a written statement of non-compliance;
- f. 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;
- g. Foreclosure of any lien against the Development or a portion of the Development or assignment or conveyance of the Development in lieu of foreclosure.

Forfeited Funds: If the County Surveyor deems the Developer to be in default of any part of the monument improvement agreement the monument construction escrow shall be forfeited and become the property of the County Surveyor to be deposited in the Public Land Corner Preservation Fund.

Compliance with Law: The Developer shall comply with all relevant laws, ordinances, and regulations in effect at the time of the execution and recordation of the Agreement. When necessary to protect the public's health, safety, and general welfare the Developer will be subject to laws, ordinances, and regulations that become effective after said recording of the Agreement and before the completion of Improvements and Notice of Compliance.

Easement Deed: When the Improvements are located outside of a publicly dedicated right of way or easement, the Developer hereby agrees to execute and record an Easement Deed. The Easement Deed shall grant the County Surveyor, his successors, assigns, agents, contractors, and employees a nonexclusive right to access the private property of the Development to conduct future surveying activities on, maintain, or replace the Improvements that are the subject of this agreement and any government survey monument or public land survey government corner locations that may exist on or near the development. The Right of Entry and Perpetual Easement shall run with the land and shall be effective upon recording of the easements with the County Recorder.

Initials

Ownership: The Developer hereby expressly agrees that upon completion and acceptance of the Improvements, that the Improvements automatically become property of the County, or other applicable agency as designated by the location of the Improvements. The Developer hereby expressly agrees that, at the time of completion and acceptance, the Improvements themselves will be entirely owned by the Developer in fee simple and will be free of any liens, encumbrances, or other restrictions, and the Developer will quit claim all ownership, rights, or interest in the Improvements themselves. The quit claim of the Improvements shall not constitute a waiver of the Developers obligation to warranty the improvements for one year.

Warranty: The Developer warrants that all Improvements will be free from defects for a period of one year from the date that the County Surveyor accepts the Improvements by issuing the written statement of compliance.

Burden: The burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors, and assigns of the Developer.

Indemnification: The Developer hereby expressly agrees to indemnify and hold the County Surveyor harmless from and against all claims, costs and liability of every kind and nature, for the 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 the Agreement. The Developer further agrees to indemnify and hold harmless the County in the event that the County is named as a defendant in an action concerning the performance of work pursuant to this Agreement except where such suit is brought by the Developer. The Developer is not an agent or employee of the County.

COUNTY SURVEYOR'S OBLIGATIONS

Provided Materials: After the written statement of compliance is issued for the monument locations and offset straddles the County Surveyor shall provide one monument cap and one monument frame and cover (where applicable) for each monument location.

Inspection of Improvements: Upon written request for an inspection by the Developer, the County Surveyor will perform inspections in a timely manner.

Compliance: Where monument locations and offset straddles have been set to the standards and specifications required by this Agreement the County Surveyor shall issue a written statement of compliance in a timely manner. Where Improvements have been built and marked to the standards and specifications required by this Agreement the County Surveyor shall issue a written statement of compliance in a timely manner. Issuance of a Notice of Compliance does not constitute a waiver of the warranty guaranteed by the Developer on the Improvements.

Non-Compliance: Whenever inspection reveals that the Improvements do not comply with the standards and specifications required by this Agreement the County Surveyor will provide a written statement of non-compliance to the Developer in a timely manner.

Refund of Escrow: The County Surveyor shall authorize a release of any remaining escrow deposit in a timely manner after:

- a. all of the Improvements are installed and meet compliance to the times, standards, and specifications required by this Agreement;
- b. any required Easement Deed has been properly executed and recorded in the County Recorder's Office; and
- c. where necessary, the Developer provides adequate documentation that the Improvements installed by the Developer are free of any liens, encumbrances, or other restrictions.

No partial release of escrow funds will be authorized for any partial completion of the Improvements.

Use of Proceeds: All default deposits, forfeitures, fees or penalties shall be deposited in the Public Land Corner Preservation Fund and shall be used only as authorized by UCA § 17-23-19.

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 amount of escrow funds on deposit with the County Surveyor will be prima facie evidence of the minimum cost of construction; however, neither that amount nor the amount of the escrow establishes the maximum amount of the Developer's liability which may include, but not limited to, survey costs, as established by the County Surveyor, to retrace and locate the position of the unfinished Improvements. The County Surveyor will be entitled to complete all Improvements at the time of default regardless of the extent to which Improvements have been installed or whether installation ever commenced.

No Waiver: No Waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision. The waiver of any default under this Agreement shall not be deemed a waiver of any subsequent default or defaults of the same type. The County'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.

Amendment or Modification: The parties to the Agreement may amend or modify this Agreement only by written instrument executed by the County Surveyor, or his authorized agent, and by the Developer, or his authorized agent. Such amendment or modification will be properly notarized before it may be effective.

Vested Rights: The County does not warrant by this Agreement that the Developer is entitled to any other approvals required by the County, if any, before the Developer is entitled to commence development of the Development or to transfer ownership of property in the Development.

Third Party Rights: No person or entity who or which is not a party to the Agreement will have any right of action under this Agreement, except that if the County does not exercise its rights within 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 County to exercise its rights.

Scope: This Agreement constitutes the entire agreement between the parties and no statements, promises or inducements that are not contained in this Agreement will be binding on the parties.

Time: For the purpose of computing the time periods for County 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 County Surveyor from performing their obligations under the Agreement.

Severability: If any part, term or provision of the 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.

Notice of Default: Any notice of default 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. Release of the escrow deposit will only be made to the Developer and shall be sent to the address as follows:

If to Developer:

If to County:

Attn: County Surveyor
Weber Center Surveyor's Office
2380 Washington Blvd. Ste 370
Ogden, Utah 84401

Recordation: It is the intent of the Parties that this Agreement encumbers only the property shown and described on Exhibit "A". Either Developer or County may record a copy of this Agreement in the County Recorder's Office.

Immunity: Nothing contained in this agreement constitutes a waiver of the county's sovereign immunity under any applicable state law.

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 will be deemed to be proper only if such action is commenced in the District Court for Weber County. The Developer expressly waives his right to bring

Signature and Seal of the Weber County Surveyor or Authorized Deputy.

Dated _____ day of _____ 20____.

Signature: _____

The foregoing being hereby approved at a regular meeting of the Weber County Commission on

_____ day of _____ 20____

Chair

ATTEST:

Ricky Hatch, CPA
Weber County Clerk / Auditor

EXHIBIT A
Legal Description of the Development

BOUNDARY DESCRIPTION

A part of Section 23 and the Northwest Quarter of Section 24, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey, together with a vacated portion of Snow Basin Road (Vacated on September 3, 2021 as Entry Number 3181415,) Weber County, Utah.

Beginning at the Northwest Corner of The Chalets at Ski Lake Phase No. 5, a cluster subdivision in Weber County, Utah, said point being 1660.65 feet North 89°38'27" West along a Section line from the Northeast Corner of said Section 23; and running thence South 0°48'23" West 1936.34 feet along the West line of said Subdivision No. 5 and The Chalets at Ski Lake Subdivision Phases No. 6 and No. 8 in Weber County, Utah to the Southwest Corner of said Phase No. 8; thence Easterly along the South boundary of said Phase No. 8 and The Chalets at Ski Lake Subdivision Phase No. 7, Weber County, Utah; the following (6) six courses: South 89°11'37" East 1085.34 feet, North 0°48'23" East 201.52 feet, Easterly along an arc of a 664.32 foot radius curve to the left 220.96 feet (Central Angle is 19°03'25" and Long Chord bears North 74°31'42" East 219.94 feet), North 65°00'00" East 50.00 feet, Easterly along an arc of a 767.46 foot radius curve to the right 331.57 feet (Central Angle is 24°45'15" and Long Chord bears North 77°22'38" East 329.00 feet), and North 89°45'15" East 9.99 feet to the Westerly Right of Way line of Snow Basin Road; thence Southerly along said Westerly Right of Way line (5) five courses as follows: Southerly along an arc of a 205.28 foot radius curve to the left 179.23 feet (Central Angle is 50°01'27" and Long Chord bears South 33°39'53" East 173.59 feet), South 58°40'37" East 182.75 feet, Southerly along an arc of a 268.31 foot radius curve to the right 314.46 feet (Central Angle is 67°09'00" and Long Chord bears South 25°06'07" East 296.77 feet), South 8°28'23" West 274.46 feet, and Southerly along an arc of a 336.64 foot radius curve to the right 160.45 feet (Central Angle is 27°18'27" and Long Chord bears South 22°07'37" West 158.93 feet); thence North 49°09'05" West 437.43 feet; thence North 65°14'45" West 207.36 feet; thence South 40°32'53" West 564.84 feet; thence South 18°38'45" West 109.50 feet to the new Right of Way line of Snow Basin Road (Vacated on September 3, 2021 as Entry Number 3181415); thence Southwesterly along the arc of said new Right of Way line, and a 196.70 foot radius curve to the left 214.95 feet (Central Angle is 62°36'40" and Long Chord bears South 77°20'25" West 204.41 feet); thence Southerly and Westerly along the Northerly Right of Way line of said Snow Basin Road the following eleven (11) courses: South 43°57'55" East 30.00 feet, South 46°02'05" West 402.07 feet, Westerly along an arc of a 2617.29 ft radius curve to the right 238.03 feet (Central Angle equals 5°12'39" and Long Chord bears South 48°38'24" West 237.95 feet), Westerly along the arc of a 140.57 foot radius curve to the right 109.08 feet (Central Angle equals 44°27'39" and Long Chord bears South 73°28'33" West 106.36 feet), North 84°17'37" West 271.38 feet, Westerly along the arc of a 322.23 foot radius curve to the right 182.91 feet (Central Angle equals 32°31'24" and Long Chord bears North 68°01'55" West 180.47 feet), North 51°46'13" West 45.29 feet, and Westerly along the arc of a 229.85 foot radius curve to the left 202.38 feet (Central Angle equals 50°26'57" and Long Chord bears North 76°59'41" West 195.91 feet); thence North 0°47'56" East 601.38 feet; thence South 77°47'56" West 360.00 feet; thence South 85°47'56" West 847.02 feet to the Northeast Corner of Branch Subdivision, Weber County, Utah; thence South 54°13'01" West 552.92 feet along the Northwesterly line of said Branch Subdivision; thence South 33°47'56" West 536.88 feet; thence North 77°43'03" West 427.99 feet; thence North 4°40'04" West 135.79 feet; thence North 14°52'56" East 37.37 feet; thence North 53°43'49" West 305.00 feet; thence South 57°51'33" West 433.64 feet; thence South 29°08'04" East 475.00 feet to the North line of Mountain Valley Subdivision, Weber County, Utah; thence Westerly and Southerly six (6) courses as follows: North 61°04'34" West 116.30 feet, South 88°37'56" West 88.40 feet, South 61°17'56" West 153.79 feet, South 23°09'04" East 171.40 feet, South 5°12'56" West 69.65 feet, and South 54°15'56" West 93.69 feet to the Northerly Right of Way line of said Snow Basin Road; thence Westerly along said Right of Way and the arc of a 133.00 foot radius curve to the left 166.47 feet (Central Angle equals 71°42'51" and Long Chord bears South 76°08'45" West 155.81 feet) to the Easterly line of Basin-View Estates Cluster Subdivision 1st Amendment, Weber County, Utah thence North 37°20'52" West 51.62 feet along said Easterly line to the Section line of said Section 23; thence North 2°08'27" East 1225.70 feet along said section line to the West Quarter Corner of said Section 23; thence North 0°21'21" East 2657.39 feet along the section line to the Northwest corner of Section 23; thence South 89°36'28" East 2603.68 feet along the section line to the North Quarter corner of said Section; thence South 89°38'27" East 1000.41 feet along a the section line to the point of beginning.

Contains 284.31 Acres