

Prepared by  
And when recorded  
Return to:

5791788



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FILED FOR RECORD BY:  
MARY ELLEN VANDERVENTER  
LAKE COUNTY, IL RECORDER  
06/02/2005 - 01:59:21 P.M.  
RECEIPT #: 226112  
DRAWER #: 29

## FIRST AMENDMENT TO RECAPTURE AGREEMENT

This First Amendment to Recapture Agreement (“Amendment”) amends and modifies that certain Recapture Agreement (“Agreement”) executed and entered into by and between the City of Zion, an Illinois municipal corporation (“City”) and Deer Point Homes Development Corporation, an Illinois Corporation and DPH Zion LLC, an Illinois limited liability company (collectively “Developer”) dated September 10, 2003.

### RECITALS

The parties hereto previously entered into the Agreement, which was recorded March 9, 2004 as document number 5513878 in the office of the Lake County Recorder of Deeds

Developer is the owner of the property described on attached Exhibit A, and has constructed the “Additional Improvements” as required under the Agreement, and has submitted to the City a “Certified Cost Schedule” reflecting the actual costs of constructing the Additional Improvements.

NOW THEREFORE pursuant to the terms of Section 3.4 of the Agreement, and under the authority of Section 9-5-1 of the Illinois Municipal Code (65 ILCS 5/9-5-1), the parties execute this Amendment and agree as follows:


1. The Certified Costs for the Additional Improvements are listed on Exhibit B attached hereto, and shall be utilized in administering the Agreement and this Amendment in collecting the Certified Costs from Benefited Properties or owners of Benefited Properties.
2. Each Benefited Property remains as identified on Exhibit C attached hereto .


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3. Except as set forth herein, the terms of the Agreement remain unchanged and in full force and effect as of the date hereof.

Entered into this 17<sup>th</sup> day of May, 2005.

**City of Zion:**


  
W. Lane Harrison, Mayor

  
Attest: Judy L. Mackie, Clerk

**DPH Zion, LLC:**

  
By: Deer Point Homes Development Corporation  
Its: Manager  
Michael J. Menas, President

**Deer Point Homes Development Corporation:**

  
Michael J. Menas, President





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EXHIBIT A

SHEPHERDS CROSSING LEGAL DESCRIPTION (UNDERLYING)

THAT PART OF THE NORTHWEST QUARTER OF SECTION 20 AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 46 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE NORTH WEST QUARTER OF SAID SECTION 20, AND RUNNING THENCE WEST 53 AND EIGHTY HUNDRETHS CHAINS TO A POINT WHICH IS SIX CHAINS EAST OF THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 19 AFORESAID; THENCE NORTH SEVENTEEN AND ONE QUARTER DEGREES EAST, TWENTY AND NINETY THREE HUNDREDTHS CHAINS TO A POINT ON THE CENTERLINE OF THE NORTHEAST QUARTER OF SECTION 19 AFORESAID; THENCE EAST ON SAID CENTERLINE EIGHT AND FOUR HUNDREDTHS CHAINS; THENCE NORTH FOUR AND SIXTY TWO HUNDREDTHS CHAINS; THENCE EAST THIRTY NINE AND THIRTY HUNDREDTHS CHAINS TO THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 20 AFORESAID; THENCE SOUTH 24 AND SIXTY TWO HUNDREDTHS CHAINS TO THE POINT OF BEGINNING ( EXCEPTING THEREFROM THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 46 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN ; THENCE EAST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, SIX CHAINS TO THE CENTER OF KENOSHA ROAD; THENCE NORTHEASTERLY ALONG THE CENTER OF SAID ROAD TWENTY AND NINETY THREE HUNDREDTHS CHAINS TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 19; THENCE EAST ALONG SAID SOUTH LINE , EIGHT AND THIRTY FOUR HUNDREDTHS CHAINS; THENCE NORTH FOUR AND SIXTY TWO HUNDREDTHS CHAINS; THENCE EAST ON A LINE THAT INTERSECTS THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20, FIFTEEN AND THIRTY EIGHT HUNDREDTHS CHAINS SOUTH OF THE NORTH LINE OF SAID SECTION 20, TO A POINT 500 FEET WEST OF THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 20, AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE CONTINUING EAST ON THE LAST DESCRIBED LINE, 500 FEET, TO THE EAST LINE OF THE WEST HALF OF SAID NORTHWEST QUARTER; THENCE SOUTH ALONG THE EAST LINE OF SAID WEST HALF, 436 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF THE PARCEL HEREIN DESCRIBED, 500 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID WEST HALF 436 FEET, TO THE POINT OF BEGINNING, AND ALSO EXCEPTING THEREFROM THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 19, TOWNSHIP 46 NORTH, RANGE 12, EAST OF THE THID PRINCIPAL MERIDIAN, THENCE EAST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, SIX CHAINS TO THE CENTERLINE OF KENOSHA ROAD; THENCE NORTHEASTERLY ALONG THE CENTER OF SAID ROAD, TWENTY AND NINETY THREE HUNDREDTHS CHAINS TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 19; THENCE EAST ALONG SAID SOUTH LIN, EIGHT AND THIRTY FOUR HUNDRDETHS CHAINS TO THE POINT OF BEGINNING; THENCE NORTH FOUR AND SIXTY TWO HUNDREDTHS CHAINS; THENCE EAST ON A LINE THAT INTERSECTS THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20, FIFTEEN AND THIRTY EIGHT HUNDREDTHS CHAINS SOUTH OF THE NORTH LINE OF SAID SECTION 20, TO A POINT 500 FEET WEST OF SAID EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTIOIN 20, THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID WEST HALF, 436 FEET; THENCE SOUTHWESTERLY, 362.00 FEET, TO A POINT THAT IS 455 FEET

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SOUTH AND NORMAL DISTANCE FROM THE NORTH LINE OF THE PARCEL HEREIN DESCRIBED; THENCE WEST PARALLEL WITH THE NORTH LINE OF THE PARCEL HEREIN DESCRIBED 1355.57 FEET; THENCE NORTHWESTERLY 364.00 FEET, TO A POINT THAT IS 305.54 FEET SOUTH AND NORMAL DISTANCE FROM THE NORTH LINE OF THE PARCEL HEREIN DESCRIBED; THENCE WEST 45.00 FEET TO THE POINT OF BEGINNING), ALL IN LAKE COUNTY ILLINOIS.

PIN: 04-19-200-019

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**EXHIBIT B – CERTIFIED COSTS**

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Exhibit B

DPH Zion, LLC  
 Shepherds Crossing Recapture Schedule  
 15-Mar-05

Watermain

		Segment C	Segment D - 1 Oversizing	Segment D - 2 16"	Total
Construction Costs	Actual	\$109,548.51	\$31,030.20	\$17,275.40	\$157,854.11
Loan Costs	0.75%	\$821.61	\$232.73	\$129.57	\$1,183.91
Letter of Credit Fees	1.00%	\$1,369.36	\$387.88	\$215.94	\$1,973.18
Construction Interest	5.50%	\$6,025.17	\$1,706.66	\$950.15	\$8,681.98
Construction Management	5.00%	\$5,477.43	\$1,551.51	\$863.77	\$7,892.71
Total Costs		<u>\$123,242.07</u>	<u>\$34,908.98</u>	<u>\$19,434.83</u>	<u>\$177,585.87</u>

Allocation

Acres

Shepherds Crossing	93.60	\$61,005.12	\$0.00	\$0.00	\$61,005.12
Kayat Property	36.00	\$23,463.51	\$13,160.78	\$7,326.98	\$43,951.27
McLaughlin Property	59.49	\$38,773.45	\$21,748.19	\$12,107.84	\$72,629.48
	189.09	<u>\$123,242.07</u>	<u>\$34,908.98</u>	<u>\$19,434.83</u>	<u>\$177,585.87</u>

Acres attributed to Segment D only 95.49

Plus interest from March 15, 2005 to payment date at the rate of Prime + 2.0%

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Sanitary Sewer

		<u>Segment A</u>	<u>Total</u>
Construction Costs	Actual	\$173,616.75	\$173,616.75
Loan Costs	0.75%	\$1,302.13	\$1,302.13
Letter of Credit Fees	1.00%	\$2,170.21	\$2,170.21
Construction Interest	5.50%	\$9,548.92	\$9,548.92
Construction Management	5.00%	\$8,680.84	\$8,680.84
	Total Costs	<u>\$195,318.84</u>	<u>\$195,318.84</u>

<u>Allocation</u>	<u>Acres</u>		
Shepherds Crossing	93.60	\$141,063.61	\$141,063.61
Kayat Property	36.00	\$54,255.23	\$54,255.23
	129.60	<u>\$195,318.84</u>	<u>\$195,318.84</u>

Plus interest from March 15, 2005 to payment date at the rate of Prime + 2.0%

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DPH Zion, LLC  
Shepherds Crossing - Summary of Costs  
15-Mar-05

Segment D - 1

1090 LF of 16" watermain @ 38.85 per LF	\$42,346.50	
1090 LF of 8" watermain @ 17.55 per LF	<u>\$19,129.50</u>	\$23,217.00
2 Valve Vaults 5' diameter 16" butterfly valves @\$	\$6,900.00	
2 Valve Vaults 4' diameter 8" gate valves @\$ 199	<u>\$3,990.00</u>	\$2,910.00
288 LF of 16" watermain @38.85 per LF	\$11,188.80	
288 LF of 12" watermain @24.95 per LF	<u>\$7,185.60</u>	\$4,003.20
2 Valve Vaults 5' diameter 16" butterfly valves @\$	\$6,900.00	
2 Valve Vaults 5' diameter 12" gate valves @\$ 30	<u>\$6,000.00</u>	\$900.00
Total Cost Segment D - 1		<u><u>\$31,030.20</u></u>

DPH Zion, LLC  
Shepherds Crossing - Summary of Costs  
15-Mar-05

Segment D - 2

304 LF of 16" watermain @ 38.85 per LF	\$11,810.40	
1 Valve Vaults 5' diameter 16" butterfly valves @\$	\$3,450.00	
1 Fire Hydrant @ \$ 2015 per	\$2,015.00	
Total Cost Segment D - 2	<u><u>\$17,275.40</u></u>	

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## EXHIBIT C - BENEFITED PROPERTIES

### Parcel 1

#### Khayat (AKA Kayat) Property:

THE NORTH 737.5 FEET (MEASURED AT RIGHT ANGLES TO THE NORTH LINE) OF THAT PART OF THE NORTH ½ OF THE SOUTHEAST ¼ OF SECTION 19, TOWNSHIP 46 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE CENTER LINE OF KENOSHA ROAD (EXCEPT THAT PART THEREOF DESCRIBED AS: BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTHEAST ¼ OF SECTION 19, AFORESAID, WHICH IS 2248.2 FEET, MORE OR LESS, WEST OF THE EAST QUARTER CORNER OF SAID SECTION 19, SAID POINT LYING ON THE CENTER LINE OF KENOSHA ROAD; THEN EAST ON SAID NORTH LINE 266.48 FEET; THENCE SOUTH AT RIGHT ANGLES TO SAID NORTH LINE 507.02 FEET; THENCE WEST PARALLEL WITH SAID NORTH LINE 420.85 FEET TO THE CENTER LINE OF KENOSHA ROAD; THENCE NORTHEASTERLY ALONG SAID CENTER LINE 530.00 FEET TO THE PLACE OF BEGINNING), IN LAKE COUNTY, ILLINOIS.

PIN: 04-19-400-005

36 ACRES MORE OR LESS

### Parcel 2

#### McLaughlin Property:

THAT PART OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 19, TOWNSHIP 46 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE EAST LINE OF KENOSHA ROAD (EXCEPT THE NORTH 737.50 FEET, MEASURED AT RIGHT ANGLES TO THE NORTH LINE THEREOF) TOGETHER WITH THAT PART OF THE NORTH 462.50 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 19; TOWNSHIP AND RANGE AFORESAID AND SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE NORTH 462.50 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 19; THENCE NORTH 00 DEGREES 26 MINUTES 47 SECONDS WEST ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 19, TOWNSHIP 46 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, A DISTANCE OF 1042.77 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THE NORTH 737.50 FEET OF THE SOUTHEAST 1/4 OF SECTION 19; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTH 737.50 FEET OF SAID QUARTER SECTION A DISTANCE OF 1260.84 FEET TO A POINT; THENCE SOUTH 02 DEGREES 35 MINUTES 33 SECONDS WEST A DISTANCE OF 20.02 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A CURVED LINE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 463.00 FEET, AN ARC LENGTH OF 563.95 FEET AND A CHORD LENGTH OF 529.73 FEET, BEARING SOUTH 32 DEGREES 18 MINUTES 07 SECONDS EAST TO A POINT; THENCE SOUTH 22

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DEGREES 48 MINUTES 13 SECONDS WEST A DISTANCE OF 28.83 TO A POINT;  
THENCE SOUTH 60 DEGREES 20 MINUTES 34 SECONDS EAST A DISTANCE OF 138.51  
FEET TO A POINT; THENCE SOUTHWESTERLY ALONG A CURVED LINE CONCAVE  
TO THE NORTHWEST HAVING A RADIUS OF 167.00 FEET, AN ARC LENGTH OF 68.42  
FEET AND A CHORD LENGTH OF 67.95 FEET TO A POINT OF TANGENCY; THENCE  
SOUTH 36 DEGREES 52 MINUTES 03 SECONDS EAST A DISTANCE OF 66.00 FEET TO  
A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVED LINE  
CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 233.00 FEET, AN ARC  
LENGTH OF 4.88 FEET AND A CHORD LENGTH OF 4.88 FEET BEARING NORTH 52  
DEGREES 31 MINUTES 58 SECONDS EAST TO A POINT; THENCE SOUTH 36  
DEGREES 52 MINUTES 03 SECONDS EAST A DISTANCE OF 125.05 FEET TO A POINT;  
THENCE SOUTH 53 DEGREES 07 MINUTES 57 SECONDS WEST A DISTANCE OF  
468.96 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 462.50 FEET OF THE  
SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 19, TOWNSHIP AND RANGE  
AFORESAID; THENCE NORTH 89 DEGREES 53 MINUTES 12 SECONDS EAST ALONG  
THE SOUTH LINE OF THE NORTH 462.50 FEET OF SAID QUARTER QUARTER  
SECTION A DISTANCE OF 1179.22 FEET TO THE POINT OF BEGINNING, ALL IN  
LAKE COUNTY, ILLINOIS.

**Permanent Tax Number (P.I.N.):**

04-19-400-006 and  
04-19-400-013 and  
04-19-400-014

59.49 Acres more or less

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