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 Book - 9891 Pg - 8967-8975
 GARY W. OTT
 RECORDER, SALT LAKE COUNTY, UTAH
 FIRST AMERICAN TITLE
 BY: ZJM, DEPUTY - WI 9 P.

RECORDING REQUESTED BY AND
 WHEN RECORDED RETURN TO:

Kennecott Land Residential Development Company
 4700 Daybreak Parkway
 South Jordan, Utah 84095
 Attn: Ty McCutcheon

STORM DRAINAGE FACILITIES MAINTENANCE AGREEMENT

This Storm Drainage Facilities Maintenance Agreement ("**Agreement**") is made as of this 15th day of DECEMBER, 2010, by and between SOUTH JORDAN CITY, a Utah municipal corporation ("**City**"), and DAYBREAK COMMUNITY ASSOCIATION, INC., a Utah not-for-profit corporation ("**DCA**"), and KENNECOTT LAND RESIDENTIAL DEVELOPMENT COMPANY, a Delaware corporation ("**KLRDC**") (each, an "**Owner**" and collectively, the "**Owners**"; individually, a "**Party**" and collectively, the "**Parties**").

RECITALS:

The following Recitals are a material part of this Agreement:

- A. Owners own certain parcels of land in the development commonly known as "Daybreak" in the City of South Jordan, County of Salt Lake, State of Utah, upon which non-exclusive easements ("**Easements**") have been granted to the City for the operation and maintenance of Storm Drainage Facilities (defined later);
- B. The parcels of land that are subject to the Easements are more particularly described on Exhibit A attached hereto and incorporated herein by reference ("**Easement Parcels**");
- C. The City and the Owners wish to clarify the Parties' obligations regarding the operation and maintenance of the Storm Drainage Facilities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation. The above Recitals are incorporated in this Agreement and made a part hereof.
2. Definitions.

2.1 Storm Drainage Facilities. As used herein, "**Storm Drainage Facilities**" means storm drainage infrastructure owned by the City and located within the Easement Parcels, including, without limitation, all underground storm drainage pipes larger than

18" in diameter, all underground public storm water gallery systems, all inlet and outlet structures, manholes, and drywells/downwells with their associated pipe.

3. Construction, Maintenance, Repair and Replacement.

3.1 Each Owner, at its own cost and expense, shall maintain the landscaping located on the Easement Parcel owned by such Owner in good condition and repair, including, but not limited to, watering, weeding, mowing trimming, pruning, plant replacement, mulch repair/replacement and trash/debris removal as reasonably necessary.

3.2 The City, at its own cost and expense, shall maintain the Storm Drainage Facilities in good condition and repair, including, but not limited to, and without limitation, perform routine inspections of Storm Drainage Facilities to ensure system capacity is not limited, and remove sediment, trash, and debris from all Storm Drainage Facilities. To minimize damage to existing infrastructure and landscaping, the City will (i) notify the Owner of the Easement Parcel upon which any non-emergency work is being performed at least three (3) days prior to entering the Easement Parcel and provide to such Owner a reasonably detailed description of the work to be performed, (ii) perform all work in a good and workmanlike manner and in accordance with applicable legal requirements, and (iii) perform all work utilizing appropriate maintenance methods and equipment necessary to perform and complete the work in an expeditious manner with as little interference to residents and business operations as reasonably practicable.

3.3 Each Owner will be responsible for the repair or replacement of any and all landscaping located on the Easement Parcel owned by such Owner, including, but not limited to, all grasses, plants, trees, and all landscaping mulch as may be damaged by water from storms, or by the City maintaining and repairing the Storm Drainage Facilities, unless such damage results from the negligent acts or omissions of the City.

4. Covenants Running with the Land. All provisions of this Agreement, including the benefits and burdens set forth herein, shall run with the Easement Parcels and are binding upon and shall inure to the benefit of the successors and assigns of the Parties. Each Owner may assign its obligations hereunder to a community or commercial association and/or sub-association with authority to operate and maintain areas of common responsibility for the benefit of the residents and owners of Daybreak or any portion thereof. In the event of such assignment, the Owner shall promptly notify the City in writing and deliver to the City a copy of the executed assignment and assumption agreement.

5. Indemnity.

5.1 Each Owner shall indemnify and hold harmless the City and its officers, directors, employees and agents ("**City Indemnified Parties**") from and against any and all liability, losses, damages, costs and expenses (including reasonable attorneys' fees) for injury to persons or death or property damage arising out of or resulting from such Owner's use of the Easement Parcel owned by such Owner, except for any such liability, loss, damage, costs and expenses arising in whole or in part from the negligent acts or omissions of the City Indemnified Parties.

5.2 The City shall indemnify and hold harmless each Owner and its officers, directors, employees and agents ("**Owner Indemnified Parties**") from and against any and all liability, losses, damages, costs and expenses (including reasonable attorneys' fees) for injury to persons or death or property damage arising out of or resulting from the City's use of the Easement Parcels, except for any such liability, loss, damages, costs and expenses arising in whole or in part from the negligent acts or omissions of the Owner Indemnified Parties.

6. Notices. All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered in person to the party to whom it is addressed or two (2) days after deposit in the U.S. mail if sent postage prepaid by U.S. registered or certified mail, return receipt requested, addressed as follows:

If to an Owner: c/o Kennecott Land Residential Development Company
4700 Daybreak Parkway
South Jordan, Utah 84095
Attention: Ty McCutcheon

c/o Daybreak Community Association
11347 S. Kestrel Rise Road
South Jordan, Utah 84095
Attention: Community Manager

With a copy to: c/o Kennecott Land Company
4700 Daybreak Parkway
South Jordan, Utah 84095
Attention: Ty McCutcheon

If to the City: City Recorder
1600 West Towne Center Drive
South Jordan, Utah 84095

A Party may change the name of the person or address to which notices or other communications are to be given, by so notifying the other Parties.

7. Miscellaneous.

7.1 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

7.2 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.3 Duration. The term of this Agreement shall be perpetual and may be terminated only upon the written consent of the City and all of the then current Owners.

7.4 Modification and Termination. Except as expressly provided herein, this Agreement may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of the City and the Owners, and then only by written instrument duly executed and acknowledged by the Owners and the City and recorded in the Official Records of Salt Lake County, Utah. Notwithstanding the foregoing, it is anticipated that this Agreement will be amended to cover additional property within Daybreak as easements similar to the Easements are granted (whether by recorded plat or other recorded instrument). To accommodate the foregoing, the Parties agree that this Agreement may be amended for the sole purpose of adding or removing property subject hereto by a written amendment executed by the City and the Owner of the real property being added or removed from this Agreement. Such amendment shall reference this Agreement and shall contain a legal description of the real property being added or removed from this Agreement and shall be recorded in the Official Records of Salt Lake County, Utah.

7.5 Attorney's Fees. In the event a Party initiates or defends any legal action or proceeding in any way connected with this Agreement, the prevailing Party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing Party in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

7.6 Severability. If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be

affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

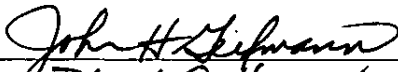
7.7 Recordation. This Agreement shall be recorded in the Official Records of Salt Lake County, Utah.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.


CITY:

SOUTH JORDAN CITY,
a Utah municipal corporation


By 
Name: John H. Geitmann
Its: City Manager

OWNERS:

DAYBREAK COMMUNITY ASSOCIATION, INC.,
a Utah not-for-profit corporation

By 
Name: T. McCutcheon
Its: PRESIDENT

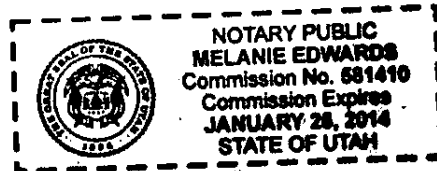
KENNECOTT LAND RESIDENTIAL DEVELOPMENT COMPANY,
a Delaware corporation

By 
Name: T. McCutcheon
Its: VICE PRESIDENT DAYBREAK

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 20 day of December 2010, by John H. Geimann as City Manager of South Jordan City.

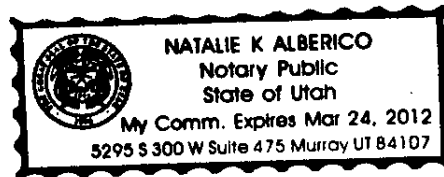
Melanie Edwards
NOTARY PUBLIC
Residing at: Salt Lake County
My Commission Expires: January 20, 2014



STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 15 day of Dec. 2010, by Ty McCutcheon as President of Daybreak Community Association, Inc.

Natalie K. Alberico
NOTARY PUBLIC
Residing at:
My Commission Expires:



STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 15 day of Dec. 2010, by Ty McCutcheon as Vice President of Kennecott Land Residential Development Company.

Natalie K. Alberico
NOTARY PUBLIC
Residing at:
My Commission Expires:

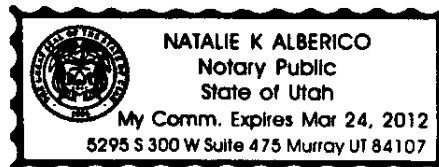


EXHIBIT "A"

Legal Description of the Easement Parcels:

Kennecott Daybreak Phase 1 Subdivision – Book 2003P Page 325

- O-101 – Parcel ID 27193820030000 – DCA
- O-102 – Parcel ID 27193830090000 – DCA
- O-103 – Parcel ID 27193830030000 – DCA
- P-106 – Parcel ID 27193310010000 – DCA
- P-112 – Parcel ID 27191830050000 – KLRDC

Kennecott Daybreak Phase II Subdivision – Book 2004P Page 264

- O-101 – Parcel ID 27193560010000 – DCA
- P-111 – Parcel ID 27193040010000 – DCA

Kennecott Daybreak Phase II Plat 3 Subdivision – Book 2005P Page 83

- O-201 – Parcel ID 27193580140000 – DCA
- O-202 – Parcel ID 26244800470000 – DCA
- O-204 – Parcel ID 26244760210000 – DCA
- O-205 – Parcel ID 26244780010000 – DCA
- P-204 – Parcel ID 26244820010000 – DCA

Kennecott Daybreak Plat 3A Subdivision – Book 2006P Page 379

- P-103 – Parcel ID 26244840130000 – DCA
- P-104 – Parcel ID 26244850020000 – DCA

Kennecott Daybreak Plat 4 Subdivision – Book 2005P Page 160

- O-101 – Parcel ID 26244320110000 – DCA
- O-102 – Parcel ID 26244320510000 – DCA

Kennecott Daybreak Plat 6 Subdivision – Book 2006P Page 220

- O-101 – Parcel ID 27184300010000 – DCA
- O-102 – Parcel ID 27184300050000 – DCA
- O-103 – Parcel ID 27184790050000 – DCA
- O-104 – Parcel ID 27184790110000 – DCA
- O-107 – Parcel ID 27192310100000 – DCA
- O-108 – Parcel ID 27192310090000 – DCA
- O-109 – Parcel ID 27192310080000 – DCA

Kennecott Daybreak Plat 7 Subdivision – Book 2006P Page 294

- O-101 – Parcel ID 27182540010000 – KLRDC
- O-102 – Parcel ID 27182540150000 – DCA
- O-103 – Parcel ID 27184270360000 – DCA
- P-112 – Parcel ID 27184060450000 – DCA

P-114 – Parcel ID 27184080050000 – DCA
P-122 – Parcel ID 27184270370000 – DCA
P-124 – Parcel ID 27184010120000 – DCA
P-125 – Parcel ID 27184010110000 – DCA

Kennecott Daybreak Plat 8 Subdivision – Book 2007P Page 133

P-101 – Parcel ID 27182070010000 – KLRDC
P-102 – Parcel ID 27182580140000 – KLRDC
P-106 – Parcel ID 27182560120000 – DCA
P-109 – Parcel ID 27181310010000 – DCA
P-110 – Parcel ID 27181290180000 – KLRDC
P-118 – Parcel ID 27182060010000 – KLRDC

Kennecott Daybreak Plat 9 Subdivision – Book 2007P Page 425

P-101 – Parcel ID 27181080580000 – KLRDC
P-110 – Parcel ID 27181040020000 – DCA
P-115 – Parcel ID 26132300170000 – KLRDC
P-116 – Parcel ID 26132260430000 – KLRDC
P-124 – Parcel ID 26132280010000 – KLRDC
P-125 – Parcel ID 26132280020000 – KLRDC
P-126 – Parcel ID 26132280030000 – KLRDC
P-149 – Parcel ID 27181020560000 – DCA

Kennecott Daybreak Village 4A Plat 1 Subdivision – Book 2009P Page 26

P-103 – Parcel ID 26242270010000 – KLRDC

Amended Kennecott Daybreak Village 4A Plat 2 Subdivision – Book 2009P Page 82

P-104 – Parcel ID 26242290270000 – KLRDC

Kennecott Daybreak Village 4A Plat 3 Subdivision – Book 2009P Page 166

P-110 – Parcel ID 26242330040000 – KLRDC
P-111 – Parcel ID 26242330030000 – KLRDC
P-112 – Parcel ID 26242330010000 – KLRDC
P-113 – Parcel ID 26242330020000 – KLRDC
P-114 – Parcel ID 26242340010000 – KLRDC
P-115 – Parcel ID 26242360010000 – KLRDC
P-116 – Parcel ID 26242290330000 – KLRDC

This list accounts for all plats recorded as of DECEMBER 15, 2010.