

When Recorded, Please Return to:

Morgan County
Attention: County Attorney
48 West Young Street
Morgan, Utah 84050

Ent 130225 Bk 308 Pg 645
Date: 27-AUG-2013 4:22:37PM
Fee: None
Filed By: LRH
BRENDA NELSON, Recorder
MORGAN COUNTY
For: MORGAN COUNTY

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT
FOR
THE COTTONWOODS AT MOUNTAIN GREEN, MORGAN COUNTY, UTAH

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this "**Amendment**") is entered into as of this 6th day of August, 2013, by and between GARDNER COTTONWOOD CREEK, L.C., a Utah limited liability company ("**Developer**"), and MORGAN COUNTY, a political subdivision of the State of Utah, by and through its County Council (the "**County**").

RECITALS

A. On August 9, 2006, Developer and County entered into that certain Development Agreement for the Cottonwoods at Mountain Green, Morgan County, Utah (the "**Development Agreement**"), which Development Agreement was recorded in the office of the Morgan County Recorder on August 18, 2006 as Entry No. 104097 in Book 234 at Pages 323. The Capitalized terms used, but not otherwise defined herein, shall have their meanings set forth in the Development Agreement. The Development Agreement pertains to the real property identified on Exhibit A attached hereto.

B. The County and the Developer desire to amend Section 2.10 of the Development Agreement to make such section conform the provisions of the Land Use Code governing the measurement of building heights.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer and County hereby agrees as follows:

AGREEMENT

1. Section 2.10 of the Development Agreement be amended and restated in its entirety as follows:

2.10 Height Restrictions. With respect to the development of dwelling units located within each Phase, except as provided below, each residential unit shall not exceed a height of

thirty-five feet (35') measured from the average natural grade surface at the foundation, to the highest point of the building roof or coping of such unit. With respect to those portions of the Property shown in Section 6 of the Overlay Report, which portions of the Property are determined to be visually sensitive areas (skyline potential), any dwelling units developed in such areas shall (a) not exceed a height of thirty feet (30') measured from the average natural grade surface at the foundation, to the highest point of the building roof or coping of such unit, and (b) shall not exceed two stories (a walk-out basement being considered a story for purposes of this clause (b)). Each Plat for a Phase submitted in accordance with Section 1.2 hereof shall identify those dwelling units within such Phase which are included in visually sensitive areas.

2. Any and all other terms and provisions of the Development Agreement are hereby amended and modified wherever necessary, and even though not specifically addressed herein, so as to conform to the provisions of this Amendment. Except as expressly modified and amended hereby, all other terms and conditions of the Development Agreement shall continue in full force and effect.

3. This Amendment contains the entire understanding of the County and Developer and supersedes all prior oral or written understandings relating to the subject matter set forth herein.

4. This Amendment shall inure for the benefit of and shall be binding on each of the parties hereto and their respective successors and/or assigns.

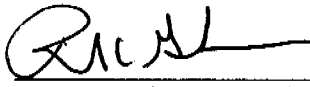
5. This Amendment shall be governed by and interpreted in accordance with the laws of the State of Utah.

[SIGNATURES APPEAR ON THE NEXT TWO PAGES]

IN WITNESS WHEREOF, this Amendment has been executed as of the date first set forth above.

DEVELOPER:

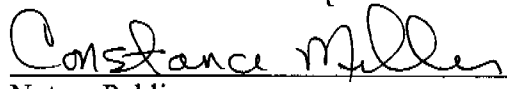
GARDNER COTTONWOOD CREEK, L.C., a
Utah limited liability company

By: 
Name: Rulon C. Gardner
Title: Manager

STATE OF UTAH)
 :SS.
COUNTY OF SALT LAKE)

The above instrument was acknowledged before me by Rulon C. Gardner, a Manager of Gardner Cottonwood Creek, L.C., a Utah limited liability company, this 20 day of AUGUST, 2013.




Notary Public
Residing in SALT LAKE

COUNTY:

COUNTY OF MORGAN

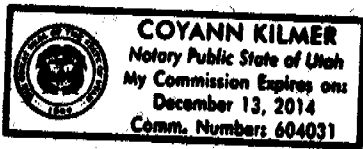
By Tina D. Kelley Council Chair
Name:
Title:

Attest:

Teressa Lake
Deputy County Clerk

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

The above instrument was acknowledged before me by Tina D. Kelley
the Council Chair of the County of Morgan, this 27 day of
August, 2013.



Coyann Kilmer
Notary Public
Residing in Morgan County

**AMENDMENT TO DEVELOPMENT AGREEMENT
EXHIBIT "A"**

(Property Legal Description)

A parcel of land located in Sections 19, 20, 29 and 30 in Township 5 North, Range 2 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at the Center of Section 30, Township 5 North, Range 2 East, Salt Lake Base and Meridian, (Basis of bearing being South 88°42'14" East 1341.72 feet between the Center of Section and the South 1/4 corner of the Northeast corner of said Section 30) and running thence South 88°42'14" East 1336.65 feet; thence North 00°42'36" West 335.14 feet; thence North 76°23'47" East 32.94 feet; thence North 03°35'20" East 116.35 feet; thence North 00°57'41" West 470.92 feet; thence North 03°06'28" West 450.19 feet; thence North 03°10'42" West 248.07 feet; thence North 04°55'12" West 217.84 feet; thence South 85°04'48" West 42.16 feet; thence North 40°53'26" West 290.14 feet; thence North 32°23'57" West 139.58 feet; thence North 08°06'21" West 485.48 feet; thence South 89°29'51" West 20.18 feet; thence North 08°06'21" West 245.91 feet to a point of curvature of a 230.00 foot radius curve to the left, the center of which bears South 81°53'39" West; thence Northerly and Westerly along the arc of said curve 491.23 feet through a central angle of 122°22'16"; thence South 49°31'23" West 38.55 feet to a point of curvature of a 347.42 foot radius curve to the left, the center of which bears South 40°28'38" East; thence Southwesterly along the arc of said curve 118.83 feet through a central angle of 19°35'49"; thence South 29°55'33" West 313.18 feet; thence North 88°55'15" West 257.09 feet; thence North 46°46'42" East 3089.72 feet; thence North 52°17'58" East 511.81 feet; thence South 11°48'57" East 66.72 feet; thence North 55°15'08" East 577.92 feet; thence North 62°47'20" East 697.15 feet; thence North 59°15'48" East 905.16 feet; thence North 47°08'47" East 1225.38 feet; thence North 48°58'41" East 173.02 feet; thence North 41°01'19" West 367.66 feet; thence North 52°00'49" East 955.49 feet; thence South 89°40'57" East 1961.90 feet; thence South 38°44'36" West 3015.81 feet; thence South 08°00'08" West 2521.21 feet; thence South 70°45'46" East 639.64 feet; thence South 30°41'13" West 1174.86 feet; thence South 39°58'09" West 970.07 feet; thence South 55°28'09" West 1050.90 feet; thence South 65°28'09" West 323.36 feet; thence South 73°18'09" West 389.10 feet; thence South 44°04'10" West 432.30 feet; thence South 89°48'23" West 660.00 feet; thence South 00°25'51" East 2606.16 feet; thence South 00°42'11" West 3391.42 feet; thence South 80°42'47" West 1557.72 feet to a point on a non tangent 2353.60 foot radius curve to the left, the center of which bears South 78°24'09" West; thence Northwesterly along the arc of said curve 1900.32 feet through a central angle of 46°15'40" to a point of non tangent compound curvature of a 752.56 foot radius curve to the right, the center of which bears North 33°21'13" East; thence Northwesterly along the arc of said curve 594.31 feet through a central angle of 45°14'52"; thence North 01°51'26" West 738.77 feet; thence North 09°47'07" West 170.00 feet; thence North 79°47'56" East 25.81 feet; thence North 01°53'19" West 403.69 feet; thence South 79°57'31" West 219.14 feet; thence North 07°29'19" West 973.52 feet; thence North 02°32'09" East 713.67 feet; thence North 42°00'44" East 599.14 feet; thence North 27°19'53" West 128.18 feet; thence North 62°40'07" East 67.13 feet to a point of curvature of a 300 foot radius curve to the left (cord bears North 40°46'06" East 223.80 feet) 229.34 feet along said arc; thence North 00°00'00" West 581.05 feet to a point on the center of section line and on the South line of the Silver Stone Subdivision as

recorded in the Morgan County Recorders Office; thence along said center of section line South 88°42'14" East 731.88 feet to the point of beginning.

Containing 1036.08 Acres more or less.