Ent: 401200 - Pg 1 of 17
Date: 07/25/2014 10:37 AM
Fee: $0.00
Filed By: CP
Jerry Houghton, Recorder
Tooele County Corporation
For: STANSBURY IMPROVEMENT DISTRICT

Recorded at the Request of:
Stansbury Park Improvement District
10 Plaza
Stansbury Park, UT 84074

Above Space For Recorder's Use Only

Subdivision: Benson Mill Crossings Phase 9 PUD **Number of lots** 39

Developer: Ivory Development

STANSBURY PARK IMPROVEMENT DISTRICT
CULINARY WATER, SANITARY SEWER AND STORM DRAIN DEVELOPMENT AND SERVICE AGREEMENT

THIS DEVELOPMENT AND SERVICE AGREEMENT ("Agreement"), is made and entered into effective this 11 day of June, 2014, by and between STANSBURY PARK IMPROVEMENT DISTRICT, a political subdivision of the State of Utah (the "District"), and. Ivory Development (the "Developer"), in connection with that certain real estate development project being developed on land owned by the Developer known as Benson Mill Crossings Phase 9 PUD (the "Project"), said land being more particularly described in EXHIBIT "A" attached hereto and incorporated by reference herein (the "Project Property"). The District and the Developer are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. Pursuant to U.C.A. Sections 17B-2a-402(1), 17B-1-103(d) and (l), the District is authorized, among other things, to acquire works, facilities and improvements necessary or convenient to the full exercise of the District's powers, and to operate, control, maintain, and use those works and facilities and improvements, and to enter into contracts that the District's Board of Trustees considers necessary, convenient, or desirable to carry out the District's purposes.

B. The Developer is developing the Project within the service area of the District and is desirous of obtaining municipal water, sanitary sewer and storm drainage services from the District for the Project.

C. The District is willing to provide municipal water, sanitary sewer and storm drainage services for the Project in conformance with and subject to the provisions of this Agreement and the rules and regulations of the District.

D. This Agreement contains various general requirements and conditions for the design, construction and installation of the municipal water, sanitary sewer and storm drainage systems to be developed in connection with the Project which supplement the District's rules and regulations, and sets forth the procedures governing the District's review, approval, inspection and acceptance of said systems as a condition to the District providing retail municipal water, sanitary sewer and storm drainage services to the Project.

This document is being rerecorded from entry #400355 to add Legal description

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEVELOPMENT APPLICATION; CONDITIONAL WILL-SERVE LETTER.

(a) The Developer shall be required to first complete and submit to the District a Development Application in the form attached as EXHIBIT "B" hereto and incorporated by reference herein. The Development Application shall be submitted prior to or in connection with the Preliminary Plan submittal pursuant to Section 4.

(b) Upon receipt of a complete Development Application approved by the District, the District will submit to the building authority of Tooele County (the "County") a conditional "will-serve" letter, the form of which is attached as EXHIBIT "C" hereto and incorporated by reference herein, stating that the Project is within the service area of the District and that the District is willing to provide culinary water, sanitary sewer and storm drainage services to the Project subject to and in conformance with the rules and regulations of the District and this Agreement.

(c) Compliance with Law. The Developer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations pertaining to the Developer's activities relating to the design, construction and installation of the Project Systems, and any portion thereof, including, without limitation, all County ordinances and the District's rules and regulations.

(d) Condition to Plat Approval. The execution and delivery of this Agreement by the Developer shall be an express condition precedent to any approval by the District of the Developer's subdivision plat for the Project.

2. PROJECT SYSTEMS

(a) Project Systems Defined. The project systems required to be constructed and installed by the Developer shall include the Culinary Water System, the Sanitary Sewer System and the Storm Drainage Collection System (sometimes referred to herein collectively as the "Project Systems"), each described as follows:

(1) Culinary Water System. The Project "Culinary Water System" shall include all culinary water transmission lines extending from the prescribed point of connection with the District's existing culinary water system which are necessary in providing culinary water service to the Project, all internal culinary water main lines and individual service lines within the Project, all water meters and meter boxes, all necessary valves and valve boxes, all required pumps and pump stations, all pressure regulation systems, all culinary water system manholes, and all other pipes, fittings, equipment and facilities necessary to enable the District to provide culinary water service to each individual lot to be served within the Project.

(2) Sanitary Sewer System. The Project "Sanitary Sewer System" shall include all sewer transmission lines extending from the prescribed point of connection with the District's existing sanitary sewer system which are necessary in providing sanitary sewer service to the Project, all internal sewer main lines within the Project, all individual service lines extending to the property line of each lot to be served, all sewer valves and valve boxes, all sewer pumps and pump stations, all pressure regulation systems, all sewer system manholes, and all other pipes, fittings, equipment and facilities necessary to

enable the District to provide sanitary sewer collection and treatment services to each individual lot to be served within the Project.

(3) Storm Drainage Collection System. The Project "Storm Drainage Collection System" shall include all storm drain lines extending from the prescribed point of connection with the District's existing storm drainage system which are necessary in providing storm drain collection service to the Project, all internal storm drainage collector mainlines which are situated within a public street, all individual service lines extending to the property line of each lot to be served if required, all storm drainage transmission mainlines situated within a public street or public utility easement which are designed to transport storm drainage water collected in the collector mainlines for transmission to the District's existing storm drainage collection system or other retention or detention facility, all storm drainage system manholes, all storm drainage pumps and pump stations, all pressure regulation systems, all storm drainage system manholes, and all other pipes, fittings, equipment and facilities necessary to enable the District to provide storm drainage collection services within the Project.

(A) The Storm Drainage Collection System includes the facilities described in Subparagraph (iii) immediately above which are designed and constructed to collect and transport naturally occurring storm run-off waters collected on the public streets within the Project. Subject to the provisions of subparagraph (B) immediately below, the District shall have no responsibility or liability for any storm water within the Project unless and until it is delivered into the storm drainage collector mainlines situated within the public street after transfer of the same to the District pursuant to Section 10. The Storm Drainage Collection System shall expressly not include any private land drain or any land drainage collection or disbursal systems designed and constructed to collect and control storm run-off and other waters collected on a lot or other private property within the Project ("Private Land Drain").

(B) Notwithstanding the foregoing, upon express approval by the District's Board of Trustees, the District may grant a revocable license to the Developer wherein the Developer may connect a Private Land Drain to the Storm Drainage Collection System pursuant to and in conformance with the terms and provisions set forth in the Revocable Storm Water License Agreement attached as EXHIBIT "D" hereto and incorporated herein by reference.

(b) Project System Extensions. In order to maintain the contiguity of the District's culinary water, sanitary sewer and storm drainage collection systems as property develops within the District, each of the Project Systems within the Project Property shall be constructed and installed by the Developer either within dedicated public streets or existing utility easements and/or within new utility easements granted by the Developer to the District as provided in Section 2(d)(3) below, in either case so as to extend to the outer boundaries of the Project Property, as directed by the District.

(c) Design of Project Systems. The Project Systems shall be designed in strict conformance with the requirements of this Agreement and with the Design Standards and Specifications attached as EXHIBIT "E" hereto and incorporated by reference herein, and the Project Systems shall all be constructed and installed by Developer at its sole cost and expense.

(d) Representation of Ownership of Project Property; Dedication and Easements. The Developer represents that:

(1) Developer is the owner of the property upon which the Project is being developed and for which services are being requested of the District.

(2) The Project Systems required for the Project shall be installed in streets dedicated or to be dedicated as public streets and/or within pubic easements and rights-of-way which have been granted or shall be granted to the District in conformance with the requirements of Subsection (3) below, prior to construction of the Project Systems.

(3) If Project Systems are to be constructed and installed outside of a public street or existing dedicated public utility easement, the Developer, at no cost to the District, shall obtain and grant to the District such perpetual public utility easements and rights-of-way as shall be necessary for the District to own, manage, operate, maintain, repair and replace the Project Systems to be situated within said easements. In order to facilitate the District's long term maintenance and repair of those portions of the Project Systems which are to be constructed and installed within new public utility easements, the Developer agrees as follows:

(A) The location and width of any new public utility easement to be granted to the District for the Project Systems shall be as specified by the District; except that if any such easement is to be situated between two permanent structures, such easement shall be a minimum of thirty feet (30") in width; and the Developer shall require, in the form of a restrictive covenant in the deed to the adjoining lots, or by other legal means, that the area within the easement between the two structures be left open without fencing or other encumbrance, and that no vegetation other than turf grass be allowed to be planted within the area of said easement.

(B) Subject to the provisions of Subsection (A) immediately above, the District, at its discretion, may require that the area of any public utility easement, or a portion thereof, shall be surfaced with asphalt, poly or other surfacing material capable of supporting heavy duty truck traffic, as specified by the District. If such special surfacing is required, the area to be surfaced shall be finished to a minimum width of ten feet (10'), and the Project Systems beneath the surface shall be covered to such depth as shall be specified by the District.

(C) All such grants of easement shall be in form and substance acceptable to the District, and shall be executed and recorded by the Developer at its sole expense prior to transfer of the Project Systems to the District as provided in Section 11 herein.

3. WATER RIGHTS

(a) If the District lacks water rights to serve the proposed development:

(1) The Developer must obtain and perfect, pursuant to change application and/or by other appropriate proceedings before the Utah Division of Water Rights, its own water rights for the Project, of sufficient quantity and flow to satisfy the current requirements of the Utah Division of Water Rights and the current requirements of the Utah Division of Drinking Water, and the rules and regulations of the District, for year-round municipal use within the service area of the District (the "Water Rights"). A Water Rights Worksheet, the form of which is attached as EXHIBIT "F" hereto and incorporated by reference herein, shall be utilized by the Developer in ascertaining the quantity of approved year-round municipal water required for the Project, in conformance with the following:

(A) The quantity of water rights to be conveyed to the District shall be quantified at the District's standard rate of 0.88 acre-feet per equivalent residential connection ("ERC") multiplied by the calculated number of ERCs within the Development. The 0.88 acre-foot per ERC rate (the "ERC Rate") is set forth in the District's Water Master Plan, dated June 19, 2007. The ERC Rate was quantified based upon a standard lot size of 10,000 square feet or less, an indoor consumptive use requirement of

400 gpd, or 0.44 acre-feet, consistent with Section R-309-510, Utah Administrative Code, and an outdoor irrigation requirement of 0.44 acre-feet based upon a duty of 4 acre-feet of water per irrigated acre as established by the Utah Division of Water Rights with an average irrigable area per lot of 0.110 acres.

(B) The Developer hereby: (i) recognizes the legal authority of the District to impose a water right exaction for the Project; (ii) acknowledges that there is a legitimate District interest in requiring the exaction of water rights to enable the District to provide water service to the Project; (iii) acknowledges that Developer has reviewed with the District the basis and methodology in quantifying the Water Rights required to be dedicated pursuant to the District's exaction requirement as set forth in the Water Rights Worksheet; (iv) acknowledges and agrees that the exaction of Water Rights imposed hereunder is roughly proportional, both in nature and extent, to the impact of the water service requirements of the Development upon the District; (v) knowingly accepts and agrees to be bound by the quantification of the Water Rights to be dedicated as set forth herein; and (vi) affirmatively waives any right to challenge or seek other recourse as to the validity and fairness of the quantification of the Water Rights required to be dedicated hereunder.

(2) The Water Rights Worksheet, together with a copy of the final, non-appealable memorandum decision of the State Engineer approving the Water Rights in the quantities required for the Project, for year-round municipal use within the service area of the District, shall be submitted concurrently with the Preliminary Plan, as provided in Section 4 herein, for review and approval by the District. The Water Rights shall be reviewed internally by the District in consultation with its consulting engineer and attorney. The Developer shall cooperate with the District in the review of the Water Rights so as to satisfy the requirements of the District.

(3) Upon approval of the Water Rights by the District, the Developer, at its sole expense, shall be required to obtain a policy of water rights title insurance on the Water Rights, naming the District as the insured in said policy.

(4) Subsequent to review and approval of the Water Rights by the District and the issuance of the water rights title policy, the Developer shall transfer the Water Rights to the District, without cost, and by appropriate instruments of conveyance in form and substance first approved by the District's attorney, free and clear of all liens and encumbrances, except as may be expressly approved and accepted by the District in writing. The Water Rights shall be transferred concurrently with the Final Plan submittal pursuant to Section 6 herein.

(5) The Developer, at its sole cost and expense, shall have the sole responsibility to prepare and file the Report of Water Rights Conveyance and any other document required to be filed to properly document the transfer of the Water Right to the District in the files of the Division of Water Rights, and to immediately record the Water Right conveyance document with the Recorder of Tooele County, Utah and file a copy the recorded conveyance document with the Division of Water Rights.

(6) Upon transfer of title to the District, the water rights shall then be commingled and become a part of the total water rights of the District, and the water available for use thereunder shall become a part of the total water supply of the District, through which all of its customers, including the Project, will be served on an equal priority basis.

(b) If the District has sufficient water rights to accommodate the Project, the Developer shall pay an impact fee in conformance with the provisions of Section 9 herein, to pay the Developer's appropriate contribution to the cost of existing District water rights, subject to the rules and regulations of the District.

4. PRELIMINARY PLAN

(a) Concurrently with or immediately after the submittal of the Development Application set forth in Section 1(a) herein, the Developer shall submit to the District, for its review and approval, all construction drawings, plans and profiles for the Project Systems (the "Preliminary Plan"), in conformance with the Submittal Requirements for Preliminary Plan Review, attached as EXHIBIT "G" hereto and incorporated by reference herein.

(b) The Preliminary Plan shall be reviewed internally by the District and in consultation with its consulting engineer and attorney. The Developer shall cooperate with the District in the review of the Preliminary Plan and in revising and conforming it to satisfy the requirements of the District.

5. REVIEW AND INSPECTION FEE.

(a) Developer shall pay to the District a Water Rights and Plan Review and Inspection Fee (the "Review and Inspection Fee"), for each lot to be developed within the Project, in conformance with the following:

(1) The Review and Inspection Fee required to be paid hereunder is to cover the costs incurred by the District in reviewing the Water Rights, the Preliminary Plan and to cover the necessary inspections of the Project Systems provided for herein, including, without limitation, District administrative costs, internal personnel review costs, and consulting engineering and attorneys fees, costs and charges, two televised video tapings of the sanitary sewer lines, and other costs and expenses incurred and to be incurred by the District with regard to the purposes for which the fee is paid.

(2) The Developer shall pay a Review and Inspection Fee Deposit (the "Deposit"), at the time of submittal of the Preliminary Plan. The amount of the Deposit to be paid shall be determined as follows:

Single Family Dwellings - $275 per lot.

Condominium, Timeshare and Multi-family Dwellings - $275 per unit

Commercial, Governmental and Educational Facilities - $1,200 per individual commercial, governmental or educational facility.

(b) In the event the actual costs incurred by the District for plan review and inspections exceed the amount of the Deposit, the District will bill the Developer for the difference, which shall be due and payable within thirty (30) days from the date of billing.

(c) Upon the written request of the Developer, the District will provide an itemized accounting of all expenses incurred by the District for plan review and inspections, District draws upon the Deposit and all costs incurred exceeding the Deposit.

6. FINAL PLAN

(a) The Developer shall prepare and submit to the District a final set of construction drawings, plans and profiles (the "Final Plan"), in conformance with the following:

(1) The Final Plan shall comply with the Design and Construction Standards and Specifications and incorporate all changes and requirements mandated by the District pursuant to the Preliminary Plan review and approval process.

(2) The Final Plan submittal shall be reviewed internally by the District and in consultation with its consulting engineer and attorney. The Developer shall cooperate with the District in revising and conforming the Final Plan to the requirements of the District and its engineer.

(3) The Final Plan must be approved and executed by the District and designated County officials prior to holding the pre-construction meeting required to be held pursuant to Section 7(a) herein. In no event shall any construction or installation of the Project Systems be commenced by the Developer or its contractors without the Final Plan being approved and executed by the District.

(b) The District shall deliver the Final Plan to the Utah Division of Drinking Water for its review and approval. Upon compliance with all Division of Drinking Water regulations, the Division of Drinking Water shall issue an operating permit to the District, which permit must be issued prior and as a condition to the District providing water and sanitary sewer service to the Project as provided in Section 11(c).

(c) A copy of the fully executed Final Plan must be filed with the District and the Tooele County Building Department by the Developer after receiving Final Plan approval from the District.

7. CONSTRUCTION OF PROJECT SYSTEMS

(a) Pre-construction Meeting. After receiving approval by the District of the Final Plan and prior to the commencement of construction of the Project Systems, the Developer and its contractors shall be required to attend a pre-construction meeting, as scheduled by the District, to be attended by the Developer and its contractors, District personnel and its consulting engineers, building officials of Tooele County, and others as determined by the District or the Developer, for the purpose of reviewing the terms and provisions of this Agreement and the applicable provisions of the District's rules and regulations, coordinating the construction and responding to questions. The Developer shall deliver to the District a CD containing the CAD file for the Project at the pre-construction meeting.

(b) Governmental Agency Permits. Prior to commencement of construction of the Project Systems, the Developer shall, at its sole cost and expense, secure, or cause to be secured, any and all permits which may be required by any other governmental agency having jurisdiction over the work.

(c) Insurance. During the period beginning with commencement of any construction work related to the Project Systems and ending on the date that is the end of the warranty period, the Developer shall furnish, or cause to be furnished, to the District satisfactory certificates of insurance from reputable insurance companies evidencing death, bodily injury and property damage insurance policies in the amount of Two Million Dollars ($2,000,000) single limit, naming the District as an additional insured. Certificates of insurance shall be submitted to the District at the Pre-construction Meeting referenced in Section 7(a). The Developer shall require that all contractors performing work in connection with the Project Systems shall be obligated to maintain adequate workman's compensation insurance and public liability coverage. The Developer shall not commence any work in connection with the construction and installation of the Project Systems until the required certificates of insurance have been submitted to the District.

(d) Notice to Proceed with Construction. At such time as: (i) Developer has paid the Review and Inspection Fee required in Section 5(a) herein, (ii) Developer has paid all required impact fees as required in Section 9 herein, (iii) District has approved and executed the Final Plan as required in Section 6(a) herein, (iv) Developer has delivered the CD containing the CAD file for the Project as required in Section 7(a), (v) Developer has obtained all required governmental agency permits as required in Section 7(b) herein, (vi) Developer has delivered the certificates of insurance as required in Section 7(c) herein, and (vii) Developer has posted the Improvement Assurance required pursuant to Section 12(b) herein, the District shall issue a "Notice to Proceed with Construction," in the form attached as EXHIBIT "H" hereto and incorporated by reference herein.

(e) Construction.

(1) The Developer shall be required to furnish all materials and equipment as shall be necessary for the construction and installation of the Project Systems.

(2) The Project Systems shall be constructed and installed by the Developer, at Developer's sole cost and expense, in accordance with the District's design standards and specifications, the Final Plan, or otherwise as approved by the District.

(3) The Developer agrees that all work performed in connection with the construction and installation of the Project Systems shall be of the highest quality and be performed in a safe, workmanlike manner.

(4) District officials and its engineers shall have the reasonable right of access to the Project and any portion thereof during the period of construction and during the Warranty Period addressed in Section 12 herein, to inspect and observe the Project Systems and any work thereon, and for all other purposes necessarily incident to this Agreement

(5) District representatives will comply with the Developer's standard safety rules while on the Project site.

(f) Periodic Inspection, Testing and Approvals.

(1) The District and its engineers shall perform periodic inspections and testing of the Project Systems while the same are being installed by the Developer or its contractors.

(2) No work on Project Systems requiring any excavation shall be covered over unless and until the same has been inspected and approved by the District's representatives or other governmental entities having jurisdiction over the particular Project Systems involved. If any excavation is backfilled prior to inspection, the Developer, upon request from the District, shall be obligated to re-open the trench for inspection and the same shall not be re-covered until the appropriate inspections have been performed and all required approvals have been received.

(3) The District shall conduct such tests as it shall deem necessary, and all tests specified by the District's engineer to be performed shall be at the Developer's sole cost and expense in conformance with the provisions of Section 5(a) herein.

(4) The Developer shall promptly repair and/or replace any work and /or materials found by the District during the course of its inspections to be defective or which is otherwise not in conformity

with the District's design standards and specifications, as required by the District consistent with the Final Plan approved by the District, all at Developer's sole cost and expense.

(5) The Developer shall promptly correct and/or redo any work that fails to conform to the requirements of the District's construction standards and specifications, and shall remedy any defects due to faulty materials, equipment, or workmanship, as required by the District, at Developer's sole cost and expense.

(g) Maintenance and Up-keep During Construction. During construction of the Project Systems, Developer shall keep, or shall cause its representatives, agents and contractors, to keep the Project and all affected public streets free and clear from any unreasonable accumulation of debris, waste materials, and any nuisances arising from the construction of the Project Systems, and shall contain construction debris and implement reasonable dust control measures so as to minimize scattering via wind and water.

(h) Completion of Construction; Final Construction Approval.

(1) After completion of construction of the Project Systems, or any portion thereof, the District shall perform an inspection (the "Final Completion Inspection"). The Developer shall cooperate with the District in completing any punch-listed items identified during the Completion Inspection as a condition to the District's approval thereof. All County approvals shall be obtained as a condition precedent to District approval.

(2) The actual interconnection of the Project Systems with the District's main water, sanitary sewer and storm drainage mainlines and outfall lines shall be done by the Developer under the direct supervision of the District.

(3) At such time as the Developer has fully completed and the District has finally approved the punch-listed items identified in the Final Completion Inspection, and all Project Systems have been interconnected to the District's main water, sanitary sewer and storm drainage mainlines and outfall lines, the District shall issue its final approval on all construction ("Notice of Final Construction Approval"), in the form attached as EXHIBIT "I" hereto and incorporated by reference herein.

(4) The Improvement Assurance Warranty Period set forth in Section 12 shall commence to run upon the issuance by the District of the Notice of Final Construction Approval.

(5) Subsequent to the issuance of the Notice of Final Construction Approval, the District shall prepare or cause to be prepared, or the District, at its sole discretion, may cause the Developer to prepare or cause to be prepared, a minimum of three sets of final "as-built" drawings for all Project Systems. If the as-builts are prepared by the District, the Developer shall pay for the preparation of the as-builts as billed by the District. Furthermore, if the District prepares the as-builts by hiring a consultant, then the selection of such a consultant shall be by mutual agreement between the District and the Developer. The District shall retain one set of as-builts, one set shall be delivered to the Developer, and one set to the Utah Division of Drinking Water. The Developer shall provide to the District an itemization of all construction costs expended by the Developer in connection with the construction of the Project Systems, which information the District is required by its auditors to obtain for District audit purposes.

8. FINAL PLAT. The District shall execute the final mylar plat ("Final Plat"), for the Project prior to the recording thereof by the Developer. Upon completion and recording of the Final Plat for the Project, the Developer shall deposit two (2) copies of the fully-executed Final Plat with the District.

9. IMPACT FEES. All impact fees which are required to be paid by the Developer in conformance with the rules and regulations of the District shall be payable, in full, prior to execution of the Final Plat by the District. A Water Facilities Impact Fee Worksheet and a Sewer Facilities Impact Fee Worksheet, together with a copy of the Sewer Service Area Map, which set out the District's impact fee schedule and the procedure for calculating the amount of water and sewer impact fees due and owing by the Developer for the Project are attached as EXHIBIT "J" hereto and incorporated by reference herein.

10. FINAL ACCEPTANCE OF THE PROJECT. The District shall issue its notice of final acceptance of the Project Systems ("Notice of Final Acceptance"), in the form attached as EXHIBIT "K" hereto and incorporated by reference herein, upon satisfaction of the following:

(a) The issuance of a Notice of Final Construction Approval;

(b) Receipt by the District of the Final Plat; and

(c) Payment in full of all Impact Fees and all other fees and charges due and owing on the Project.

11. TITLE TRANSFER; OPERATION AND MAINTENANCE; SERVICE

(a) Transfer of Title to Project Systems to the District. The Notice of Final Acceptance, upon issuance, shall be a written acknowledgment by the Parties that all of Developer's right, title, estate and interest in and to the Project Systems is deemed transferred by the Developer to the District and that the District thereby accepts and assumes the perpetual obligation of operation, maintenance, repair and replacement of the Project Systems. Title transfer and the resulting obligations of the District as set forth herein shall be expressly subject to the Developer's Improvement Assurance obligations set forth in Section 12 herein. The Project Systems deemed transferred to and accepted by the District are delineated as follows:

(1) Culinary Water System. The District shall take title to and thereafter own, operate, maintain, repair, replace and be responsible for all aspects of the Culinary Water System within the Project up to and including the water meter and meter box on each lot within the Project. The individual lot owners shall own, operate, maintain, repair, replace and be responsible for the water service lateral and all related culinary water facilities and equipment serving their lot beginning at lot owner's point of connection at the water meter.

(2) Sanitary Sewer System. The District shall take title to and thereafter own, operate, maintain, repair, replace and be responsible for all aspects of the Sanitary Sewer System within the Project up to the point of connection of the service lateral serving each lot with the sanitary sewer main line in the street. The individual lot owners shall own, operate, maintain, repair, replace and be responsible for the connection to the sanitary sewer main line and the connection at the main line, and all related sewer facilities and equipment serving their lot on the lot owner's side of the connection.

(3) Storm Drainage Collection System. The District shall take title to and thereafter own, operate, maintain, repair, replace and be responsible for all aspects of the Storm Drainage Collection System within the Project up to the property line of each lot. The individual lot owners shall own,

operate, maintain, repair, replace and be responsible for any private storm drainage system serving their lot or any group of lots and for any storm water accumulating thereon. Likewise, the Developer shall own, operate, maintain, repair, replace and be responsible for any private storm drainage systems serving any common areas retained by it within the Project and for any storm water accumulating therein, subject to the provisions of Section 2(a)(iii)(B) herein.

(b) Obligation to Provide Service. Upon compliance with all of the terms and conditions set forth in this Agreement, and with all other applicable requirements of the District, and subject to the provisions of Section 12 herein, the District shall be obligated to provide culinary water service, sanitary sewer service and storm drainage services to the individual owners of lots within the Project on the same basis as all other similarly situated customers within the service area of the District in accordance with the rules and regulations of the District.

12. WARRANTY OF CONSTRUCTION; IMPROVEMENT ASSURANCE

(a) Improvement Assurance Warranty; Warranty Period. The Developer shall warrant and guaranty that the Project Systems shall be free of defects in materials or workmanship for a period of one (1) year from the date of commencement of the Improvement Assurance warranty period as provided in Section 7(h)(iv) herein (the "Warranty Period").

(1) If at any time during the Warranty Period any materials or workmanship furnished by the Developer shall prove defective or be found in disrepair, Developer shall, upon written notice from the District, promptly repair or replace the defective materials and/or work to the satisfaction of the District.

(2) During the Warranty Period, the Developer shall be required to keep all manholes, valve and meter boxes, drains and lines in good repair and free from all rock, dirt and other debris in order to assure the District has unobstructed access for periodic inspections during the Warranty Period.

(b) Improvement Assurance. The Developer's Improvement Assurance warranty obligation hereunder shall be secured by (i) the posting with the District Improvement Assurance in the form of a bond, (ii) letter of credit, (iii) by the establishment of a cash escrow account with a reputable bank or surety company licensed to do business in the State of Utah, or (iv) other security as shall be approved by the District and its attorney (the "Improvement Assurance"). The Improvement Assurance shall be in such amount as shall be determined by the District's Board of Trustees in consultation with the District's engineer and attorney. The Improvement Assurance Worksheet, attached as Exhibit "M" hereto and incorporated by reference herein shall be used as a guide in determining the amount of the Improvement Assurance required to be provided hereunder. At the discretion of the District and in coordination with the County, the Improvement Assurance may be included with and as a part of the security which the Developer is obligated to provide to the County in connection with its guaranty and warranty of the Project generally.

(c) Release of Improvement Assurance. The Improvement Assurance shall be released as follows:

(1) Upon issuance of the Notice of Final Construction Approval referenced in Section 7(h)(iii) herein, 90% of the Improvement Assurance shall be released by the District, or the County after written notice from the District, as the case may be, to the Developer, and 10% of the lesser of the Improvement Assurance Worksheet or Developer's reasonably proven cost of completion, shall be

retained by the District during the Warranty Period and be released to the Developer in conformance with the provisions of Section 19(c)(ii) below.

(2) At the end of the Warranty Period, the District shall perform a final inspection of the Project Systems (the "Final Warranty Inspection"). The Final Warranty Inspection shall include, but not be limited to a televised inspection of all sanitary sewer lines within the Project. The Developer shall be required to repair or replace any defective materials and/or work then existing related to the Project Systems to the satisfaction of the District. Upon completion of the Final Warranty Inspection and final approval by the District, the District shall issue a Notice of Termination of Warranty and Release of Improvement Assurance, in the form attached as EXHIBIT "N" hereto and incorporated by reference herein, to the Developer, whereupon the remaining 10% of the Improvement Assurance, as determined per Section 12(c)(i) above, shall be released by the District, or the County after written notice from the District, as the case may be, to the Developer.

13. INDEMNIFICATION. The Developer hereby agrees to indemnify and hold the District harmless from and against any and all liability, loss, damage, costs, or expenses, including reasonable attorney's fees and court costs, arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person as a result of construction activities by the Developer, its agents, employees or contractors, and any claim by any contractor or other person for any amounts due and owing by the Developer to said contractor or person. The Developer shall not be responsible for, and this indemnity shall not apply to (i) any negligent acts or omissions of the District, or of its agents, employees or contractors, (ii) any liability, loss, damage, costs or expenses, including attorney's fees and court costs, arising in connection with any work performed by third-parties, such as public or private utility companies, that are not under the control of the Developer, or (iii) any criminal action, omission, or misconduct by any agent, employee or contractor of the Developer. At the end of the Warranty Period provided for in Section 12 herein, and the District's final approval and acceptance of the Project Systems, the indemnity obligations of the Developer set forth herein shall cease to apply with respect to any work or activity performed by the Developer, its agents, employees or contractors on or after that date.

14. DEFAULT. In the event Developer fails to perform its obligations hereunder or comply with the terms and provisions hereof, and such failure remains uncured for a period of thirty (30) days (the "Cure Period"), after receiving written notice of default from the District, and provided that (i) such default cannot reasonably be cured within the Cure Period, and (ii) the Developer shall have commenced to cure such default within such Cure Period and thereafter uses reasonable efforts to cure the same, then the Cure Period shall be extended for so long as shall be required for the Developer to exercise reasonable efforts to cure the default. If however, the default remains uncured for a period of one hundred twenty (120) days in the aggregate, then the District may, at its election, pursue all rights and remedies which it may have at law and in equity, including but not limited to injunctive relief, specific performance and/or damages, and termination of the Agreement.

15. ASSIGNABILITY. The Developer may assign its rights and delegate its duties hereunder to a third party purchaser of all or a portion of the Project, subject to the terms and provisions of this Agreement. In the event of an assignment, the assignee shall be jointly and severally liable with the Developer for the performance of each and every obligation of the Developer contained in this Agreement, unless, prior to the assignment, an agreement satisfactory to the District, delineating and allocating between the Developer and the assignee the various rights and obligations of the Developer hereunder has been approved by the District. Prior to any assignment, the Developer shall obtain and deliver to the District a written statement executed by the assignee, duly acknowledged by a notary

public, wherein the assignee acknowledges that it has reviewed and is familiar with the terms and provisions of this Agreement, and agrees to be bound hereby.

16. MISCELLANEOUS PROVISIONS

(a) Notice. All notices required or desired to be given hereunder shall be in writing and shall be deemed to have been given on the date of personal service upon the Party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, and addressed to the Parties at the following addresses:

TO THE DISTRICT:

Stansbury Park Improvement District
435-882-7922
Attn: District Manager
#30 Plaza
Stansbury Park, UT 84074

TO THE DEVELOPER:

Name: Ivory Developmenet
Address: 978 E Woodoak Lane, SLC UT 84117
Phone: 801-747-7000
Email: nick@edmllc.net

Any Party may change its address for notice hereunder by giving written notice to the other Party in accordance with the provisions of this Section.

(b) Attorney's Fees. The Parties each agree that should they default in any of the covenants or agreements contained herein, the defaulting Party shall pay all costs and expenses, including reasonable attorney's fees and court costs, which may arise or accrue from the enforcement of this Agreement, or in pursuing any remedy provided for hereunder or by the statutes, or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

(c) Entire Agreement. This Agreement, together with the Exhibits attached hereto, and the documents referenced herein, contain the entire agreement by and between the Parties with respect to the subject matter hereof, and supersede any prior promises, representations, warranties, inducements or understanding between the Parties which are not contained herein.

(d) Section Headings. The section headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

(e) Non-liability of District Officials. No officer, representative, agent or employee of the District shall be personally liable to the Developer or any successor-in-interest or assignee of the Developer, in the event of any default or breach by the District, or for any amount which may become due the Developer, or its successors-in-interest or assignees, or for any obligation arising under the terms of this Agreement.

(f) No Third-party Rights. The obligations of the Developer and the District set forth in this Agreement shall not create any rights in or obligations to any other persons or parties except to the extent otherwise provided herein.

(g) Binding Effect; Covenants Run with the Land. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and upon their respective officers, agents, employees, representatives, affiliates and assigns (where assignment is permitted), including, without limitation, any separate affiliated entity of the Developer which is involved with, assumes or undertakes to fulfill any responsibility or obligation imposed upon the Developer pursuant to this Agreement, and any city or other governmental agency or agencies that assumes jurisdiction over the Project should the District no longer have jurisdiction over the Project. The covenants contained herein shall be deemed to run with the property within the Project, and the Parties agree that this Agreement shall be recorded in the office of the Tooele County Recorder, State of Utah.

(h) Termination. Both the District and the Developer shall each have the right, but not the obligation, at the sole discretion of the applicable Party, to terminate this Agreement, in whole or in part, in the event (i) the Developer has not commenced construction of the Project Systems within thirty (30) days from the date of this Agreement, (ii) the Project Systems have not been completed within one (1) year from the date of this Agreement, or (iii) the Developer remains in default under the material provisions of this Agreement after expiration of any applicable notice and/or cure period. Any termination of this Agreement pursuant hereto may be effected by giving written notice of intent to terminate to the other Party pursuant to the notice provisions set forth here. Unless terminated pursuant to this Section, or by separate agreement signed by the Parties, this Agreement shall continue in full force and effect on all of the terms hereof until the Developer has received a Notice of Release and Termination of Warranty at the end of the Warranty Period.

(i) Jurisdiction. The Parties hereby agree that any judicial action associated with this Agreement shall be taken in the Third Judicial District Court of Tooele County, Utah.

(j) No Waiver. Any Party's failure to enforce any of the provisions of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the Party intended to be benefitted by the provision, and a waiver by a Party of a breach hereunder by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provision.

(k) Severability. If any portion of this Agreement is held to be unenforceable, any enforceable portion thereof and the remaining provisions of this Agreement shall continue in full force and effect.

(l) Time of the Essence. Time is expressly made of the essence with respect to the performance of each and every obligation hereunder.

(m) Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes; labor disputes; inability to obtain labor, materials, equipment or reasonable substitutes therefore; adverse market conditions; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars; terrorist attacks; civil commotions; fires; or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage. Any Party seeking relief under the provisions of this Section shall notify the other Party pursuant to the notice provisions hereof of a force majeure event within ten (10) days following occurrence of the claimed force majeure event.

(n) Knowledge. The Parties have each read this Agreement and have executed it voluntarily after having been apprised of all relevant information and risks and having had the opportunity to obtain legal counsel of their choice.

(o) Supremacy. In the event of any conflict between the terms of this Agreement and those of any other agreement, contract, or document referred to herein, this Agreement shall govern.

(p) No Relationship. Nothing in this Agreement shall be construed to create any partnership, joint venture, or other fiduciary relationship between the Parties.

(q) Amendment. This Agreement may be amended only in writing signed by the District and the Developer.

(r) Warranty of Authority. The individuals executing this Agreement on behalf of the Parties hereby warrant that they have the requisite authority to execute this Agreement on behalf of the respective Parties and that the respective Parties have agreed to be and are bound hereby.

IN WITNESS WHEREOF, the Parties have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

"DISTRICT"

STANSBURY PARK IMPROVEMENT DISTRICT

By: _____
District Manager, Brett Palmer

"DEVELOPER"

Name: Ivory Development, LLC

By: _____
Name Darin C. Haslam II
Title Secretary

[Notary Acknowledgments Follow on the Next Page]

ACKNOWLEDGMENTS

STATE OF UTAH)
: ss.
County of Tooele)

On the 24th day of June, 2014, appeared before me Brett Palmer, personally known to me, or proved to me on the basis of satisfactory evidence, to be Manager of the Stansbury Park Improvement District, who duly acknowledged that the within and foregoing instrument was signed on behalf of said District by authority of its Board of Trustees, and that said District executed the same.

Marilyn Mann
NOTARY PUBLIC

MARILYN MANN
Notary Public
State of Utah
Comm. No. 656338
My Comm. Expires Jun 8, 2016

STATE OF UTAH)
:ss.
County of S.J.)

On the 11th day of June, 2014, personally appeared before me Darin Haskell known to me, or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument on behalf of Ivory Development, LLC, who duly acknowledged to me that he executed the same.

Brooke Siddoway
NOTARY PUBLIC

BROOKE SIDDOWAY
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 673003
COMM. EXP. 12-20-2017

EXHIBIT A

A parcel of land, situate in the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, Township 2 South, Range 4 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the northeasterly corner of the Tooele County Parcel (05-034-0-0066), also record of survey #2013-0024-01, which lies on the southeasterly boundary of the 'Benson Mill Crossing Phase 1 PUD', as recorded January 4, 2007, under Entry no. 275454, in the Tooele County Recorder's Office, which point is located South 89°56'19" West 374.81 feet along the Section line and South 51.12 feet from the Northwest Corner of Section 15, Township 2 South, Range 4 West, Salt Lake Base and Meridian, and running:

thence North 51°56'41" East 204.29 feet along the southeasterly boundary of said subdivision, to the southerly line of Brigham Road;

thence Northeasterly 86.46 feet along the arc of a 180.00-foot radius non-tangent curve to the left (center bears North 10°54'36" West and the long chord bears North 65° 19'43" East 85.64 feet, through a central angle of 27°31'21"), along said subdivision boundary and road;

thence North 51°34'03" East 13.83 feet along said subdivision boundary and road, to the westerly line of the 'Benson Mill Crossing Phase 4 PUD', as recorded June 16, 2011, under Entry no. 357256, in the Tooele County Recorder's Office;

thence South 38°25'57" East 110.50 feet along said westerly boundary;

thence South 51°34'03" West 5.39 feet along said boundary;

thence South 38°34'08" East 152.00 feet along said boundary;

thence North 51°34'03" East 147.31 feet along said boundary to the southwesterly line of Benson Mill Crossing Phase 7 PUD', as recorded May 8, 2013, under Entry no. 384003, in the Tooele County Recorder's Office;;

thence South 38°34'08" East 170.04 feet along said boundary to the north line of State Route 138;

thence South 51°21'34" West 450.87 feet along said north line to the southeasterly corner of said Tooele County parcel (05-034-0-0066), also record of survey #2013-0024-01;

thence North 37°33'59" West 455.94 feet along the boundary of said parcel to the Point of Beginning.

Parcel contains: 160,532 square feet or 3.69 acres.

5-27-30
5-27-32
5-34-62
5-33-38
5-33-39
5-33-42
5-34-72