SUMMIT COUNTY
ORDINANCE NO. 378

AN ORDINANCE APPROVING AND ADOPTING THE DEVELOPMENT AGREEMENT FOR GLENWILD

PREAMBLE

WHEREAS, the owner and developers of Glenwild applied for and received from Summit County a rezone of its property to a Specially Planned Area, securing a designation as the "Glenwild SPA Zone District" through Summit County Ordinance 377; and,

WHEREAS, Summit County, acting pursuant to its authority under Utah Code Ann. Section 17-27-101, et. seq. (1953), as amended, has made certain determinations with respect to the proposed Glenwild SPA Plan and, in the exercise of its legislative discretion, County Ordinance 377, resulting in the negotiation, consideration and approval of this Development Agreement after all necessary public hearings; and,

WHEREAS, it is in the best interests of Summit County and the health, safety and general welfare of its citizens to adopt this Ordinance in order to implement the Glenwild SPA rezone, based on the terms and conditions as more fully set forth in the Development Agreement;

NOW THEREFORE, the County Legislative Body of County of Summit, the State of Utah, ordains as follows:

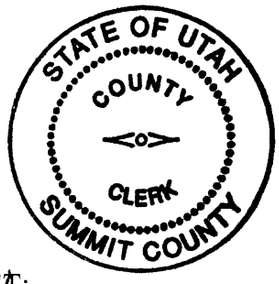
Section 1. Summit County Ordinance No. 378, The Development Agreement for the Glenwild SPA, Summit County, Utah, consisting of 269 pages including exhibits which have been published as a code in book form, three copies of which have been filed for use and examination in the office of the Clerk of Summit County, Utah, is hereby adopted by Summit County, and the Chairman is authorized to sign and execute the Development Agreement on behalf of Summit County.

Section 2. This Ordinance shall take effect 15 days after passage by the Board of County Commissioners of Summit County and subsequent publication in a newspaper of general circulation in Summit County, Utah.

00565079 Bk01318 Pg00498-00528

ALAN SPRIGGS, SUMMIT CO RECORDER
2000 MAY 09 15:54 PM FEE $.00 BY DMG
REQUEST: SUMMIT COUNTY CLERK

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Board of Commissioners, this 8th day of May, 2000.



BOARD OF COUNTY COMMISSIONERS
SUMMIT COUNTY, STATE OF UTAH

BY: _____

Commissioner Cone voted: Aye
Commissioner Schifferli voted: Aye
Commissioner Richins voted: Aye

ATTEST:

_____
County Clerk
Summit County, Utah

APPROVED AS TO FORM:

_____
Deputy County Attorney
Summit County, Utah

WHEN RECORDED RETURN TO:

Summit County Clerk
Summit County Courthouse
60 North Main
Coalville, Utah 84017

DEVELOPMENT AGREEMENT

FOR THE GLENWILD SPECIALLY PLANNED AREA (SPA) PLAN

SNYDERVILLE BASIN, SUMMIT COUNTY, UTAH

This DEVELOPMENT AGREEMENT is entered into as of this 8th day of May, 2000, by and between GRAYHAWK/DMB PARK CITY, LLC, an Arizona limited liability company, and SUMMIT COUNTY, a political subdivision of the State of Utah, by and through its Board of County Commissioners.

Article 1
DEFINITIONS

1.1 **Architectural Design Guidelines** means the Architectural Design Guidelines for the Property, a copy of which is included as Exhibit G in the Glenwild SPA Plan Book of Exhibits.

1.2 **Code** means Snyderville Basin Development Code.

1.3 **Comprehensive Sign Plan** means the signage guidelines for the Property, a copy of which is included as Exhibit D in the Glenwild SPA Plan Book of Exhibits.

1.4 **County** means Summit County, a political subdivision of the State of Utah, by and through its Board of County Commissioners.

1.5 **Design Guidelines** means the design guidelines for the Project, a copy of which is included as Exhibit C in the Glenwild SPA Plan Book of Exhibits.

1.6 **Developer** means Grayhawk/DMB Park City, LLC, an Arizona limited liability company, and its assignees or transferees.

1.7 **Development Agreement** means this Development Agreement.

1.8 **Development Application** means an application to the County for development of a portion of the Property including a building permit or any other permit, certificate or other authorization from the County required for development of the Property.

1.9 **Director** means the Summit County Community Development Director.

1.10 **Final Subdivision Plat** means the final subdivision plat attached as Exhibit Q of the Glenwild SPA Book of Exhibits, entitled "Glenwild Subdivision Plat A," and other plats which shall be approved in accordance with the administrative processes as set forth herein.

1.11 **General Plan** means the Snyderville Basin General Plan adopted by the County.

1.12 **Glenwild SPA** means The Glenwild Specially Planned Area Zone District Plan adopted by Ordinance 377 for the purposes of permitting the adoption of a comprehensive development plan specifically required to implement the unique uses, development locations, and programs and other features necessary for development of the Project.

1.13 **Glenwild SPA Plan** means the comprehensive plan, set forth in this Development Agreement, which shall designate all development parameters, site plans and plats, administrative processes, land use locations, densities, pocket parks and trails, and other open space within the Project, the approximate location of the golf course, clubhouse, and other public and private amenities which service the Project, Project phasing, and all other property owner/developer obligations, commitments, and contributions made to carry out the development of the Project.

1.14 **Glenwild SPA Plan Book of Exhibits** means that portion of the Glenwild SPA Plan which shall contain concept and specific plans that shall be used to guide all development in the Glenwild SPA, all of the specific site plans and plats, all other specific development parameters and regulations, administrative processes, and developer obligations, commitments, and contributions for carrying out the development in accordance with the Glenwild SPA Plan. The Glenwild SPA Plan Book of Exhibits shall be deemed a part of this Development Agreement as fully as if set forth herein at length and shall be binding upon all parties hereto.

1.15 **Groundwater Testing and Soil Remediation Plan** means an annual groundwater testing and remediation program for the golf course, a copy of which is included as Exhibit I in the Glenwild SPA Plan Book of Exhibits.

1.16 **Land Use Laws** means zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations existing and in force for the County as of the date of this Development Agreement, and as may be amended from time to time.

1.17 **Land Use Plan** means the Glenwild Land Use Site Plan, a copy of which is included as Exhibit B in the Glenwild SPA Plan Book of Exhibits, which reflects the location and configuration of development and amenities within the Project, and the location and configuration of the Public Facilities.

1.18 **Landscaping Plan** means the landscaping plan for the Project, a copy of which is included as Exhibit E in the Glenwild SPA Plan Book of Exhibits.

1.19 **Low Impact Development** means when specifically designated as a Low Impact Activity in the Development Agreement, such uses shall be subject to a Low Impact Permit review and approval by the Director in accordance with the provisions in the Glenwild SPA Plan Book of Exhibits and all applicable provisions of the Snyderville Basin Development Code.

1.20 **Operational Golf Course Plan** means the plan guiding operation of the golf course for the Project, a copy of which is included as Exhibit F in the Glenwild SPA Plan Book of Exhibits.

1.21 **Planning Commission** means the Snyderville Basin Planning Commission.

1.22 **Project** means a 195 lot/unit residential golf course community, inclusive of an 18 hole private golf course and clubhouse, all as shown on the Land Use Plan in the Glenwild SPA Plan Book of Exhibits, with amenities and features as shown thereon.

1.23 **Property** means approximately 888 acres of land and appurtenant real property located in Summit County, Utah, the legal description of which land is shown in Exhibit A, Legal Description, in the Glenwild SPA Plan Book of Exhibits.

1.24 **Public Facilities** means the arterial and access roads and the other public infrastructure or public service facilities serving the Project.

1.25 **Site Plan** means the site plan depicting the location of improvements on the Property, a copy of which is included as Exhibit B in the Glenwild SPA Plan Book of Exhibits.

1.26 **Trails and Open Space Master Plan** means the trails to be constructed in the Project and open space (active and passive) as shown on Exhibit N in the Glenwild SPA Plan Book of Exhibits.

Article 2
RECITALS

2.1 The recitals in the remainder of this Article 2, together with the findings set forth in Article 3, are an integral part of this Development Agreement and are a part of the consideration for each party's entry into this Development Agreement.

2.2 Developer is the record owner of the Property or has contractual rights to acquire any such portions thereof as are not owned of record by Developer.

2.3 Developer has proposed the development on the Property of a golf course and residential community which shall be constructed within certain predetermined development locations designated in the Glenwild SPA. This Development Agreement serves to implement the Glenwild SPA, Ordinance 377, in accordance with the provisions of the Code and the General Plan.

2.4 Prior to or contemporaneously with the approval of this Development Agreement, the County has adopted an amendment to the General Plan, the Code, and the Zoning Map classifying the Property as the Glenwild SPA Zone District and setting forth therein such land use classifications, residential and commercial densities, and development locations as are permitted under the Development Agreement.

2.5 The County has encouraged Developer to employ innovative land planning concepts within the Project in order to cluster and appropriately locate development density, preserve sensitive lands, create significant private and public recreational amenities, open spaces, and trails, and provide a mix of housing and recreational uses within the Project and within the County in furtherance of the goals of the General Plan.

2.6 Developer has proposed specific plans and plats with respect to the Project. The Project has been specifically planned in response to direction from the Director and the Planning Commission.

2.7 The County therefore desires to establish the Project under the SPA provisions of the Code and the General Plan for the purpose of implementing development standards and processes that are consistent therewith.

2.8 Developer and the County desire to clarify certain standards and procedures that will be applied to certain administrative approvals contemplated in connection with the development of the Project as well as the construction of improvements for the benefit of the Property, and to establish certain standards for the phased development and construction of the Project and certain Project improvements, and to address requirements for certain public amenities.

2.9 The County also desires to receive certain public benefits and amenities, and Developer is willing to provide these public benefits and amenities in consideration of the agreement of the County for increased densities and intensity of uses in the Project pursuant to the terms of this Development Agreement.

2.10 This Development Agreement, which implements the Glenwild SPA, provides detailed data regarding the Project land use plan, open space, architecture, developer obligations and contributions and other relevant data. The County and Developer agree that each of them shall comply with the standards and procedures contemplated by the Glenwild

SPA, this Development Agreement and its accompanying attachments and Book of Exhibits, the Code, and the General Plan with respect to all required development approvals.

2.11 The County, acting pursuant to its authority under Utah Code Annotated, Section 17-27-101 et seq., the Code and the General Plan, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve the use, density, and general configuration of the Project pursuant to the Glenwild SPA, resulting in the negotiation, consideration and approval of this Development Agreement after all necessary public hearings.

Article 3
FINDINGS

The Board of Commissioners of the County, acting in its legislative capacity, has made the determinations with respect to the Glenwild SPA Plan set forth in this Article 3, including all findings of fact and conclusions of law as are necessary to make each of such determinations.

3.1 Following lawfully advertised public meetings and hearings on February 9, May 11, May 25, June 8, and June 22, 1999, the Project received a recommendation for approval through a Development Agreement by action of the Planning Commission taken on June 22, 1999. The Board of County Commissioners held a lawfully advertised public hearing on July 12, 1999, and during a lawfully advertised public meeting on that same date approved the Project under the process and procedures set forth in the Code and General Plan. On April 3, 2000 the Board of Commissioners approved the Glenwild Phase I subdivision plat. The terms and conditions of approval are incorporated fully into this Development Agreement. In making such approval, the Board of County Commissioners made such findings of fact and conclusions of law as are required as a condition to the approvals, as reflected in the staff recommendations adopted with any modifications, as reflected in the minutes of the above-referenced public meetings, and as reflected by the other enumerated findings herein.

3.2 The Glenwild SPA Plan, as reflected in and conditioned by the terms and conditions of this Development Agreement, is in conformity and compliance with the General Plan, any existing capital improvements programs, the provisions of the Code (including concurrency and infrastructure requirements), and all other development requirements of the County.

3.3 The Glenwild SPA Plan contains outstanding features which advance the policies, goals and objectives of the General Plan beyond mere conformity, including the following: (i) agreements with respect to design controls and limitations to minimize the visual impact of the development; (ii) the clustering and appropriate location of density; (iii) the creation of a significant trail system and park areas; (iv) the transfer of existing density out of sensitive viewshed areas; (v) the preservation of significant open space; and (vi) providing road and water improvements to the residents of Knob Hill.

3.4 Developer has committed to comply with all appropriate Concurrency and Infrastructure requirements of the Code, and all appropriate criteria and standards described in this Development Agreement, including all applicable impact fees of the County and its Special Districts.

3.5 There exist adequate provisions for mitigation of all fiscal and service impacts on the general public.

3.6 There will be no construction management impacts that are unacceptable to the County.

3.7 The Glenwild SPA Plan meets or exceeds development quality and aesthetic objectives of the General Plan and the Code, is consistent with the goal of orderly growth in the basin, and minimizes construction impacts on public infrastructure within the basin.

3.8 The proposed development reasonably assures life and property within the Snyderville Basin is protected from any adverse impact of its development.

3.9 Developer shall take appropriate measures to prevent harm to neighboring properties and lands from development, including nuisances.

3.10 This Development Agreement implements the Glenwild SPA.

3.11 The increased densities and intensity of uses in excess of the base densities and uses within the Glenwild SPA are established pursuant to the Snyderville Basin Development Potential Matrix which was implemented through the Glenwild SPA, Ordinance 377. As part of it's use, density and configuration herein approved, Developer has agreed to provide the Matrix amenities identified in Exhibit J in the Glenwild SPA Plan Book of Exhibits.

3.12 Exemption from Code. The Board of County Commissioners acting pursuant to its authority under Utah Code Annotated 17-27-101 et. seq., as well as its regulations and guidelines, in the exercise of its legislative discretion, has determined that the Project is exempt from the application of the Code solely to the extent that such a finding may be a condition precedent to approval of this Development Agreement. Where there is a direct conflict between an express provision of this Development Agreement and the Code or General Plan or other land use laws, this Development Agreement shall take precedence; otherwise, the Code, General Plan, or other land use laws shall control.

Article 4
THE PROJECT

4.1 Description of the Project. The Property covered by this Development Agreement consists of approximately 888 acres of land located within the Snyderville Basin. Developer intends to construct a residential golf course community and provide community amenities, all as shown on the Land Use Plan, and as further described in this Development Agreement. The Land Use Plan also includes approximately 231 acres of land originally

platted as the Blackhawk Ranch Subdivision (the "Blackhawk Land"), pursuant to the Subdivision Plat for Blackhawk Ranch Subdivision, recorded in the Office of the Summit County Recorder on January 5, 1999 as Entry No. 526944. The Blackhawk Land is part of the Spring Creek SPA, created pursuant to that certain Development Agreement, recorded in said Office on August 5, 1998, as Entry No. 514349, in Book 1171, Page 115 (the "Spring Creek Development Agreement"). Notwithstanding that the Blackhawk Land is situated within the boundaries of the Spring Creek SPA, the Blackhawk Land shall be included as part of the Project, and to the extent there is any inconsistency in the terms of the Spring Creek Development Agreement and this Development Agreement, the terms and provisions of this Development Agreement shall apply with respect to the Blackhawk Land.

4.2 Legal Description of Property. The legal description of the Property included within the SPA zone district is set forth in Exhibit A to the Glenwild SPA Plan Book of Exhibits. No property may be added to the legal description of the Project for purposes of this Development Agreement, except by written amendment. Unless expressly set forth in this Agreement, this Development Agreement shall not affect any land other than the Property.

4.3 Approved Use, Density, and Configuration. This Development Agreement shall vest with respect to the Project as to the uses (including signage), densities, configuration, massing, design guidelines and methods, development standards, plats, approval processes, road placements and designs (including size of road), road grades, road curb cuts and connections, and other improvements, as reflected in the Glenwild SPA Plan Book of Exhibits and all other provisions of this Development Agreement. The Glenwild SPA Plan Book of Exhibits (Exhibits A-R) shall be deemed a part of this Development Agreement and shall be binding upon all parties hereto.

4.4 Specific Design Guidelines: The development of the Project must be consistent with those Specific Conditions and Guidelines set forth in this section, as well as those described in the Glenwild SPA Plan Book of Exhibits, which includes, among other things the site layout, land use plan, comprehensive sign plan, design guidelines, landscaping plan, golf course operational plan, and architectural design drawings. The SPA Plan is approved subject to the following conditions, which are in addition to all other conditions specified in this Development Agreement:

4.4.1 Conceptual plans for the Developer's landscaping in the Project shall be submitted for review and approval through the Low Impact Permit process to assure that landscaping which is visible from the main view corridors is harmonious with surrounding landscaping. Developer shall utilize drought tolerant plants as a significant part of its landscaping plan, as shown on the Landscaping Plan attached hereto as Exhibit E, and in accordance with the Grayhawk/DMB Landscaping Low Impact Permit issued by the County on July 7, 1999 and the amendment thereto dated April 15, 2000.

4.4.2 Developer shall comply with Exhibit N, the Trails Plan for the Project. Said trails shall be consistent with the Snyderville Basin Recreation District Trails Master Plan.

4.4.3 Developer shall comply with the Escrow Agreement, dated December 6, 1999, between Developer and Swaner Memorial Park Foundation for offsite mitigation of watershed, as approved by the Army Corps of Engineers, a copy of which is attached as Exhibit P.

4.4.4 Developer shall comply with Exhibit F, the Golf Course Operational Plan, detailing the carrying capacity of the golf course and other facilities, parking areas and structures, provisions for storage of materials and equipment, watering plan, and similar information. All special events proposed within the Project, in which the golf course or the Project is open to the public for access to such event, shall require approval from Summit County through a Low Impact Permit and/or large public assemblies permit. In connection with the review of such permit applications, the Director may require that the permit application be reviewed and approved by the Planning Commission.

4.4.5 The architectural designs for the guardhouse, golf clubhouse, and maintenance facility, as shown on Exhibit G, are hereby approved. The final architecture (namely; building materials and color schemes) on the golf clubhouse, maintenance facility, and guardhouse are subject to approval by the Director. Any material changes to approved architecture shall require the review and approval of the Planning Commission.

4.4.6 If the Developer elects to construct any employee housing facilities within the Project, such facilities shall require approval through the Low Impact Permit process in the Code.

4.4.7 Lots 1-14 shall be subject to detailed pad location requirements and design guidelines, to include height limitations, which shall be approved by the Director and included within the Developer's CC&Rs and Design Guidelines. Where amendments to these viewshed protection requirements in the CC&Rs and Design Guidelines are necessary, Developer shall obtain the approval of the Director as a condition precedent to such modification.

4.4.8 Lots 15 and 16 shall be subject to specific building envelopes established by Developer, as shown on attached Exhibit R. Such building envelopes, together with the restrictions of the Design Guidelines are intended to lessen (but not necessarily eliminate) the visual impact of the homes and other improvements to be constructed on such Lots. The homes to be constructed on Lots 15 and 16 shall require County approval prior to construction through the Low Impact Permit process in the Code; provided, however, that the sole criterion for granting or denying a Low Impact Permit shall be whether the proposed home is situated entirely within the building envelope for such Lot and complies with the Design Guidelines.

4.4.9 Developer shall comply with Exhibit O, the summary of the Knob Hill Agreement, and Exhibit I, Groundwater Testing Program. These exhibits have

as their purpose insuring that regular testing of ground water in the Project to monitor the effect of golf course operations on the quality and quantity of groundwater occurs.

4.4.10 Developer shall pave the Knob Hill road.

4.4.11 All cul-de-sacs are subject to approval by the County Engineer and Park City Fire Service District.

4.4.12 Developer shall apply to the County, and the County shall approve, the amendment of Redhawk Ranch Plat "C" in order to remove Lot 361 therefrom.

4.4.13 Glenwild Phase I Subdivision Plat shall include the elimination of Blackhawk Ranch lots 70 - 77, as shown on the Land Use Plan.

4.4.14 For the purpose of determining appropriate road width and other infrastructure specifications, the Project shall be subject to the standards promulgated for a rural, rather than an urban, subdivision.

4.4.15 Consistent with the Spring Creek Development Agreement, Developer shall use best efforts to assist the County in reducing the visual impacts of the Project by, among other things, revegetating existing road cuts, eliminating Lots 70-77 in the Blackhawk Ranch Subdivision, and subjecting Lots 1-14 in the Glenwild Phase I Subdivision Plat to a low impact administrative permit process. The sole criterion for such permits shall be an engineer's or surveyor's certificate that any building being constructed on such Lots will not be visible from the eastbound off ramp of the I-80 / SR 224 intersection.

4.5 Vacation of Blackhawk Ranch Subdivision Plat and Approval of Glenwild Phase I Subdivision Plat. Approval of this Development Agreement shall constitute vacation of the Blackhawk Ranch Subdivision Plat and approval of the Glenwild Phase I Subdivision Plat, set forth as Exhibit Q to the Glenwild SPA Plan Book of Exhibits, in accordance with the requirements of the Code and General Plan.

4.6 Building Permit Required. Prior to the commencement of construction by Developer, its contractors or agents, of any structure or other improvement authorized in this Development Agreement, appropriate building permits must be obtained from the County in accordance with all applicable requirements of the Code. Failure to obtain the proper permits shall entitle the County to issue a stop work order to prohibit continued construction on such improvements until the proper permits have been obtained, and, if Developer continues such unlawful construction after written notice from the County, the County shall have the right to revoke or suspend that permit and any other building permits then issued and in effect with respect to other improvements being constructed by Developer within the Project. The Design Guidelines or CC&Rs for the Project shall require that lot owners obtain all required building permits as a condition to the construction of any improvements on their individual lots.

4.7 Amendments. Any material modification as shown on the Land Use Plan shall require an amendment to this Development Agreement. For the purposes of this Section, a "material modification" to a road shall mean a change in the alignment of the road by more than 50 horizontal feet at any given point from its location shown on the Land Use Plan. A "material modification" of a development pod shall mean a change of more than 25% in the number of lots or units in such pod, and a "material modification" of a lot shall mean an increase or decrease of more than 25% in the area of such lot, or a change of more than 150 feet in the center point of a lot (which shall be the intersection of the two lines connecting opposite corners of the lot). All other modifications shall be administrative in nature and may be approved by the Director.

4.8 Conflicts.

(a) To the extent there is any ambiguity in or conflict with the provisions of this Development Agreement and the Glenwild SPA Plan Book of Exhibits (including, without limitation, the Land Use Plan, Comprehensive Sign Plan, Landscaping Plan, and Architectural Design Guidelines therein), the more specific provision or language of the Glenwild SPA Plan Book of Exhibits shall take precedence over more general provisions or language of this Development Agreement.

(b) The County has reviewed the Code and General Plan and has determined that the Developer has substantially complied with the provisions thereof and hereby finds that the Project is consistent with the purpose and intent of the relevant provisions of the Snyderville Basin Development Code and General Plan. The parties further agree that the omission of a limitation or restriction herein shall not relieve the Developer of the necessity of complying with all applicable County Ordinances and Resolutions not in conflict with the provisions of this Development Agreement, along with all applicable state and federal laws.

4.9 Glenwild Homeowners Association. There shall be a master association within the SPA, especially for the purpose of regulating and maintaining certain standards and levels of maintenance of the guardhouse, roads, and common area landscaping and common improvements within the SPA. Under certain circumstances, the master association may contract or otherwise transfer maintenance responsibilities to individual associations within the Glenwild SPA, so long as the maintenance of all infrastructure that is intended to serve the entire SPA is retained by the master association. The golf course to be constructed within the Project shall be separately owned and shall not be subject to the control of the master association. CC&Rs, herein Exhibit H, shall be binding upon all residents of the Glenwild SPA. To the extent that there is need to amend the CC&Rs, consent of the County is necessary only with respect to those items which are conditions to this approval.

4.10 TDR Option. In order to provide an additional incentive for the Developer to reduce the density of the Project, in the event that the Developer elects to reduce the total density of the Project by reducing the number of lots or units in the Project below the maximum amounts authorized herein, as shown in the SPA Plan Book of Exhibits, such unused density shall be transferrable, though the County's TDR process, to other property owned or designated by Developer and approved by Summit County as acceptable receiving zones for said unused densities. Without limiting the generality of the foregoing, any lands acquired by Developer in the Redhawk development adjacent to the Project shall be deemed to be an acceptable receiving area for any density transferred from the Project, on such reasonable terms and conditions as Summit County shall approve.

Article 5
VESTED RIGHTS

5.1 Vested Rights. Subject to Article 5.2 and the obligation of the Developer to pay all fees described in Article 6.3, the Developer shall have the vested right to have preliminary and final site, subdivision plat, and construction plans approved and to develop and construct the Project in accordance with the uses, densities, timing and configurations (massing) of development as vested in Article 4.3 under the terms and conditions of this Development Agreement, including Article 3 (Findings), and the Glenwild SPA Plan Book of Exhibits. Subject to the provisions of Article 5.2, such vested rights shall not be diminished, restricted or impaired by any changes in the Land Use Laws or any moratorium on construction or development, temporary zoning ordinance, or other enactment or change in Summit County ordinances, policy or procedure.

5.2 Reserved Legislative Powers.

5.2.1 Future Changes of Laws and Plans: Compelling Countervailing Public Interest. Nothing in this Development Agreement shall limit the future exercise of the police power of the County in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations after the date of this Development Agreement. Notwithstanding the retained power of the County to enact such legislation under the police power, such legislation shall only be applied to modify the vested rights described in Articles 4.3 and 5.1, as well as other provisions of this Development Agreement, based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. (as set forth in Western Land Equities, Inc., v. City of Logan, 617 P.2d 388 (Utah 1980) or successor case and statutory law). Any such proposed change affecting the vested rights of the Project and other provisions of this Development Agreement shall be of general application to all development activity in the Snyderville Basin; and, unless the County declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public policy exception to the

vested rights doctrine. In the event that the County does not give prior written notice, Developer shall retain the right to be heard before an open meeting of the Board of County Commissioners in the event Developer alleges that its rights under this Development Agreement have been adversely affected.

Article 6
PROCESSES

6.1 Development Improvements Agreements Required. A building, grading, or other related development permit will not be issued for any facility or structure within the Project until an adequate Development Improvements Agreement, in accordance with Chapter 6 of the Code, has been established and accepted by Summit County. A separate Development Improvement Agreement may be established for each phase of the Project. The initial Development Improvements Agreement has been accepted by Summit County and is attached hereto as Exhibit L.

6.2 Construction Mitigation and Management Plan Required. A building permit will not be issued for any facility or structure within the Project until an adequate Construction Management and Mitigation Plan has been established for the Project and approved by the County Engineer, who may require changes to address any unforeseen impacts that occur during construction. The plan shall address the following matters specifically, together with any other related matters identified by the Summit County Community Development Director and the Developer. A separate plan may be established for each phase of the Project.

6.2.1 Revegetation/erosion protection/runoff control
6.2.2 Wetland and watershed protection; wetlands enhancement plan
6.2.3 Site grading
6.2.4 Dust and debris control
6.2.5 Recycling construction material waste
6.2.6 Damage to public roadways as a result of construction
6.2.7 Traffic control/construction management control
6.2.8 Hours of construction
6.2.9 Impact of noise on adjacent residential uses

The initial Construction Mitigation and Management Plan is at Exhibit M.

6.3 Fees.

(a) SPA Rezone Application, Development Agreement Application, Final Subdivision Plat, Development Review, Engineering and Related Fees. Pursuant to the provisions of Resolution 99-11, Developer agrees to pay the sum of $129,838.00 prior to final approval of this Development Agreement by the Board of County Commissioners. Developer has paid the combined Development Agreement and SPA fees of $11,645.00. Developer shall receive no further credits or adjustments toward any other development review, platting, site planning, or similar standard engineering review fees

or other fees generally applicable to development application or building permit review and approval. The County may charge such standard planning and engineering review fees, standard building permit review fees, and other fees as are generally applicable at the time of application, pursuant to the provisions of Resolution 99-11, as amended, or other applicable statutes, ordinances, resolutions, or administrative guidelines.

(b) Impact Fees. In consideration for the agreements of the County in this Development Agreement, Developer agrees that the Project shall be subject to all impact fees which are (1) imposed at the time of issuance of building permits, and (2) generally applicable to other property in the Snyderville Basin; and Developer waives its position with respect to any vested rights to the imposition of such fees, but shall be entitled to similar treatment afforded other vested projects if the impact fee ordinance makes any such distinction. If fees are properly imposed under the preceding tests, the fees shall be payable in accordance with the payment requirements of the particular impact fee ordinance and implementing resolution. Notwithstanding the agreement of Developer to subject the Project to impact fees under the above-stated conditions, Developer does not waive Developer's rights under any applicable law to challenge the reasonableness of the amount of the fees within thirty (30) days following imposition of the fees on the Project based upon the application of the Rational Nexus Test (as defined in Section 6.3(c)).

(c) Rational Nexus Test. For purposes of this Development Agreement, the Rational Nexus Test shall mean and refer to a standard of reasonableness whereby the Project and Property shall not bear more than an equitable share of the capital costs financed by an impact fee or exaction in relation to the benefits conferred on and impacts of the Project. The interpretation of "rational nexus" shall be governed by the federal or Utah case law and statutes in effect at the time of any challenge to an impact fee or exaction imposed as provided herein including, but not limited to, the standards of Banberry Development Corp. v. South Jordan City or its successor case law.

6.4 Administrative Approval Process. The Glenwild Phase I Subdivision Plat has been approved by Summit County as provided herein. All applicants requesting approval of any other final subdivision plats and site plans within the Glenwild SPA shall follow the process set forth herein. In the event of a procedural conflict between the Code and this Development Agreement, the provisions of this Agreement shall govern.

6.4.1 Master Association Review. Prior to the submission to the County of any Sketch Plans for a proposed Subdivision Plat or Site Plan, the Developer shall submit its Sketch Plans to the Architectural Review Committee of the Master Association for review in accordance with the Preliminary Design Review process in the Design Guidelines. The Developer shall be required to have obtained the

opinion of the Architectural Review Committee prior to submitting its Sketch Plans to the County.

6.4.2 Sketch Plan. Developers within Glenwild SPA shall submit Sketch Plans of the proposed subdivision plat, or site plan to the Staff for preliminary review prior to submitting an application for Plat or Site Plan approval. The Staff shall review and take into consideration the written opinion of the Architectural Review Committee. Sketch Plans submitted shall meet all of the requirements of Chapter 3.7.B(2) of the Code and this Agreement.

6.4.3 Staff Review of Sketch Plans. The Staff will review the Sketch Plans for compliance with the requirements of this Agreement and will conduct discussions with the Developer to review any modifications necessary to comply with this Agreement. If the Staff and the Developer disagree on compliance based on the Sketch Plans, the Developer may, in the alternative, seek information and guidance from the Planning Commission at a regular meeting, or, at the Developer's option, proceed to process an application for Final Site Plan or Final Subdivision Plat approval. Staff review and comment on any Sketch Plan will be completed within a reasonable time. The Director of Community Development or staff member responsible for creating the agenda or scheduling matters for the Planning Commission shall place any Sketch Plan review request from the Developer on the next available agenda date for the Planning Commission.

6.4.4 Submission of Final Subdivision Plats and Final Site Plans.

(a) Final Architectural Review Committee Review and Opinion. Following the Sketch Plan process, a Developer shall submit applications for final subdivision plat, or final site plan approval to the Architectural Review Committee for its review. The Architectural Review Committee shall provide copies of its opinion regarding applications for final subdivision plat, or final site plan approval to both the Developer and the Director.

(b) Submission to the County. Following the Sketch Plan process, and after receipt of written opinion from the Architectural Review Committee, the Developer shall submit applications with applicable fees for final subdivision plat or final site plan approval to the County consistent with the provisions of Section 3.6C and Chapter 5 of the Code. The application shall include any other information required in this Agreement. The County shall take into consideration the opinion of the Architectural Review Committee, but shall not be required to adopt such opinion. In addition to compliance with the criteria required under Chapter 4 of the Code, the following service provider and concurrency information shall also be required and reviewed along with the detailed final Subdivision Plat or Site Plan. Upon receiving such information, the Director shall prepare a

report(s) identifying issues and concerns related to the proposal. The additional information to be provided is as follows:

6.4.4.1 Water Service.

(a) A feasibility letter for the proposed water supply issued by the State Division of Drinking Water.

(b) Evidence of coordination with the public or private water service provider, including an agreement for service and an indication of the service area of the proposed water supplier, commitment service letter or other binding arrangement for the provision of water services.

(c) Evidence that water rights have been obtained including an application for appropriation or change application endorsed by the State Engineer pursuant to Section 73-3-10 of the Utah Code, and a certificate of appropriation or certificate of change issued in accordance with Section 73-3-16 of the Utah Code. The County shall not accept an application or certificate that has lapsed, expired or been revoked by the State Engineer.

(d) A certificate of convenience and necessity or an exemption therefrom, issued by the State Public Service Commission, for the proposed water supplier.

6.4.4.2 Sewer Service. A Line Extension Agreement approved by the Snyderville Basin Sewer Improvement District for the proposed development. No final subdivision plat, final site plan or low impact permit shall be approved until the applicant has paid the applicable system capacity fee for that portion of the proposed development included in such plat or low impact permit.

6.4.4.3 Fire Protection.

(a) A letter from the Park City Fire District indicating that fire hydrants, water lines sizes, water storage for fire protection, and minimum flow for fire protection are adequate. These shall be determined using the standard of the Insurance Services Office which are known as the Fire System Grading Standards. In no case shall minimum fire flow be less than 1,000 gallons per minute for a period of two (2) hours.

(b) Written evidence to the County and the Park City Fire District verifying that an authorized water company shall be responsible for the perpetual and continual maintenance of all fire

protection appurtenances, including annual flagging of all hydrants prior to November 1st of each year.

6.4.4.4 Recreation. A letter from the Snyderville Basin Special Recreation District indicating that all requirements of the District and the terms of this Amended Agreement have been satisfied.

6.4.4.5 Other Service Providers. The Director shall secure input regarding the proposed development from all other affected agencies and service providers, including but not necessarily limited to the Army Corps of Engineers, County Health Department, Utah Power, and the Park City/Summit County Arts Council.

6.4.5 Staff Review and Recommendation. The Staff shall review the information submitted pursuant to Section 6.4.4 and shall provide its recommendation to the Planning Commission.

6.4.6 Planning Commission Consideration. The application for approval of the final subdivision plat or final site plan shall be considered by the Planning Commission on the next available regular agenda of the Planning Commission.

6.4.7 Recommendation of Detailed Final Subdivision Plat or Site Plan. After the Planning Commission's review pursuant to Section 6.4.6, it shall render a recommendation to the Summit County Board of Commissioners ("BCC") to approve, deny, or approve with conditions the final subdivision plat or final site plan. The recommendation shall be based upon the Developer's compliance with the requirements and standards set forth in the Code and in this Agreement. Where any ambiguity or discrepancy exists between the Code and this Agreement, this Agreement shall govern.

6.4.8 Approval of Final Subdivision Plat or Site Plan. After receipt of the Planning Commission's recommendation, the BCC shall, after holding a public hearing noticed in accordance with the requirements of the Code, render a decision approving, denying or conditionally approving the final subdivision plat or final site plan. The BCC shall execute the final subdivision plat or site plan. This shall be the final decision of the County. The decision of the BCC shall be based upon the Developer's compliance with the policies of the General Plan and the requirements and standards set forth in the Code and in this Agreement. Nothing herein shall allow the Code, or any amendments or restatements of the Code, to modify or amend the vested rights created in this Agreement, except as provided in this Agreement. Where any conflict or ambiguity exists between the Code and this Agreement, this Agreement shall govern.

6.4.9 Recordation. Upon approval by the County Attorney of the Final Subdivision plat or site plan and a preliminary title report, and once all required service provider signatures identified in Chapter 5 of the Code are obtained, the

BCC shall execute the plat or site plan and shall cause the final subdivision plat or final site plan and any other applicable documents to be recorded in the records of the Summit County Recorder. The Project Site Developer shall pay all applicable recording fees.

6.4.10 Appeal. Following the exhaustion of these administrative procedures ending in a final determination by the BCC, that final determination shall be appealable to the District Courts of the State of Utah under Utah law, U.C.A. 17-27-1001.

6.4.11 Submit Final Documents. Following the approval of the final subdivision plat or final site plan by the BCC, the Developer shall submit all applicable construction plans as required in Section 5.4 of the Code, as well as for the installation and guarantee of development improvements (Development Improvements Agreement as required in Chapter 6 of the Code), to Staff consistent with the provisions of the Code. In addition, any other related approvals required in this Agreement shall be submitted at this time for review and approval in accordance with the terms defined in this Agreement.

6.4.12 Recommendation. The Staff shall review the information submitted pursuant to Section 6.4.11 and provide its recommendation to the Board of County Commissioners.

6.4.13 Board of County Commissioners Final Approval of Construction Plans and Development Improvements Agreement. Following the submission of the Staff recommendation to the Board of County Commissioners on the final construction plans and development improvements agreement, the application shall be placed on the Consent Agenda of the Board of County Commissioners for final approval.

Article 7
INFRASTRUCTURE & CONCURRENCY MANAGEMENT

7.1 Concurrency Management Required. Prior to the approval of a building permit for any structure approved in the Project, an applicant for a building permit shall demonstrate that all concurrency management requirements of Chapter 4 of the Code have been met. The Summit County Community Development Director shall cause the issuance of a building permit upon demonstration of compliance with all such requirements. In addition to the requirements of Chapter 4 of the Code, the following shall also continue to be required.

7.1.1 The Developer shall construct those infrastructure improvements, shown on the Site Plan and the Final Subdivision Plat, being those improvements required by the Code, County Engineer, and any applicable special service district or county service area.

7.1.2 Developer shall comply with the applicable sections of the Code, as amended, for off-site and project infrastructure requirements. This shall include the verification of the

continued availability of the following for the Project at the time of Building Permit approval: (a) sewage treatment capacity to cover anticipated development within the Property, (b) water and water pressure adequate for commercial consumption and fire flows, (c) capacity for electrical and telephone service, and (d) road capacity.

7.2 Trails, Parks, Open Space and Wetlands. As integral consideration for this Development Agreement, Developer agrees to preserve and maintain in accordance with the requirements of County ordinances all permanent trails and areas designated as open space (active [parks] or passive) on subdivision plats or site plans implementing the Land Use Plan and located on the Property. See Exhibit N. Unless otherwise provided herein or by County ordinance, all trails, parks and open space within the Project shall be maintained by Developer.

Article 8
SUCCESSORS AND ASSIGNS

8.1 Binding Effect. This Development Agreement shall be binding on the successors and assigns of Developer in the ownership or development of any portion of the Project. Notwithstanding the foregoing, a purchaser of the Project or any portion thereof shall be responsible for performance of Developer's obligations hereunder as to the portion of the Project so transferred in accordance with the provisions of Section 8.2 hereof. Each successor, transferee and assign shall accede only to the benefits and burdens of this Agreement which pertain to that specific portion of the Project to which such successor holds title, and shall not be deemed to be a third party beneficiary of any of the rights, interests or benefits relating to other portions of the Project.

8.2 Transfer of the Project. Developer shall be entitled to transfer any portion of the Project subject to the terms of this Development Agreement upon written notice to the County. In the event of any such transfer of Developer's interest in any portion of the Project, the transferee shall be deemed to be the Developer for all purposes under this Development Agreement with respect to that portion of the Project transferred. Notwithstanding the foregoing, Developer shall not be required to notify the County with regard to the sale of any platted lot in the Project, and purchasers of platted lots shall not accede to any of the rights of Developer hereunder.

8.3 Release of Developer. Except for the sale of residential lots which have been platted and received development approval in accordance with the terms of this Development Agreement, in which case this requirement shall not apply, in the event of a transfer of all or a portion of the Project, Developer shall obtain an assumption by the transferee of Developer's obligations under this Development Agreement, and, in such event, the transferee shall be fully substituted as the Developer under this Development Agreement as to the parcel so transferred, and the party executing this Development Agreement as Developer shall be released from any further obligations with respect to this Development Agreement as to the parcel so transferred.

Article 9
DEFAULT

9.1 Events of Default. Default under this Development Agreement occurs upon the happening of one or more of the following events or conditions:

(a) A warranty, representation or statement made or furnished by Developer to the County in this Development Agreement, including any attachments hereto, which is false or proves to have been false in any material respect when it was made.

(b) Following a periodic review under Section 10.16, a finding and determination is made by the County that upon the basis of substantial evidence Developer has not complied in good faith with one or more of the material terms or conditions of this Development Agreement.

(c) Any other event, condition, act or omission by Developer materially interferes with the intent and objective of this Development Agreement.

9.2 Procedure Upon Default.

(a) Within ten (10) days after the occurrence of default, the County shall give Developer (the "defaulting party") written notice specifying the nature of the alleged default and, when appropriate, the manner in which the default must be satisfactorily cured. Developer shall have thirty (30) days after receipt of written notice to cure the default. After proper notice and expiration of the thirty (30) day cure period without cure, the County may terminate or amend this Agreement by giving written notice in accordance with the procedure adopted by the County. Failure or delay in giving notice of default shall not constitute a waiver of any default, nor shall it change the time of default. Notwithstanding the thirty day cure period provided above, in the event more than thirty days is reasonably required to cure a default and Developer, within the thirty day cure period, commences actions reasonably designed to cure the default, then the cure period shall be extended for such additional period as Developer is prosecuting those actions diligently to completion.

(b) The County does not waive any claim of defect in performance by Developer, if on periodic review the County does not propose to modify or terminate this Agreement.

(c) Should the County terminate this Development Agreement under the provisions hereof, Developer's Property which has not been platted or otherwise developed or improved will thereafter comply with and be governed by the Code and General Plan then in existence, as well as with all other provisions of Utah State Law.

(d) Any default or inability to cure a default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, enemy or hostile governmental action, civil commotion, fire or other casualty, or other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to the period during which any such event prevented, delayed or stopped any required performance or effort to cure a default.

(e) An express repudiation or renunciation of this Development Agreement, if the same is in writing and signed by Developer, shall be sufficient to terminate this Development Agreement and a hearing on the matter shall not be required.

(f) Adoption of law or other governmental activity making performance by Developer unprofitable, more difficult, or more expensive does not excuse the performance of the obligation by Developer.

(g) All other remedies at law or in equity which are consistent with the provisions of this Development Agreement are available to the parties to pursue in the event there is a breach.

9.3 Damages Upon Termination. Except with respect to just compensation and attorneys' fees under this Development Agreement, Developer shall not be entitled to any damages against the County upon the unlawful termination of this Agreement.

9.4 Arbitration. In the event that the default mechanism contained herein shall not sufficiently resolve a dispute under this Development Agreement, then every such continuing dispute, difference, and disagreement shall be referred to a single arbitrator agreed upon by the parties, or if no single arbitrator can be agreed upon, an arbitrator or arbitrators shall be selected in accordance with the rules of the American Arbitration Association and such dispute, difference, or disagreement shall be resolved by the binding decision of the arbitrator, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. However, in no instance shall this arbitration provision bind the County from exercising enforcement of its police powers where Developer is in direct violation of the Code.

9.5 Institution of Legal Action. Enforcement of any such arbitration decision shall be instituted in the Third Judicial District Court of the County of Summit, State of Utah, or in the United States District Court for Utah.

Article 10
GENERAL TERMS AND CONDITIONS

10.1 Agreements to Run with the Land. This Development Agreement shall be recorded against the Property as described in the Glenwild SPA Plan Book of Exhibits, and

shall also be recorded against the Blackhawk Land. The agreements contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors in ownership of the Property and the Blackhawk Land. As used herein, Developer shall include the party signing this Development Agreement and identified as "Developer," and all successor owners of any part of the Property or Project. Notwithstanding the foregoing, each successor in interest shall accede only to the benefits and burdens of this Agreement which pertain to that specific portion of the Project to which such successor holds title, and shall not be deemed to be the "Developer" or a third party beneficiary of any of the rights, interests, or benefits relating to other portions of the Project.

10.2 Construction of Agreement. This Development Agreement shall be construed so as to effectuate the public purpose of resolving disputes, implementing long-range planning objectives, obtaining public benefits, and protecting any compelling, countervailing public interest; while providing reasonable assurances of continued vested development rights under this Agreement.

10.3 Laws of General Applicability. Where this Development Agreement refers to laws of general applicability to the Project and other properties, that language shall be deemed to refer to laws which apply to all other developed and subdivided properties within the Snyderville Basin of Summit County.

10.4 Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

10.5 Mutual Releases. At the time of, and subject to, (i) the expiration of any applicable appeal period with respect to the approval of this Development Agreement without an appeal having been filed or (ii) the final determination of any court upholding this Development Agreement, whichever occurs later, and excepting the parties' respective rights and obligations under this Development Agreement, Developer, on behalf of itself and Developer's partners, officers, directors, employees, agents, attorneys and consultants, hereby releases the County and the County's board members, officials, employees, agents, attorneys and consultants, and the County, on behalf of itself and the County's board members, officials, employees, agents, attorneys and consultants, hereby releases Developer and Developer's partners, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Development Agreement in connection with the application, processing or approval of the Project.

10.6 State and Federal Law. The parties agree, intend and understand that the obligations imposed by this Development Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Development Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Development Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of this Development Agreement shall remain in full force and effect.

10.7 Enforcement. The parties to this Development Agreement recognize that the County has the right to enforce its rules, policies, regulations, and ordinances, subject to the terms of this Development Agreement, and may, at its option, seek an injunction to compel such compliance. In the event that Developer or any user of the subject property violates the rules, policies, regulations or ordinances of the County or violates the terms of this Development Agreement, the County may, without electing to seek an injunction and after thirty (30) days written notice to correct the violation (or such longer period as may be established in the discretion of the Board of County Commissioners or a court of competent jurisdiction if Developer has used its reasonable best efforts to cure such violation within such thirty (30) days and is continuing to use its reasonable best efforts to cure such violation), take such actions as shall be deemed appropriate under law until such conditions have been honored by Developer. The parties further recognize that Developer has the right to enforce the provisions of this Development Agreement by seeking an injunction to compel compliance to the extent not inconsistent with the County's reserved legislative and police powers, as well as the County's discretionary administrative decision-making functions provided for herein, or to exercise such other remedies as may be available at law or in equity. Both parties shall be free from any liability arising out of the exercise of its rights under this paragraph; provided, however, that any party may be liable to the other for the exercise of any rights in violation of Rule 11 of the Utah Rules of Civil Procedure, Rule 11 of the Federal Rules of Civil Procedure and/or Utah Code Annotated Section 78-27-56, as each may be amended.

10.8 No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Development Agreement is amended by vote of the Board of County Commissioners taken with the same formality as the vote approving this Development Agreement, no officer, official or agent of the County has the power to amend, modify or alter this Development Agreement or waive any of its conditions as to bind the County by making any promise or representation not contained herein.

10.9 Entire Agreement. This Development Agreement constitutes the entire agreement between the parties with respect to the issues addressed herein and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Development Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Development Agreement. Notwithstanding the fact that third parties may obtain certain rights and benefits as a result of this Agreement, in connection with the purchase of a lot or other portion of the Project, the consent or approval of any such third party shall not be necessary in order to modify or amend this Agreement.

10.10 Attorneys' Fees. Should any party hereto employ attorneys for the purpose of enforcing this Development Agreement, or any judgment based on this Development Agreement, or for any reasons or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses (including expert witnesses). Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.

10.11 Notices. Any notice, confirmation or other communication hereunder (each, a "**notice**") hereunder shall be given in writing by certified mail, postage prepaid, or personally or by nationally-recognized overnight courier, at the following addresses, or by facsimile to the following facsimile numbers provided the transmitting facsimile machine shall automatically prepare a confirmation of successful facsimile transmission:

To the County:

The Board of County Commissioners of Summit County
Summit County Courthouse
P.O. Box 128
Coalville, Utah 84017
Facsimile: (435) 336-3030

Summit County Director of Community Development
P.O. Box 128
Coalville, Utah 84017

With a copy to:

David L. Thomas
Deputy Summit County Attorney
P.O. Box 128
Coalville, Utah 84017
Facsimile: (435) 336-3287

To Developer:

Grayhawk/DMB Park City, LLC
1318 Bitner Road
Park City, Utah 84098
Attention: John O'Connell
Facsimile: (435) 615-9799

Grayhawk/DMB Park City, LLC
7377 E. Doubletree Ranch Road
Suite 100
Scottsdale, Arizona 85258
Attention: Clesson Hill
Facsimile: (480) 998-4706

DMB Associates, Inc.
7600 E. Doubletree Ranch Road
Suite 300
Scottsdale, Arizona 85258-2137
Attention: Eneas Kane
Facsimile: (480) 367-7455

With a copy to:

Thomas G. Bennett
Ballard Spahr Andrews & Ingersoll, LLP
201 South Main, Suite 600
Salt Lake City, Utah 84111
Facsimile: (801) 531-3001

or to such other addresses, such other facsimile numbers, or the attention of such other person as either party or their successors may designate by written notice. Notice shall be deemed given upon actual receipt, if personally delivered, when transmitted if delivered by facsimile, one (1) business day following deposit with a reputable overnight courier that provides a receipt, or on the third (3rd) day following deposit in the United States mail in the manner described above.

10.12 Applicable Law. This Development Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

10.13 Execution of Agreement. This Development Agreement may be executed in multiple counterparts or originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

10.14 Hold Harmless.

(a) Agreement of Developer. Developer agrees to and shall hold County, its officers, agents, employees, consultants, attorneys, special counsel and representatives harmless from liability: (1) for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for property damage which may arise from the direct or indirect operations of Developer or its contractors, subcontractors, agents, employees or other persons acting on their behalf

which relates to the Project; and (2) from any claim that damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effect arising from this Agreement. Developer agrees to pay all costs for the defense of the County and its officers, agents, employees, consultants, attorneys, special counsel and representatives regarding any action for damages, just compensation, restitution, judicial or equitable relief caused or alleged to have been caused by reason of Developer's actions in connection with the Project or any claims arising out of this Agreement. This hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this section or due by reason of the terms of, or effects arising from this Agreement regardless of whether or not the County prepared, supplied or approved this Agreement, plans or specifications, or both, for the project. Developer further agrees to indemnify, hold harmless, and pay all costs for the defense of the County, including fees and costs for special counsel to be selected by the County, regarding any action by a third party challenging the validity of this Agreement or asserting that damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of, or effects arising from this Agreement. County may make all reasonable decisions with respect to its representation in any legal proceeding.

(b) Exceptions to Hold Harmless. The agreements of Developer in Section 10.14(a) shall not be applicable to (i) any claim arising by reason of the negligence or intentional actions of the County, or (ii) any claim reserved by Developer under the terms of this Agreement for just compensation or attorneys' fees.

(c) Hold Harmless Procedures. The County shall give written notice of any claim, demand, action or proceeding which is the subject of Developer's hold harmless agreement as soon as practicable but not later than 10 days after the assertion or commencement of the claim, demand, action or proceeding. In the event any such notice is given, the County shall be entitled to participate in the defense of such claim. Each party agrees to cooperate with the other in the defense of any claim and to minimize duplicative costs and expenses.

10.15 Relationship of Parties. The contractual relationship between the County and Developer arising out of this Development Agreement is one of independent contractor and not agency. This Development Agreement does not create any third party beneficiary rights. It is specifically understood by the parties that: (a) Project is a private development; (b) County has no interest in, responsibilities for, or duty to third parties concerning any improvements to the Property unless the County accepts the improvements pursuant to the provisions of this Development Agreement or in connection with subdivision plat, site plan, deed, or map approval; and (c) Developer shall have the full power and exclusive control of the Property subject to the obligations of Developer set forth in this Development Agreement.

10.16 Annual Review. The County shall review progress pursuant to this Development Agreement at least once every twelve (12) months to determine if there has been demonstrated compliance with the terms hereof. If the County finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms hereof, this Development Agreement may be revoked or modified by the County in accordance with the provisions of Sections 9.1 and 9.2 hereof, after a public hearing which has been noticed by publication, and for which notice has been expressly provided to Developer. The County's failure to review at least annually Developer's compliance with the terms and conditions of this Development Agreement shall not constitute or be asserted by any party as a breach of this Development Agreement by Developer or County. Further, such failure shall not constitute a waiver of County's right to revoke or modify said Agreement according to the terms and conditions set forth herein.

10.17 Rights of Third Parties. This Development Agreement is made and entered into for the sole protection and benefit of the parties hereto and their assigns. It is not intended to affect or create any additional rights or obligations on the part of third parties, whether as third party beneficiaries or otherwise.

10.18 Third Party Legal Challenges. In those instances where, in this Agreement, Developer has agreed to waive a position with respect to the applicability of current County policies and requirements, or where Developer has agreed to comply with current County policies and requirements, Developer further agrees not to participate either directly or indirectly in any legal challenges to such County policies and requirements by third parties, including but not limited to appearing as a witness, amicus, making a financial contribution thereto, or otherwise assisting in the prosecution of the action.

10.19 Computation of Time. In computing any period of time pursuant to this Development Agreement, the day of the act, event or default from which the designated period of time begins to run shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall begin to run on the next day which is not a Saturday, Sunday, or legal holiday.

10.20 Titles and Captions. All section titles or captions contained in this Development Agreement are for convenience only and shall not be deemed part of the context nor affect the interpretation hereof.

10.21 Savings Clause. If any provision of this Development Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Development Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

10.22 Survival of Developer's Obligations. Notwithstanding any provisions of this Development Agreement or of law to the contrary and as a partial consideration for the parties entering into this Development Agreement, the parties agree that Developer is obligated to provide to the County the following enumerated extraordinary and significant

benefits even if Developer cancels, rescinds, repudiates, refuses, revokes, or in any manner terminates or attempts to terminate this Development Agreement:

(a) Dedication of any parks, trails and open space shown on the Land Use Plan as requiring dedication or the granting of protection through conservation easements over such land as delineated in the Glenwild SPA Plan Book of Exhibits;

(b) Construction of any roads or public improvements covered by a recorded plat unless vacated;

(c) Compliance with all public amenities specified in the Glenwild SPA Plan Book of Exhibits;

(d) Payment of impact fees to the extent such fees are payable under the terms of this Agreement and any applicable impact fee ordinance or implementing resolution; and

(e) Compliance with Developer's Mutual Releases and Hold Harmless Covenants under this Agreement.

IN WITNESS WHEREOF, this Development Agreement has been executed by Summit County, acting by and through the Board of County Commissioners of Summit County, State of Utah, pursuant to Ordinance 378, authorizing such execution, and by a duly authorized representative of Developer, as of the above stated date.

COUNTY: BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, STATE OF UTAH

By: _____
Patrick Cone, Chairman

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

00565079 Bk01318 Pg00526

The foregoing instrument was acknowledged before me this 8 day of May, 2000, by Patrick Cone, Chairman of the Board of County Commissioners of Summit County, State of Utah.

_____
Notary Public
Residing at: Coalville, UT

My commission expires:

May 10, 2003

NOTARY PUBLIC
ANITA LEWIS
55 So. Bionquist Ln. • PO Box 578
Coalville, Utah 84017
My Commission Expires
March 10, 2003
STATE OF UTAH

DEVELOPER:

GRAYHAWK/DMB PARK CITY, LLC, an Arizona limited liability company
By: Grayhawk Development, Inc., an Arizona Corporation, its manager

By: _____
John O'Connell, Vice President

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

The foregoing instrument was acknowledged before me this 9 day of May, 2000, by John O'Connell, Vice President of Grayhawk Development, Inc., manager of GRAYHAWK/DMB PARK CITY, LLC.

_____
Notary Public
Residing at: Coalville, Utah

My commission expires:

March 10, 2003

NOTARY PUBLIC
ANITA LEWIS
55 So. Bionquist Ln. • PO Box 578
Coalville, Utah 84017
My Commission Expires
March 10, 2003
STATE OF UTAH

00565079 Bk01318 Pg00527

BOOK OF EXHIBITS

Exhibit A Legal Description of Property
Exhibit B Land Use Plan
Exhibit C Design Guidelines
Exhibit D Project Signage
Exhibit E Landscaping Plan
Exhibit F Operational Plan for Golf Course
Exhibit G Architectural Drawings
Exhibit H Conditions, Covenants, and Restrictions
Exhibit I Groundwater Testing and Remediation Plan
Exhibit J Matrix
Exhibit K Phasing Plan
Exhibit L Development Improvements Agreement
Exhibit M Construction Mitigation Plan
Exhibit N Trails and Open Space Master Plan
Exhibit O Summary of Knob Hill Agreement
Exhibit P Off Site Mitigation Agreement (COE)
Exhibit Q Glenwild Phase I Subdivision Plat
Exhibit R Lots 15 and 16 Building Envelopes