

WHEN RECORDED, RETURN TO:

Steven E. Tyler, Esq.
HOLLAND & HART, LLP
222 South Main Street, Suite 2200
Salt Lake City, Utah 84101

ENTRY NO. 00939968

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Agreement PAGE 1/15

ALAN SPRIGGS, SUMMIT COUNTY RECORDER

FEE 39.00 BY HIGH COUNTRY TITLE



PARKING AND MAINTENANCE AGREEMENT

THIS PARKING AND MAINTENANCE AGREEMENT ("Agreement") is made and entered into as of the 8th day of NOVEMBER 2011, by and among ESNET PROPERTIES, L.C., a Utah limited liability company ("ESNET"), NEWPARK CORPORATION, a Utah corporation ("Newpark"), RETAIL AT NEWPARK, LC, a Utah limited liability company ("RAN"), and NEWPARK OWNERS ASSOCIATION, INC., a Utah nonprofit corporation (the "Association"). ESNET, Newpark, RAN and the Association are sometimes collectively referred to below as the "Parties" and, individually, as a "Party."

RECITALS:

A. Newpark is the master developer of a mixed-use real estate development located in Summit County, Utah, known as the Newpark Development (the "Development").

B. ESNET has acquired from Newpark or its affiliate title to a portion of the land within the Development, commonly referred to as Parcel P of Newpark Subdivision ("Parcel P"), which Parcel P is more particularly described on the attached Exhibit "A" and incorporated herein by reference, and which Parcel P is comprised of "Parcel P-1" and "Parcel P-2", as shown on the site plan attached hereto as Exhibit "B" and incorporated herein by reference (the "Site Plan").

C. RAN is the owner of that certain real property located immediately adjacent to Parcel P shown as the "Transition Property" on the Site Plan.

D. The Development is subject to the terms and provisions of that certain Fourth Amended and Restated Declaration of Covenants, Conditions and Restrictions of Newpark Owners Association, Inc., dated August 18, 2006 and recorded on August 31, 2006 in Book 1814 at Pages 1035 through 1063 of the official records of Summit County, Utah (the "CCRs"). The undefined capitalized terms used in this Agreement shall have the meanings ascribed to such terms in the CCRs.

E. Under the terms of the CCRs, the Association is obligated to maintain the Common Areas of the Development, which include the roadways, sidewalks, trailways, parking areas, landscaped areas and common utility service areas located on land either owned by the Association or on which the Association has an easement. ESNET wishes to grant the Association such an easement, to provide for the reservation of certain parking rights, and to engage the Association to

perform other repair and maintenance work for Parcel P (but unrelated to the Common Areas), all as set forth below in this Agreement.

F. RAN wishes to grant to ESNET the right to construct improvements on the Transition Property, as set forth below in this Agreement.

G. ESNET wishes to grant to the Association the right to locate and operate certain facilities and equipment on Parcel P in connection with the Association's operation of the Common Areas, as set forth below in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the promises contained below, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT:

1. Recitals. The recitals to this Agreement are an integral part of the agreement and understanding of the Parties, and are incorporated by reference in this Agreement.

2. Parking and Construction on Parcel P. ESNET is planning to construct an office building (the "Parcel P-1 Building") and parking lot on Parcel P-1. The Parties acknowledge and agree that the site planning and improvements, and layout of parking associated with Parcel P-1, has been done in the most efficient manner possible so as to maximize the number of parking stalls available for use by the occupants of the Parcel P-1 Building and by occupants and owners of property within the Development. Nothing contained herein shall be construed as an obligation to develop Parcel P-1 at any particular time, or a restriction on ESNET's right to develop Parcel P-1 in a manner other than as contemplated as of the date of this Agreement, subject to the CC&Rs, the Newpark Parcel P Subdivision recorded on Feb. 21, 2011, in Book ___ at Page ___, as Entry No. 939829 in the Official Records of Summit County, Utah (the "Plat"), and applicable governmental requirements and approvals.

3. Grant of Easement to the Association. Subject to the terms of this Agreement, those areas of Parcel P designated in the CCRs and on the Plat as "Common Area" (it being understood that no Common Area is located inside of the exterior walls of the Parcel P-1 Building or inside of the exterior walls of any building(s) constructed on Parcel P-2 in the future), together with the Transition Property designated in the CCRs and on the Plat as "Common Area" (collectively, the "Easement Property"), are to be treated as Common Areas under the CCRs and are to be available for the uses provided in the CCRs (including, but not limited to, those uses set forth in Section 1 of Article IV of the CCRs). Consistent with the above, ESNET and RAN hereby grant to the Association a limited easement to enter onto such Common Areas, but only as reasonably necessary to perform those obligations set forth in the CCRs pertaining to the repair and maintenance (including replacement, as needed) of such Common Areas. The easement granted above is the easement referenced in Note 16 of the Plat. Notwithstanding the designation set forth in the first sentence of this Section 3, and notwithstanding any contrary language in the CCRs, the uses of the

parking areas either existing or to be constructed on Parcel P and on the side of any road or street that is or may in the future be located on or adjacent to Parcel P that are part of the developments or projects dedicated for office use are subject to the following reservations and restrictions:

(a) Parking rights on Parcel P-1 and the rights to the parking stalls either existing or to be constructed which are located on the side of any way that is or may in the future be adjacent to Parcel P-1 may be limited and reserved for the exclusive use of the occupant(s) of the Parcel P-1 Building, between the hours of 7:00 a.m. to 5:30 p.m. on weekdays, exclusive of state and national holidays, and ESNET and/or such occupant(s) (whether owner, successor-in-interest, assignee, tenant, tenants' employees, guests, invitees and patrons) may post notice of and enforce such exclusive use as may be reasonably appropriate.

(b) Seventy-five percent (75%) of the parking stalls located on Parcel P-1 shall be available, on an exclusive basis, for parking for the benefit of the Association from 5:30 p.m. to 7:00 a.m. on weekdays and all day on weekends and state and national holidays; provided, however, tenants, occupant(s), tenants' employees, guests, invitees and patrons of the Parcel P-1 Building shall have the parking rights under the Association during such time.

(c) Notwithstanding Section 3(a) above, twenty-five percent (25%) of the parking stalls to be located on Parcel P-1 (but not the parking stalls located on the side of any road or street that is or in the future may be located on or adjacent to Parcel P) may be limited and reserved for the exclusive use of the occupant(s) of the Parcel P-1 Building (whether owner, successor-in-interest, assignee, tenant, tenants' employees, guests, invitees and patrons) at all times, and ESNET and/or such occupant(s) may post notice of and enforce such exclusive use as may be reasonably appropriate.

(d) In the event that Parcel P-2 is developed as a residential project, all of the parking stalls to be located on Parcel P-2 (but not the parking stalls located on the side of any road or street that is or in the future may be located on or adjacent to Parcel P) may be limited and reserved for the exclusive use of the occupant(s) of the Parcel P-2 building(s) (whether owner, successor-in-interest, assignee, tenant, guests and invitees) at all times, and ESNET and/or such occupant(s) may post notice of and enforce such exclusive use as may be reasonably appropriate.

4. Additional Parking Covenants. The use of all parking areas, either existing or to be constructed on Parcel P and streets which are adjacent thereto, are subject to the following reservations and restrictions:

(a) Twelve (12) parking stalls located along the easterly border of Parcel P and located on Park Lane North shall be available for use by the Association to provide parking 24 hours a day and 365 days a year for the Newpark Townhomes and other NOA members, as determined and regulated from time to time by the Association.

(b) Parcel P-1 Building occupant(s) (whether owner, successor-in-interest, assignee, tenant, tenants' employees, guests, invitees and patrons) and the Association hold the rights to an appurtenant vehicular and pedestrian easement and right of way for access and ingress and egress over and across the circulation lanes on Parcel P and adjacent parcels of land, as identified on the Plat.

(c) In the event of termination of this Agreement due to a default by the Association, the same parking rights that were designed to benefit the Association shall survive for the benefit of all parties benefitting therefrom under the CCRs, subject to payment by the obligated parties of their respective shares of parking maintenance and repair expense in accordance with the CCRs.

5. Maintenance of Common Areas. Consistent with the terms of the CCRs, the Association hereby undertakes responsibility for operation, maintenance and repair of all of the Common Areas located on Parcel P from time to time, including, without limitation, the parking facilities herein described, as well as the Transition Property located immediately adjacent to Parcel P, the costs of which will be levied as an assessment under the terms of the CCRs. The Association also acknowledges and agrees that the Association's use of the Easement Property to fulfill its obligations in this Section 5 shall not unreasonably or unnecessarily interfere with the business, operations, or use of the Parcel P by the occupant(s) thereof. Neither the Association nor any successor shall be allowed to increase the scope of the limited easement granted in Section 3 above or otherwise increase the burden on Parcel P or on the Transition Property.

6. Improvement of Transition Property. The Parties acknowledge that: (i) the Transition Property is Common Area pursuant to the Plat and the CCRs, and is owned by RAN; (ii) ESNET's development and operation of Parcel P-1 will require the improvement of the Transition Property as Common Area integrated with surrounding Common Area located on Parcel P and other surrounding Common Area owned by RAN. In light of the foregoing, RAN hereby grants to ESNET the right to improve the Transition Property as Common Area, generally as approved by Summit County, concurrently with ESNET's development of Parcel P-1, which improvement of the Transition Property shall be at no cost to RAN; provided, the Transition Property Common Area improvements shall be integrated with the Common Area improvements to be constructed on Parcel P and with the existing Common Area improvements located on the immediately adjacent property owned by RAN. In the event any lien is filed against the Transition Property or the property of which the Transition Property is a part in connection with the construction of such Common Area improvements, ESNET shall promptly cause such lien to be released in accordance with applicable Utah law. ESNET hereby indemnifies, holds harmless and agrees to defend RAN from and against all claims, liabilities, judgments, costs and expenses (including attorneys' fees and costs) which arise in connection with the construction of such improvements by ESNET, except to the extent caused by, through or under RAN.

7. Trash Enclosures. Pursuant to Article 13 of that certain Purchase and Sale Agreement pertaining to Parcel P dated March 11, 2011 (the "Purchase Agreement"), ESNET's predecessor-in-interest and Newpark agreed that ESNET will construct, at no cost to Newpark, an enclosure and pad for the existing dumpsters, drums and recycling center currently located on Parcel P, and that they intended to agree upon a specific location therefor prior to the date of the closing under the Purchase Agreement; however, ESNET and Newpark had not yet agreed upon such specific location prior to such closing. In light of the foregoing, ESNET and Newpark hereby agree between them that such specific location shall be on the portion of Parcel P shown on the Site Plan as the "Recycling and Trash Enclosure"; provided, in the event ESNET and Newpark are unable to so locate the Recycling and Trash Enclosure in such area due to any objection by Summit County, ESNET and Newpark hereby agree to work together diligently and in good faith to determine an alternative specific location for the Recycling and Trash Enclosure in accordance with the above-referenced Article 13 (the operative terms and conditions of which are hereby incorporated herein by reference), which specific alternative location shall require the prior written approval of both ESNET and Newpark, which approval shall not be unreasonably withheld or delayed by either ESNET or Newpark. ESNET and Newpark hereby acknowledge and agree that, with respect to granting or withholding any such approval: (i) either ESNET or Newpark shall be deemed reasonable in the event it withholds such approval with respect to any proposed alternative location for the Recycling and Trash Enclosure which would require approval for any reason by either the Snyderville Basin Planning Commission or the Summit County Council; and (ii) ESNET shall be deemed reasonable in the event it withholds such approval with respect to any proposed alternative location for the Recycling and Trash Enclosure which would require a reduction in the number of parking spaces to be located on Parcel P.

In addition, the Parties hereby acknowledge that an additional trash enclosure and pad for dumpsters only are currently located on that portion of Parcel P-2 shown on the Site Plan as the "Trash Only Enclosure", and ESNET hereby agrees that the Trash Only Enclosure may continue to be located and operated in such location. Any relocation of the Trash Only Enclosure shall require the prior, written approval of ESNET, which approval may be granted or withheld for any reason or no reason, in ESNET's sole, subjective discretion.

The Association hereby undertakes responsibility for operation, maintenance and repair as Common Areas the Recycling and Trash Enclosure and the Trash Only Enclosure, together with all related equipment, improvements and facilities, the costs of which will be levied as an assessment under the terms of the CCRs. ESNET hereby grants to the Association a limited easement to enter onto the Common Areas located on Parcel P, but only as reasonably necessary to perform the operation and maintenance obligations set forth in this paragraph.

8. Covenants to Run with Land. The easements, rights and obligations granted or created in this Agreement shall constitute covenants running with Parcel P, with the Transition Property and with the property of which the Transition Property is a part. By coming to have any interest in or occupying Parcel P, the Transition Property or the property of which the Transition Property is a part, the person so coming to have such interest or occupying the same agrees to be

bound by this Agreement. If Parcel P, the Transition Property or the property of which the Transition Property is a part has more than one owner, the liability of each owner under this Agreement shall be joint and several. Notwithstanding any applicable theory relating to a mortgage, the term owner shall not mean a Mortgagee unless until such Mortgagee has acquired title to the realty concern pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure. "Mortgagee" means the mortgagee under a mortgage or the beneficiary under a deed of trust recorded in the official records.

9. Dispute Resolution. The Parties agree that all disputes respecting this Agreement shall be subject to non-binding mediation and, upon the mutual agreement of the Parties, by undertaking arbitration to be conducted in Salt Lake City, Utah, in accordance with § 78-31a-101, *et seq.*, Utah Code Ann. The arbitrator of any such matter, in addition to such other and usual authority, shall also determine the content of any missing, vague or illusory term of this Agreement, including, but not limited to, dimensions and legal descriptions of properties not otherwise fully described herein or the terms of easements and attendant rights or other such matters upon which agreement may be contemplated in the future. The terms of this provision shall be construed broadly so as to grant such arbitrator authority to the fullest extent possible to enforce and define the terms of the agreements between the Parties.

10. Further Documents. The Parties agree to execute and deliver such other and further documents as may be necessary to convey the spirit and intent of this Agreement.

11. Notices: Any notice required or permitted to be given pursuant to this Agreement shall be effective and valid only if in writing, and delivered personally by nationally-recognized express courier or delivery service (next morning business day delivery), or sent by facsimile machine with receipt acknowledged (with a copy by first class mail) or postage prepaid by certified or registered mail, return receipt requested, as follows or to such other address or person as either party or person entitled to notice may specify by notice given as herein provided:

If to Newpark: Newpark Corporation
c/o Jones Waldo, et Al.
1441 West Ute Blvd., Suite 330
Park City, Utah 84098
Attention: Greg Cropper, Esq.
Telephone: (435) 649-6920
Fax: (435) 200-0084

With a copy to: James A. Doilney
1476 Newpark Blvd.
Park City, Utah 84098
c/o Newpark Hotel Front Desk
Telephone: (435) 649-9000
Fax: (435) 649-0218

If to ESNET:

EsNet Properties, L.C.
5255 North Edgewood Drive, Suite 200
Provo, UT 84604
Attention: Kevin Flanagan
Telephone: (801) 434-3000
Fax: (801) 434-6000

With a Copy to:

Steven E. Tyler, Esq.
HOLLAND & HART, LLP
222 South Main Street, Suite 2200
Salt Lake City, Utah 84101
Telephone: (801) 799-5800
Fax: (866) 711-8035

If to Association:

Newpark Owners Association, Inc.
1476 Newpark Blvd.
Park City, Utah 84098
c/o Newpark Hotel Front Desk
Attention: Chris Eggleton/Manager
Telephone: (435) 649-9000
Fax: (435) 649-0218

If to RAN:

Retail at Newpark, LC
1476 Newpark Blvd.
Park City, Utah 84098
c/o Newpark Hotel Front Desk
Attention: Marc Wangsgard
Telephone: (435) 649-9000
Fax: (435) 649-0218

With a copy to:

James A. Doilney
1476 Newpark Blvd.
Park City, Utah 84098
c/o Newpark Hotel Front Desk
Telephone: (435) 649-9000
Fax: (435) 649-0218

If to Summit County: Planning Director
Community Development
Summit County
P.O. Box 128
Coalville, Utah 84017
Telephone: (435) 336-3124
Fax: (435) 336-3046

Unless otherwise specified, notices shall be deemed given when received, but if delivery is not accepted, on the earlier of the date delivery is refused or the third (3rd) day after the same is deposited with the United States Postal Service.

12. Miscellaneous.

(a) Except as specifically provided otherwise herein, the Parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the Parties.

(b) No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts.

(c) This Agreement shall bind, and inure to the benefit of, the successors and assigns of the Parties.

(d) This Agreement may be executed in two or more counterparts and all counterparts so executed shall for all purposes constitute one agreement, binding on all the parties hereto, notwithstanding that all parties shall not have executed the same counterpart. Any Party may deliver this Agreement by facsimile or electronic (PDF) transmission of such signed counterpart to the other Party.

(e) Nothing in this Agreement shall be deemed to be a gift or dedication of all or any portion of Parcel P or the Transition Property for the general public or for any public purpose whatsoever, it being the intention of the Parties that this Agreement be strictly limited to the purposes expressed herein. The easements, rights and obligations created by this Agreement may not be transferred, assigned or encumbered without the prior written consent of ESNET or its successor or assignee with respect to Parcel P, nor without the prior written consent of RAN or its successor or assignee with respect to the Transition Property.

(f) The captions used in connection with the Articles of this Agreement are for convenience of reference only and shall not be deemed to construe or limit the meaning or language of this Agreement.

(g) If any provision of this Agreement is held to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

(h) This Agreement shall be governed and construed in accordance with the laws of the State of Utah.

(i) If any Party initiates or defends an arbitration proceeding or litigation in any way connected with this Agreement, the prevailing Party in such matter, in addition to any other relief which may be granted, shall be entitled to reasonable attorneys' fees, court costs, and other litigation or arbitration expenses. Attorneys' fees shall include attorneys' fees paid on any appeal or confirmation of arbitration award or modification thereto.

(j) A copy of any modification to this Agreement shall be provided to Summit County for recordation within ten (10) business day following the effective date of such modification.

DATED the day and year first written above.

NEWPARK:

NEWPARK CORPORATION,
a Utah corporation

By: [Signature]
Printed Name: JAMES A. DOILNEY
Its: co-president

ESNET:

ESNET PROPERTIES, L.C.,
a Utah limited liability company

By: _____
Printed Name: _____
Its: _____

ASSOCIATION:

NEWPARK OWNERS ASSOCIATION, INC.,
a Utah non-profit corporation

By: [Signature]
Printed Name: JAMES A. DOILNEY
Its: president

RAN:

RETAIL AT NEWPARK, LC,
a Utah limited liability company

By: [Signature]
Printed Name: JAMES A. DOILNEY
Its: co-president

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(i) If any Party initiates or defends an arbitration proceeding or litigation in any way connected with this Agreement, the prevailing Party in such matter, in addition to any other relief which may be granted, shall be entitled to reasonable attorneys' fees, court costs, and other litigation or arbitration expenses. Attorneys' fees shall include attorneys' fees paid on any appeal or confirmation of arbitration award or modification thereto.

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DATED the day and year first written above.

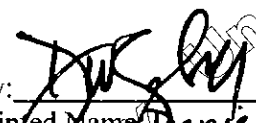
NEWPARK:

NEWPARK CORPORATION,
a Utah corporation

By: _____
Printed Name: _____
Its: _____

ESNET:

ESNET PROPERTIES, L.C.,
a Utah limited liability company

By: 
Printed Name: Daniel W. Campbell
Its: Manager

ASSOCIATION:

NEWPARK OWNERS ASSOCIATION, INC.,
a Utah non-profit corporation

By: _____
Printed Name: _____
Its: _____

RAN:

RETAIL AT NEWPARK, LC,
a Utah limited liability company

By: _____
Printed Name: _____
Its: _____

STATE OF UTAH

COUNTY OF _____)

: ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by _____, the _____ of ESNET PROPERTIES, L.C., a Utah limited liability company.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

STATE OF UTAH

COUNTY OF SUMMIT)

: ss.

The foregoing instrument was acknowledged before me this 4th day of November, 2011, by James A. Dalney, the co-president of NEWPARK CORPORATION, a Utah corporation.

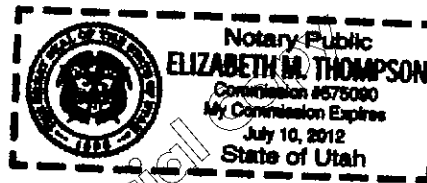
Elizabeth M. Thompson
NOTARY PUBLIC

Residing at: 14410 Ute Blvd, Ste 330

Park City Ut 84098

My Commission Expires:

7-10-12



STATE OF UTAH

COUNTY OF SUMMIT)
: ss.

The foregoing instrument was acknowledged before me this 4th day of November 2011, by James A. Dalney the president of NEWPARK OWNERS ASSOCIATION, INC., a Utah non-profit corporation.

Elizabeth M. Thompson
NOTARY PUBLIC
Residing at: 1441 W. Ute Blvd, Ste 330
Park City, Ut 84098

My Commission Expires:
7-10-12



STATE OF UTAH

COUNTY OF SUMMIT)
: ss.

The foregoing instrument was acknowledged before me this 4th day of November, 2011, by James A. Dalney, the co-president of RETAIL AT NEWPARK, LC, a Utah limited liability company.

Elizabeth M. Thompson
NOTARY PUBLIC
Residing at: 1441 W. Ute Blvd, Ste 330
Park City, Ut 84098

My Commission Expires:
7-10-12

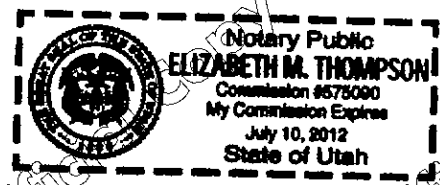


Exhibit "A"
Legal Description of Subject Property

All the certain real property located in the County of Summit, State of Utah, described as follows:

All of Lots P-1 and P-2, **Newpark Parcel P Subdivision**, according to the official plat thereof, recorded February 21, 2012 as Entry No. 939829 of the official records in the office of the Summit County Recorder.

Summit County Tax Serial No's: NPRK-P-1, and NPRK-P-2

EXHIBIT B SITE PLAN

NEW PARE TOYHOUSES
PHASE I

PARK LANE NORTH
Road

PARCEL P
137,570 SQ FT
3.158 ACRES

LOT P2
5,184 SQ FT
1.187 ACRES

LOT B4
65,008 SQ FT
1.493 ACRES

LOT V2

LOT V1

KEY NOTES:

- 1. EXISTING LOT LINES
- 2. EXISTING BUILDING FOOTPRINTS
- 3. EXISTING DRIVEWAYS
- 4. EXISTING UTILITY LINES



CENTERLINE
Road