



When Recorded, Please Return Copy to:  
County Engineer  
P.O. Box 128, Coalville, UT 84017

**DEVELOPMENT IMPROVEMENTS AGREEMENT  
FOR  
COTTONWOOD NEWPARK THREE**

THIS AGREEMENT is made this 23<sup>rd</sup> day of February, 2012 by and between Summit County, a political subdivision of the State of Utah ("the County"), and Cottonwood Newpark Three, L.L.C., a Delaware limited liability company ("Developer").

**RECITALS:**

- A. Developer is the owner of certain property situated in the County of Summit, State of Utah, more particularly described in Exhibit A hereto and known as " COTTONWOOD NEWPARK THREE AT NEWPARK TOWN CENTER ("Project")".
- B. The Developer desires to develop "Project", hereinafter referred to as the ("Property") according to the recorded plat thereof (the "Plat") showing a proposed subdivision layout for said property.
- C. Developer has further submitted to the County a Site Improvements Plan, referred to as the "Construction Drawings" for those improvements and landscaping as described in the Development Agreement or Development Approval, being constructed or installed by the Developer in connection with the Property, collectively the "Site Improvements Plan".
- D. The Summit County has approved the final site plan submitted by the Developer subject to certain requirements and conditions, which involve the installation and construction of utilities and the improvements shown on the Site Improvements Plan for the Property.

NOW, THEREFORE, in consideration of the premises and the terms and conditions herein stated and for other valuable consideration, the adequacy of which is acknowledged by the parties hereto, it is agreed as follows:

**1. Developer's Guarantee and Warranty**

Developer hereby guarantees the installation, as hereafter provided and as necessary to serve the Property and payment therefore, of all Site Improvements, landscaping, all utility lines, storm drainage improvements, and any other improvements described in the Site Improvements Plan. Developer hereby warrants all improvements and utility improvements constructed or installed by or for Developer, against defects in materials and workmanship for a period of two full year's normal operation after acceptance by the County Engineer or the utility companies of such improvements. The County shall either retain ten (10) percent or require a bond or escrow equal to ten (10) percent of the required total improvement costs until twenty four months from the date of completion of the improvements and acceptance thereof by the County, as a guarantee should the improvements prove to be defective during said 24-month period. Developer agrees to promptly correct any deficiencies in installation in order to meet the requirements of the plans and specifications applicable to such installation. In the event such installation is not completed according to the specific plans set forth in the Site Improvements Plan, the County shall have the right to cause such work to be done as is necessary to complete the installation in such manner and Developer shall be liable for the cost of such additional work.

**2. Water Lines and Sanitary Sewer Collection Lines**

(a) At the request of developer, The Snyderville Basin Water Reclamation District (the "District") has entered into a Line Extension Agreement to provide for the installation of all sanitary sewer collection lines, whether such lines and other improvements are actually on the Property, bordering the Property or on other lands connecting the Property to the existing sewage collection system, in accordance with the standard specification of the District.

(b) At the request of developer, Mountain Regional Water Special Service District ("Water Provider") has entered into an Agreement to provide for the installation of all water lines, whether such lines and other improvements are actually on the Property, bordering the Property or on other lands connecting the Property to the existing water distribution system, in accordance with the standard specification of the Water Provider.

(c) It is anticipated that the installation of said sanitary sewer lines and waterlines will be completed within two years from the date hereof.

(d) The cost of all said sanitary sewer lines shall be borne by Developer pursuant to an agreement between Developer and the District, and Developer shall enter into a separate guarantee and warranty to the District for such facilities.

(e) The Developer has agreed to construct and pay for culinary and fire protection waterlines to serve the Property, and to transfer maintenance and ownership of said waterlines and other water improvements to the Water Provider, after acceptance and approval of said improvements by the Water Provider. The cost of all said waterlines and water improvements shall be borne and guaranteed by the Developer, pursuant to this Development Improvements Agreement.

### **3. Electric, Gas, Telephone and Cable TV Facilities**

(a) At the request of the Developer, Rocky Mountain Power shall engineer and provide for the installation of all electric distribution lines and facilities required for the Property, and Developer shall pay for such work in accordance with the established charges of Rocky Mountain Power.

(b) At the request of Developer, Questar Gas Company shall engineer and provide for the installation of all required gas lines and facilities required, and Developer shall pay for such work in accordance with the established charges of Questar Gas Company.

(c) At the request of Developer, Century Link shall engineer and provide for the installation of all required telephone and other communications lines and facilities and Developer shall pay for such work in accordance with the established charges of Qwest Communications.

(e) The installation of the electric, gas, and communications facilities is anticipated to be completed within two years from the date hereof.

### **4. Storm Drainage Improvements**

(a) The Developer shall install all storm drainage facilities described in the Site Improvements Plan and in accord with Summit County Code § 9-3-1 et. seq.

(b) Developer anticipates completing the installation concurrent with the completion of the site improvements.

### **5. Roads**

Developer agrees to install any traffic control signs and standard street name signs as required by

the County and to re-vegetate all areas disturbed by construction activity in a manner which will prevent erosion.

## **6. Landscaping**

Developer shall install landscaping in accordance with the Site Improvements Plan at Developer's expense, and within two years from the date hereof. All such landscaping is subject to approval by the Community Development Director.

## **7. Weed Control**

The Developer agrees to comply with Summit County Code §4-4-1et. seq. relative to control and elimination of all noxious species of plants as identified within the project boundaries. The Developer further agrees to coordinate with the Summit County weed department, prior to commencement of work, relative to inspections and importations of weed free project materials.

## **8. Road Cuts**

Developer acknowledges that the County has adopted a road cut ordinance, the provisions of which shall apply to the alteration of any road necessitated by the installation of any utilities described in this Agreement.

## **9. Construction Mitigation Plan**

The Developer agrees to comply with Summit County Code §7-7-1 et. seq. relative to Construction Mitigation. The Developer further shall prepare and submit for approval a complete Construction Mitigation Plan per the Code.

## **10. Traffic Control**

During the construction of any utilities or improvements described herein, Developer shall be responsible for controlling and expediting the movement of vehicular and pedestrian traffic through and around all construction sites and activity. Such control shall be according to the latest version of the Manual of Uniform Traffic Control Devices. A Traffic Control Plan inclusive of pedestrian routes shall be prepared and submitted as part of the Construction Mitigation Plan.

## **11. Maintenance and Repair**

Developer agrees that it shall repair or pay for any damage to any existing public improvements damaged during the construction of new improvements. The County shall notify Developer within a reasonable time after discovery of any claim hereunder, and Developer shall have a reasonable period of time within which to repair said damage.

## **12. Financial Assurances**

To insure developer's performance under this Agreement, (except for the installation of the Sanitary Sewer Collection Lines described in Paragraph 2 above which are to be directly guaranteed to the District with separate financial assurances from Developer, the Developer shall, prior to the recording of the Site Plan, provide the County with sufficient security, to ensure completion of the required improvements, in the amount of 120% of the cost of construction determined in accordance with the schedule in Exhibit B. The security shall be in the form of either: 1) a letter of Credit drawn upon a state or national bank- said Letter of Credit shall: (1) be irrevocable, (2) be of a term sufficient to cover the completion and warranty periods, and, (3) require only that the County present the issuer with a signed draft and a certificate signed by an authorized representative of the County or firm, to the County's right

to draw funds under the Letter of Credit; or 2) Establishment of an Escrow Account or Completion Bond with the guarantee that all improvements shall be installed within two (2) years or the account or bond will be called by the County to complete the improvements. Acceptable escrow agents shall be the Summit County Treasurer's Office, or banks or savings institutions which are federally insured. This two (2) year deadline may be extended by the County upon showing of sufficient cause.

As portions of the improvements are completed in accordance with this Development Improvements Agreement, County regulations, and the approved Site Improvements Plan, the Developer may make application to the County Engineer to reduce the amount of the original letter of credit, cash escrow or completion bond. If the Chief Executive Officer is satisfied that such portion of the improvements has been completed in accordance with County standards, they may cause the amount of the letter of credit, cash escrow or completion bond to be reduced by such amount that they deem appropriate, so that the remaining amount of the letter of credit, cash escrow or completion bond adequately insures the completion of the remaining improvements.

### 13. Default

If Developer shall default in the performance of Developer's obligation hereunder and shall fail to cure such default within thirty (30) days after receipt of written notice from the County specifying the nature of such default (or if such default cannot be cured within the aforesaid period of time, if the Developer shall fail to promptly commence to cure the same and to thereafter diligently proceed with such cure), then the County shall be entitled to undertake such work as may be necessary and appropriate to cure such default and the County shall be reimbursed for the reasonable costs thereof either by payment of such costs to cure the default within 30 days of delivery of an invoice to Developer or by obtaining funds under the security.

### 14. Amendment

This Agreement and the Site Improvements Plan referred to herein, may only be amended by written instrument signed by the County and the Developer.

### 15. Binding Effect

This Agreement and the covenants contained herein shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto and their successors, heirs and assigns of the property owners; provided that, purchasers of residential lots within the Property or any homeowner's association that receives title to any portion of the Property shall not incur any liability hereunder and no person or entity, including any homeowner's association that receives title to any portion of the Property, may claim to be a third party beneficiary of the terms, conditions, or covenants of this Agreement. This Agreement shall be recorded in the Office of the Summit County Recorder and on file with the Department of Community Development. All existing lien holders shall be required to subordinate their liens to the covenants contained in the Development Improvements Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed the date and year first written above.

ATTEST:



Annette Singleton  
Office Manager

APPROVED:

SUMMIT COUNTY



Robert Jasper  
County Manager

APPROVED AS TO FORM:

[Signature]  
Jami Brackin, Deputy County Attorney

ACCEPTED:

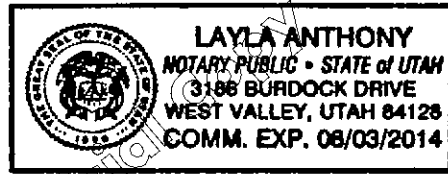
Cottonwood Newpark Three L.L.C., a Delaware  
limited liability company

By: [Signature]  
Its: Authorized Person

STATE OF Utah  
County of Salt Lake ss:

SUBSCRIBED AND SWORN to before me by John F. West who acknowledged under oath, to my satisfaction, that he/she is the Authorized Person of Cottonwood Newpark Three L.L.C. the corporation named above and that this Agreement was signed and delivered by the corporation as duly authorized by a proper resolution of its Board of Directors.

[Signature]  
Notary Public  
My Commission Expires: August 3, 2014  
Residing In: 3186 Burdock Dr. WVC, UT 84128



**EXHIBIT "A"**

BEGINNING AT THE SOUTHEAST CORNER OF LOT V-1 NEWPARK PARCEL V SUBDIVISION, 2ND AMENDED, AS RECORDED WITH THE OFFICE OF THE SUMMIT COUNTY RECORDER, SAID POINT BEING SOUTH 1430.63 FEET, MORE OR LESS, AND NORTH 89°59'42" EAST 2885.38 FEET, MORE OR LESS, FROM THE NORTHWEST CORNER OF SECTION 19, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTHEASTERLY ALONG THE EASTERLY LINE AND LINE EXTENDED OF SAID LOT V-1 THE FOLLOWING (5) COURSES: (1) NORTH 00°00'18" WEST 18.56 FEET TO A POINT OF CURVATURE, (2) NORTHEASTERLY ALONG THE ARC OF 21.50 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 45°00'18" A DISTANCE OF 16.89 FEET (CHORD BEARS NORTH 22°29'51" EAST 16.46 FEET), (3) NORTH 45°00'00" EAST 116.26 FEET, (4) SOUTH 45°00'00" EAST 25.50 FEET, (5) NORTH 45°00'00" EAST 186.22 FEET; THENCE SOUTH 45°00'00" EAST 206.87 FEET; THENCE SOUTH 12°46'19" WEST 19.79 FEET TO THE SOUTHWESTERLY LINE OF THE AMENDED NEWPARK MASTER DEVELOPMENT PARCEL PLAT CENTER DRIVE, AS RECORDED WITH THE OFFICE OF THE SUMMIT COUNTY RECORDER; THENCE SOUTH 45°00'00" EAST ALONG SAID SOUTHWESTERLY LINE AND 13.59 FEET; THENCE SOUTH 45°00'00" WEST ALONG THE NORTHWESTERLY LINE OF SAID DESCRIPTION 2.44 FEET; THENCE SOUTH 45°00'00" EAST 2.62 FEET TO A POINT ON THE ARC OF A 35.50 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 78°26'36" WEST); THENCE SOUTHWESTERLY ALONG THE ARC OF SAID 35.50 FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF 33°26'30" A DISTANCE OF 20.72 FEET (CHORD BEARS SOUTH 28°16'39" WEST 20.43 FEET); THENCE SOUTH 45°00'00" WEST 33.07 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG THE ARC OF A 54.50 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 85.61 FEET (CHORD BEARS SOUTH 77.07 FEET) TO A POINT ON THE WESTERLY LINE EXTENSION OF PARK LANE NORTH (A PRIVATE ROAD); THENCE SOUTHERLY ALONG SAID WESTERLY LINE AND LINE EXTENDED THE FOLLOWING (7) COURSES: (1) SOUTH 45°00'00" EAST 14.15 FEET TO A POINT OF CURVATURE, (2) SOUTHEASTERLY ALONG THE ARC OF A 38.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 34°49'47" A DISTANCE OF 23.10 FEET (CHORD BEARS SOUTH 27°35'06" EAST 22.75 FEET), (3) SOUTH 10°10'06" EAST 13.25 FEET TO A POINT OF CURVATURE, (4) SOUTHWESTERLY ALONG THE ARC OF A 38.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 55°10'11" A DISTANCE OF 36.59 FEET (CHORD BEARS SOUTH 17°25'00" WEST 35.19 FEET), (5) SOUTH 45°00'00" WEST 218.93 FEET TO A POINT OF CURVATURE, (6) NORTHWESTERLY ALONG THE ARC OF A 38.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 59.69 FEET (CHORD BEARS WEST 53.74 FEET), (7) NORTH 45°00'00" WEST 95.02 FEET; THENCE SOUTH 45°00'00" WEST 38.83 FEET; THENCE NORTH 45°00'00" WEST 50.13 FEET; THENCE NORTH 80.48 FEET; THENCE SOUTH 89°59'42" WEST 19.50 FEET; THENCE NORTH 00°00'18" WEST 143.51 FEET TO A POINT ON THE SOUTH LINE EXTENSION OF SAID LOT V-1; THENCE NORTH 89°59'42" WEST 10.98 FEET TO THE POINT OF BEGINNING.

CONTAINS 137,601 SQ FT. OR 3.159 ACRES

**EXHIBIT "B"**  
**SITE IMPROVEMENTS PLAN**  
**COST ESTIMATE**

**ENGINEER'S OPINION OF PROBABLE  
 COST**

**COTTONWOOD NEWPARK THREE  
 SITE IMPROVEMENTS**

PROJECT: Cottonwood Newpark Three  
 L.C.  
 PROJECT NO:  
 10258  
 DATE: 12/15/11  
 BY: T. DIDAS  
 PAGE: 1 OF: 1

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	ITEM COST
<b>MOBILIZATION &amp; GENERAL CONDITIONS</b>					
	Mobilization & General Conditions	1	LS	\$35,000.00	\$35,000.00
<b>EROSION CONTROL &amp; RESTORATION</b>					
	Silt Fence	560	LF	\$7.00	\$3,920.00
	Stabilized Construction Entrance	1	EA	\$2,500.00	\$2,500.00
	Inlet Protection	15	EA	\$100.00	\$1,500.00
	Concrete Washout Area	1	EA	\$2,000.00	\$2,000.00
<b>DEMOLITION</b>					
	Sawcut Existing Asphalt	860	LF	\$2.00	\$1,720.00
	Remove Existing Asphalt	6,870	SF	\$0.50	\$3,435.00
	Remove Fire Line	13	LF	\$40.00	\$520.00
	Remove Curb & Gutter	866	LF	\$5.00	\$4,330.00
<b>EARTHWORK</b>					
	Excavating & Grading (Cut to Fill)	900	CY	\$8.00	\$7,200.00
	Import & Place Structural Fill	1,600	CY	\$24.00	\$38,400.00
	Excavate & Export Unsuitable Material from Building Pad	1,200	CY	\$16.00	\$19,200.00
<b>STORM DRAINAGE SYSTEM</b>					
	15" HDPE Storm Pipe	127	LF	\$40.00	\$5,060.00
	12" HDPE Storm Pipe	111	LF	\$32.00	\$3,536.00
	4" HDPE Roof Drain	240	LF	\$20.00	\$4,800.00
	Storm Drain Catch Basin	4	EA	\$2,000.00	\$8,000.00
	Raise/Lower Storm Drain Manhole	1	EA	\$500.00	\$500.00
	Raise/Lower Storm Drain Inlet	4	EA	\$500.00	\$2,000.00
	New Heavy Duty Grate	2	EA	\$250.00	\$500.00
<b>SITE ELECTRICAL</b>					
	Single-Head Light Pole on New Foundation	2	EA	\$5,200.00	\$10,400.00
	Double-Head Light Pole on New Foundation	11	EA	\$6,500.00	\$71,500.00
	Telephone Connect and Conduit	1	LS	\$2,500.00	\$2,500.00
<b>ASPHALT &amp; CONCRETE PAVING</b>					

2-1/2" Asphalt Parking + 7" Base	39,000	SF	\$1.80	\$70,200.00
3" Asphalt Parking + 8" Base	7,500	SF	\$2.20	\$16,500.00
Concrete Pavement	6,330	SF	\$5.00	\$31,650.00
Asphalt Patch	110	SF	\$15.00	\$1,650.00
24" Concrete Curb & Gutter	1,040	LF	\$18.00	\$18,720.00
24" Release Concrete Curb & Gutter	1,020	LF	\$18.00	\$18,360.00
Concrete Curbwall	180	LF	\$15.00	\$2,700.00
36" Concrete Waterway	105	LF	\$30.00	\$3,150.00
Concrete Ramp	1	EA	\$3,000.00	\$3,000.00
Concrete Steps	1	EA	\$2,000.00	\$2,000.00
Pavement Striping & Symbols	1	LS	\$5,000.00	\$5,000.00
ADA Ramp	6	EA	\$1,500.00	\$9,000.00

**SITE IMPROVEMENTS**

Screen Wall	126	LF	\$80.00	\$10,080.00
Concrete Parking Chuck	6	EA	\$200.00	\$1,200.00
Stop Sign	5	EA	\$400.00	\$2,000.00
ADA Parking Sign	6	EA	\$400.00	\$2,400.00
Hand Rail	55	LF	\$50.00	\$2,750.00
6" Guard Post	4	EA	\$750.00	\$3,000.00

**LANDSCAPE & IRRIGATION**

Landscape Mobilization	1	EA	\$ 3,000.00	\$ 3,000.00
Topsoil	107	YDS	\$ 27.50	\$ 2,942.50
<b>SOIL AMENDMENT</b>	25	YDS	\$ 65.00	\$ 1,625.00
Tree Root Barriers	37	EA	\$ 80.00	\$ 2,960.00
Mulch	100	YDS	\$ 42.50	\$ 4,250.00
Weed Barrier	8705	SQ FT	\$ 0.22	\$ 1,915.10
<b>Irrigation</b>				
Point of Connection	1	EA	\$2,299.21	\$ 2,299.21
Drip Zone	6	EA	\$1,489.00	\$ 8,934.00
Tree Zone	3	EA	\$1,489.00	\$ 4,467.00
<b>Planting</b>				
Fraxinus Pennsylvanica 'Summit'/ Summit Ash	12/1.5Cal	EA	\$118.00	\$ 1,416.00
Malus x 'Spring Snow'/ Spring Snow Crab Apple	11/1.5Cal	EA	\$ 125.00	\$ 1,375.00
Prunus Virginiana 'Canada Red'/ Canada Red Chokecherry	14/1.5 Cal	EA	\$ 140.00	\$ 1,960.00
Miscanthus Purpurascens/ Silver Grass	35/5Gal	EA	\$ 25.15	\$ 880.25
Ribes Alpinum/Alpine Currant	50/5Gal	EA	\$ 25.15	\$ 1,257.50
Festuca Amethystina/Blue Fescue	1312/1 Gal	EA	\$ 4.80	\$ 6,297.60
Hemerocallis x 'Stella De Oro'/Daylily	2343/1 Gal	EA	\$ 4.80	\$ 11,246.40
Sedum Acre 'Matrona'/Goldmoss Stonecrop	2812/1 Gal	EA	\$ 4.80	\$ 13,497.60
Plaza Amenities (Stone benches, bollards, etc)	1	LS	\$10,000.00	\$10,000.00

<b>TOTAL</b>	<b>\$512,210</b>
<b>CONTINGENCY (10%)</b>	<b>\$51,221</b>
<b>WARRANTY (10%)</b>	<b>\$51,221</b>
<b>SECURITY TOTAL</b>	<b>\$614,652</b>