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Alan Spriggs, Summit County Utah Recorder

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**FIRST AMENDMENT TO FOURTH AMENDED AND
RESTATED DECLARATION OF COVENANTS CONDITIONS
AND RESTRICTIONS
OF
NEWPARK OWNERS ASSOCIATION**

THIS FIRST AMENDMENT TO THE FOURTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF NEWPARK OWNERS ASSOCIATION (this "Amendment") is made as of the 01 day of JANUARY, 2012, by NEWPARK OWNERS ASSOCIATION, a Utah non-profit corporation (the "Association").

RECITALS:

A. The Association is the "Association" under that certain Fourth Amended and Restated Declaration of Covenants, Conditions and Restrictions dated the 18th day of August, 2006, and recorded August 31, 2006, as Instrument No. 00789752, in Book 01814, Page 01035-01063, of the Official Records of Summit County, Utah (the "Declaration").

B. The Declaration apply to and govern that certain real property and improvements located in Summit County, Utah, and commonly known as "Newpark", the legal description of which is attached hereto as Exhibit "A" and incorporated herein by reference (the "Property").

C. A special meeting of the Association was duly called and held on MAY 07, 2012, for the purpose of presenting and considering this Amendment, and such "Members" of the Association (as defined in the Declaration) as are required under the Declaration to approve and adopt this Amendment were present in person or by proxy; and in accordance with Section X of the Declaration, this Amendment was approved upon the affirmative vote of greater than two-thirds (2/3) of the votes entitled to be cast by the Members present or represented by proxy at such special meeting.

D. Based on the foregoing and the Declaration, the Association has the authority to execute and record this Amendment in the Official Records of Summit County, Utah.

NOW, THEREFORE, the Declaration are hereby amended as follows the Property, and every Parcel (as defined in the Declaration) or interest therein, is now held and shall be held, transferred, sold, leased, conveyed and occupied subject to the covenants, conditions, restrictions and easements set forth in the Declaration, as amended by this Amendment, each and all of which is and are for, and shall inure to the benefit of and pass with, each Parcel and every portion of or interest in the Property and shall apply to every Owner and Occupant (as both are defined in the Declaration) thereof and their successors and assigns. The covenants, conditions, restrictions and easements contained in the Declaration, as amended by this Amendment, shall run with the Property and every part thereof.

ARTICLE I
AMENDMENTS

Section 1.1 Billable Square Footage—Active. Section I.3. of the Declaration is hereby deleted in its entirety, and the following is hereby substituted therefor and shall apply retroactively commencing as of January 1, 2012:

3. “Billable Square Foot—Active” shall mean each square foot of floor space of buildings (consisting of the greater of the area of Buildings or other improvements (i) actually constructed, or (ii) in accordance with final plans for any such construction), whether at, above or below ground level, measured from exterior surfaces (or in the case of property divided by a party wall, from the center of such wall), and shall include outside areas within controlled access or fenced enclosures reserved for exclusive use of the Owner or permittee of the Owner, such as ice skating rinks, swimming facilities and patios, as measured from the outside surfaces of such controlled or fenced areas. That portion of the Property that is developed as a nature preserve, including all areas within access control devices associated with any such nature preserve, shall not be included in the calculation of Billable Square Feet. Billable Square Foot—Active shall become effective upon the issuance by the County of a building permit pertaining to the first improvements constituting the Billable Square Footage.

Section 1.2 “CAAP”. Section I.9. of the Declaration is hereby deleted in its entirety, and the following is hereby substituted therefor:

9. “CAAP” shall mean common area activity programs planned, managed and administered by the Association or a User Group in accordance with Section III.4.E. below consisting of either or both of (a) communal activities, involving use and/or enjoyment of the Common Areas, easements held by the Association, areas accessible to all persons or for the common benefit of all persons associated with the Association or a User Group Property (or portion thereof), and shall be designed to develop a sense of community throughout the Property, (b) local, regional, national and/or international marketing activities approved by the Association Board that feature the User Group’s location in, services to and involvement with the Newpark community, and shall in any event prominently feature the use of the names “Newpark” and/or “Newpark Town Center” and/or the trademarks and logos thereof, and (c) exterior building paint and stain. Examples of (a) above include, but are not necessarily limited to, works of art to be located in Common Areas, seasonal and/or theme lighting, outdoor features such as floral displays, plant baskets, water features and lighting, music and other entertainment productions, farmers’ markets, public activities, cultural and/or educational programming, and recreation, and signage not specific to any particular occupant or operator on the Property, and pocket parks and public restrooms and other capital improvements freely accessible to the public. CAAP shall include the costs of construction, maintenance, operation, repair and replacement of any improvements contemplated in

(a) above. In addition, improvements contemplated in (a) above may, in the discretion of the Association Board, be located off-site from the Property.

Section 1.3 User Groups. Section I.34. of the Declaration is hereby deleted in its entirety, and the following is hereby substituted therefor:

34. "User Group" shall mean a Member or group of Members owning and operating Property in the Project with a single Member unique use distinguishable from all other uses in the Project, or a group of multiple Member uses sharing core similarities, as determined by the Board of Directors of the Association (the "Association Board") in its discretion. By way of example, and not necessarily limitation, existing (as of the date hereof) single Member User Groups include (i) hotel, (ii) recreation center, and (iii) nature preserve; and examples of existing (as of the date hereof) multiple Member User Groups include (iv) retail, including restaurants, (v) residential, (vi) office and financial institution.

Section 1.4 Limited Common Areas. Section III.4.C. of the Declaration is hereby deleted in its entirety, and the following is hereby substituted therefor:

C. The Association shall have the right to establish rules respecting use of the Common Areas, including parking rules and regulations, and shall have the right to create Limited Common Areas designated as reserved for use by certain Owner(s) to the exclusion of other Owners in the Project (on such terms and conditions as the Association may require) for activities such as private and/or reserved parking, storage, outside seating and/or dining areas, and other uses reasonably deemed by the Association to be appropriate, along with rules relating to the size or configuration of vehicles parking within the Project; and the Association may require that the Owner of real property within the Project, at its sole expense, provide adequate parking to be constructed concurrently with any proposed changes to Buildings or other improvements, as provided in Section III.4.F., within the Project so as to accommodate parking needs or uses to which such real property will be put. All such rules, when adopted by the Association, shall be binding on the Owners.

Section 1.5 CAAP Assessments and User Groups. Section III.4.E. of the Declaration is hereby deleted in its entirety, and the following is hereby substituted therefor:

E. The funds derived from CAAP Assessments (as defined in Section V.2.C.) shall be allocated one-half (1/2) to the benefit of the Association ("Association CAAP Fees") and one-half (1/2) to benefit of each User Group that funded the CAAP Assessments ("User Group CAAP Fees"). The Association Board shall establish, design, plan, manage, operate, make acquisitions and expenditures for and administer CAAPs using Association CAAP Fees. Subject to the Board's discretion contemplated in Paragraph (viii) below, each User Group shall have the two (2) methods for making acquisitions and expenditures of its User

Group CAAP Fees in connection with CAAP Approvals (hereinafter defined): (a) the applicable User Group shall make such acquisitions and expenditures with its own non-CAAP related funds and thereafter apply to the Association Board for reimbursement for actual expenditures from the applicable User Group CAAP Fees, which reimbursement shall be paid by the Association promptly provided that such application for reimbursement complies with the terms and conditions of the applicable CAAP Approval; or (b) the applicable User Group can request that the Association make payments directly to such User Group's contractors, suppliers and other vendors coming due and payable under such User Group's contracts (which direct payments shall in no event create privity of contract between the Association and any such contractor, supplier or other vendor), which request shall be granted by the Association Board provided that such request includes reasonable back-up documentation and specificity and complies with the terms and conditions of the applicable CAAP Approval. Notwithstanding anything to the contrary contained herein, all uses of User Group CAAP Fees must be presented by the applicable User Group to the Association Board for prior review and approval in accordance with the following:

(i) The User Group shall submit a written proposal (each, a "CAAP Proposal") to the Association Board for approval by the Association Board with respect to each proposed use of its User Group CAAP Fees, which written proposal shall set forth with reasonable specificity a description and the details of the proposed use, the timing thereof, the acquisitions and the amount of funding requested in connection therewith, and any applicable plans and specifications pertaining thereto.

(ii) All CAAP Proposals must be submitted to the Association Board for approval at least thirty (30) days prior to the expiration of each fiscal year with respect to User Group CAAP Fees to be spent during the fiscal year of the applicable CAAP Proposal or within the first one hundred eighty (180) days of the next following fiscal year.

(iii) All CAAP Proposals shall be based on the use of User Group CAAP Fees entirely for the purposes contemplated in Section I.9 above.

(iv) In no event shall the Association be required to (but the Association may, in its sole, subjective discretion) advance User Group CAAP Fees or make acquisitions or expenditures on behalf of any User Group in excess of the User Group CAAP Fees actually collected by the Association from the applicable User Group and not otherwise allocated for use by or on behalf of such User Group (pursuant to Paragraph (vii) below) as of the date of the applicable CAAP Proposal.

(v) The Association Board shall either approve or deny each properly submitted CAAP Proposal, or request additional information or clarification pertaining to such proposal, within thirty (30) days following receipt thereof.

(vi) The Association Board shall not unreasonably withhold approval of any CAAP Proposal, so long as such proposal fully complies with the requirements and principles set forth in this Paragraph E.

(vii) All approved CAAP Proposals (each, a "CAAP Approval") shall be implemented in accordance with the terms of the CAAP Approval, and any User Group CAAP Fees allocated to a CAAP Proposal pursuant to a CAAP Approval that are not actually spent as and when required in such CAAP Approval shall be deemed forfeited by the applicable User Group, and such funds shall be deemed to be Association CAAP Fees and available for use to the benefit of the Association as of the later of (a) the date of forfeiture set forth in such CAAP Approval, or (b) thirty (30) days following the date of notice from the Association Board to the applicable User Group of the impending forfeiture; provided, upon the written request of the applicable User Group, the Association Board shall have the right, for good cause and in its sole discretion, to extend the deadlines for expenditures and make other modifications to CAAP Approvals.

(viii) Any CAAP Approval may, in the discretion of the Association Board, require that the Association pay User Group CAAP Fees directly to the User Group's vendors, or that the applicable User Group pay such vendors in the first instance and apply for reimbursement from the Association, which application shall include reasonable supporting documentation.

(ix) Any CAAP Approval that contemplates the construction of improvements (including, without limitation, landscaping) which will require future expenditures for the operation, maintenance, repair and replacement thereof may, in the discretion of the Association Board, require that such future expenditures be borne, in whole or in part, by the applicable User Group, which expenditures may be funded with future User Group CAAP Fees actually collected from such User Group.

(x) The Association Board shall, within sixty (60) days following the end of each fiscal year, provide a reconciliation to each User Group of such User Group's CAAP Fees (both Association CAAP Fees and User Group CAAP Fees) collected, allocated and applied during such fiscal year.

Section 1.6 CAAP Assessments. Section V.2.C. of the Declaration is hereby deleted in its entirety, and the following is hereby substituted therefor:

C. Anything else in this Article V to the contrary notwithstanding, the Owner of each parcel of real property within the Project shall be assessed and pay not less than \$.03 plus COLA for each vote that such Owner is entitled to cast, calculated in accordance with the sum of paragraph 3.A. and paragraph 3.B. of Article III hereof, to fund CAAPs ("CAAP Assessments"); provided, however, the Association Board shall have the right, in its discretion, to waive the assessment and collection of the User Group CAAP Fees portion of the CAAP Assessments which would otherwise be payable in 2012 and 2013; and provided further, the Association Board may allow a credit of up to 75% of any User Group's CAAP Assessments for activities approved in advance (as used in this paragraph "Qualifying Activities") which, in the Association's discretion, contribute to the purposes of CAAPs. CAAP Assessments shall be allocated and administered in the manner set forth in Section III.4.E. of this Fourth Amended and Restated Declaration of Covenants, Conditions and Restrictions.

(i) For purposes of the maximum 75% credit referred to above, the following shall be deemed Qualifying Activities to the extent conducted by the SBSRD on Parcel A (or by other Owners on other parcels for cost referred to in paragraph V.2.C.(i) (a) of this Article V):

- (a) Cost of construction and maintenance of capital improvements freely accessible to the public, such as "pocket parks."
- (b) Incremental cost of initial improvements made to a field house to accommodate use of such facility as a convention center.
- (c) Incremental cost of initial improvements made to a swimming pool to accommodate year round operation, as compared to seasonal operations only.
- (d) Incremental cost of operation and maintenance of a swimming pool to accommodate year round operation, as compared to seasonal operations only.

(ii) The cost of such Qualifying Activities described in paragraphs 2.C.(i)(a), (b) and (c) of this Article V shall be divided by ten (10) plus COLA to determine the yearly credit hereunder and shall be available perpetually as such credit until disqualified as hereinafter provided. Such credit shall begin in the first full year after completion of such Qualifying Activities and shall continue for each successive year until the year of cessation of use of such capital facilities for the purposes for

which such credit was given. Such credit shall resume in the first full year after such capital facilities resume the use for the purposes for which such credit is provided. Respecting 2.C.(i)(b), the facility must be utilized ten (10) days per calendar year for non-athletic events such as concerts and conventions to qualify for the credit. Respecting 2.C.(i)(c) and (d), and the swimming pool must be available for use 90 days during the period between Thanksgiving and Easter, inclusive to qualify for the credit. In any year, credit for Qualifying Activities in excess of 75% of CAAP Assessments shall not carry forward to successive years.

Section 1.7 Notice and Payment of Assessments. Section V.2.E. of the Declaration is hereby deleted in its entirety, and the following is hereby substituted therefor:

E. Notice and Payment. The Association shall notify each Owner in writing as to the amount of the Annual Assessment at the annual Owners' meeting, or as soon as reasonably practical after the annual Association meeting. Except as otherwise elected by the Association pursuant to this Paragraph E, each Annual Assessment shall be payable in one (1) annual installment, due on or before the forty-fifth (45th) calendar day of the fiscal year for which such Annual Assessment is payable; provided, however, the Association shall have the right, in its discretion, to bill and collect any Annual Assessment on a quarterly basis, in advance on or before the commencement of any quarter. Any election by the Association to bill and collect any Annual Assessment on a quarterly basis, or to revert from a quarterly basis to an annual basis, shall require written notice to each Owner at least thirty (30) days prior to the applicable fiscal year. All unpaid installments of any Assessments shall bear interest at the rate established by the Association, which rate shall not exceed the lesser of (i) eighteen percent (18%) per annum and (ii) the maximum rate permitted by applicable law, from fifteen (15) days after the date each such installment becomes due until paid. The Association shall also have the right to assess a late fee of up to five percent (5%) of any Assessment installment not paid within fifteen (15) days following the due date thereof. The failure of the Association to give timely notice of any Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such Assessment or any other Assessment.

ARTICLE II GENERAL PROVISIONS

Section 2.1 Constructive Notice and Acceptance. Every Person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and easement contained herein, by reference and otherwise, whether or not any reference to the Declaration or this Amendment is contained in the instrument by which such Person acquired an interest in the Property.

Section 2.2 Prior Actions. The Members hereby ratify and affirm all actions taken by the Association Board from and after July 15, 2011.

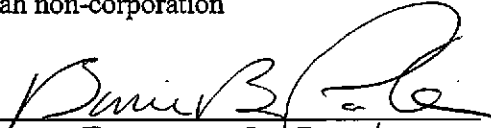
Section 2.3 Mutuality; Reciprocity; Runs with Land. All restrictions, conditions, covenants and easements contained herein, by reference or otherwise, (i) are made for the direct, mutual and reciprocal benefit of each and every portion of the Property, (ii) shall create mutual, equitable servitudes upon each portion of the Property in favor of every other portion, (iii) shall create privity of estate between all grantees of said portions or interests therein, their heirs, successors and assigns, and (iv) shall, as to each Owner and the heirs, successors and assigns of said Owner, operate as covenants running with the land for the benefit of all other portions of the Property.

Section 2.4 Attorneys' Fees and Costs. If any Owner brings or commences any legal action or proceeding, or takes any other action, to enforce any of the terms of this Amendment (or for damages by reason of an alleged breach of this Amendment) or in connection with any of the transactions contemplated in this Amendment against any other Owner(s), the prevailing Owner(s) in such action shall be entitled to recover from the other Owner(s) all costs and expenses incurred in connection therewith, including reasonable attorneys' fees and costs.

Section 2.5 Recordation. This Amendment shall be recorded in the Official Records of Summit County, Utah.

IN WITNESS WHEREOF, the Association has executed this Amendment as of the date first above written.

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

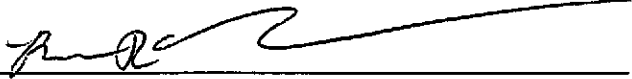
By: 
Name: Bonnie B Park
Title: Vice-President

"Association"

STATE OF Utah

COUNTY OF Summit

This instrument was acknowledged before me on June 1, 2012, by Bonnie Park as Vice-President of NEWPARK OWNERS ASSOCIATION, INC., a Utah non-profit corporation.



Notary Public

My appointment expires: 09/06/2015

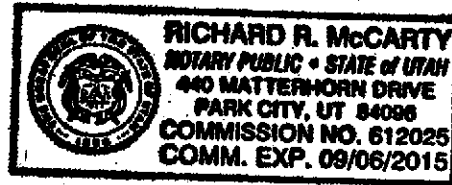


EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

BEGINNING at the intersection of the extension of the East Line of The Village at Kimball Junction, a subdivision recorded March 11, 1992, as Entry No. 355411 on file at the Summit County Recorder's Office and the Southerly right-of-way line of I-80, said point being South 89°47'32" East along the Section Line 2665.60 feet and South 00°05'40" East 662.65 feet and South 68°45'09" East 4.13 feet from the Northwest Corner of Section 19, Township 1 South Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 00°01'00" East 2662.16 feet between said Northwest Corner and the West Quarter Corner of said Section 19); and running thence along said Southerly right-of-way line of I-80 the following three (3) courses: 1) thence South 68°45'09" East 61.64 feet to a Right-of-Way Brass Cap; 2) thence South 70°15'49" East 121.75 feet to a Right-of-Way Brass Cap; 3) thence South 72°09'40" East 853.08 feet; thence South 17°50'20" West 160.83 feet; thence South 44°50'21" West 274.42 feet; thence South 276.32 feet; thence South 44°59'21" West 222.70 feet; thence South 44°59'32" East 112.82 feet; thence South 00°00'28" West 88.14 feet; thence South 45°00'28" West 222.44 feet; thence South 00°00'16" East 47.66 feet; thence South 44°59'32" East 142.15 feet; thence South 00°00'28" West 224.85 feet; thence South 45°00'28" West 108.12 feet; thence South 00°00'28" West 44.51 feet; thence South 45°00'00" East 111.12 feet; thence South 00°02'15" West 225.00 feet; thence South 30°38'35" West 94.22 feet; thence West 89.67 feet; thence South 45°00'28" West 107.25 feet; thence South 25°14'08" West 186.89 feet to a point of curvature of a 165.41 foot radius curve to the right, the center of which bears North 64°45'52" West; thence Southwesterly along the arc of said curve 384.81 feet through a central angle of 133°17'30" to the East Line of said the Village at Kimball Junction Subdivision; thence North 00°16'14" West along said East Line and its extension 2545.07 feet to the POINT OF BEGINNING.

Summit County Tax Serial Numbers: NPRK-K-AM, NPRK-OS-A, NPRK-P-1, NPRK-P-2, NPRK-Q-AM, NPRK-RP, NPRK-S, NPRK-T-1-AM, NPRK-T-2-AM, NPRK-V-1-AM, NPRK-V-1-2-AM, NPRK-V-2-2AM, NPSWAN-1, NPTCR-R-1, NPTCR-R-2, NPKTH-1-1 through NPKTH-1-25, NPKTH-2-26 through NPKTH -2-46, inclusive, and NPKTH-3-47 through NPKTH-3-95, inclusive, NPC-201 through NPC-223, inclusive, NPC-301 through NPC-323, inclusive, NPC-401 through NPC-423, inclusive and NPC-C-1 through NPC-C-10, inclusive.