

AGREEMENT FOR RECORDING SUBDIVISION PLAT IN
SARATOGA SPRINGS, UTAH SPECIAL IMPROVEMENT
DISTRICT 2005-1

THIS AGREEMENT is made and entered into as of March 28th, 2006 by and between the CITY OF SARATOGA SPRINGS (the "City") and SUMMIT DEVELOPMENT & MANAGEMENT, LLC ("Developer").

ENT 60998:2006 PG 1 of 4
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2006 May 17 2:49 pm FEE 0.00 BY SS
RECORDED FOR SARATOGA SPRINGS CITY

RECITALS:

- A. Developer has obtained final plat approval for the HARBOR BAY PHASE 2 SUBDIVISION covering 7.898 acres with 23 Lots (the "Subdivision").
- B. In order for Developer to record the Subdivision the City needs to be able to provide to secondary water service and culinary water service to the Subdivision. In order to be able to construct the facilities necessary to provide secondary and culinary water service to the Subdivision and other property in the same area, the City has formed the Saratoga Springs, Utah Special Improvement District 2005-1 (the "SID").
- C. The land covered by the Subdivision is included in the SID and is subject to the SID assessments. The SID provides that before any subdivision plat can be recorded, the full amount of the SID assessments must be paid and the land covered by the subdivision must be released from the levy for the SID assessments. The water facilities covered by the SID have not been completely constructed and, as a result, the amount of the SID assessment has not been established or levied.
- D. The parties are entering into this Agreement in order to set out Developer's commitment to pay the anticipated assessments so that the subdivision plat for the Subdivision (the "Plat") can be recorded prior to levying the SID assessment.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants, conditions and terms hereinafter set forth and for the consideration set forth in the Recitals, the parties hereby agree as follows:

- 1. Payment of Estimated SID Assessments. The SID covers the secondary water facilities necessary to provide secondary water service to the Subdivision and other lands in the SID and also covers some culinary water facilities to provide culinary water service to the Subdivision and other land in the SID that cannot be built with the portion of the culinary water connection fees available to the City to build additional culinary facilities. The City intends to levy separate assessments for the secondary water facilities (the "Secondary Assessment") and the culinary water facilities (the "Culinary Assessment"). Developer Agrees to pay the estimated Secondary Assessment and the estimated Culinary Assessment as provided in this Agreement.

1.1. Estimated Secondary Assessment. The estimated per acre assessment for secondary water facilities is expected to be less than the secondary connection fees charged by the City. The SID provides for the payment of secondary connection fees upon recording a subdivision plat less a credit for any Secondary Assessments paid prior to recording. Therefore the payment of the secondary connection fees for the Subdivision shall be considered as payment of the Secondary Assessment. The amount of the secondary connection fees to be paid prior to recording the Plat is \$45,000.00. Developer understands and agrees that it will not be reimbursed for any secondary connection fees paid in connection with the recording of the Plat.

1.2. Estimated Culinary Assessment. The estimated Culinary Assessment is \$2,500.00 per acre. Developer shall pay \$19,745.01 prior to recording the Plat as the estimated Culinary Assessment. Developer understands and agrees that the Culinary Assessment is in addition to and not in lieu of culinary connection fees and that lot owners will be required to pay culinary connection fees in order to obtain building permits in the Subdivision. Developer also understands and agrees that it will not be reimbursed for the Culinary Assessments.

2. Reimbursement or Payment Upon Levying SID Assessment. Upon the completion of the construction of the water facilities covered by the SID, Secondary Assessments and the Culinary Assessments will be levied on the property covered by the SID on a per acre basis pursuant to the requirements of Utah law. In setting the per acre assessments to be levied against property in the SID, the assessment will be based on all property originally covered by the SID, including the Subdivision, paying an equal proportionate share of the costs of the facilities even though the Subdivision and other property are prepaying the estimated assessments as provided in this Agreement and shall not be subject to assessment levies.

2.1 Secondary Assessments. The City is quite certain that the per acre Secondary Assessment will be less than the amount of the secondary connection fees for the Subdivision. The secondary connection fees in excess of the Secondary Assessment will be used to build additional secondary facilities helpful to provide secondary water to the Subdivision. Therefore, there is no need to provide for collection of additional amounts for the Secondary Assessment or to provide for reimbursement of Secondary Assessment upon the levy of the Secondary Assessments.

2.2. Culinary Assessments. At such time as the per acre Culinary Assessment for the SID is determined and levied by the City, the Culinary Assessment to be levied may be higher or lower than the estimated Culinary Assessment paid by Developer pursuant to this Agreement. If the estimated Culinary Assessment paid pursuant to this agreement is higher than the Culinary Assessment levied against property in the SID, the City shall reimburse Developer for difference between the amount paid pursuant to this Agreement and the amount of the levied Culinary Assessment. Such reimbursement shall be paid within 60 days after the ordinance levying Culinary Assessment becomes effective. If the estimated Culinary Assessment paid pursuant to this Agreement is lower than the Culinary Assessment levied against property in the SID, Developer agrees to pay the City the difference between the amount paid pursuant to this

Agreement and the amount that would have been levied for the Culinary Assessment. The Developer shall pay such difference within 60 days from the City's billing for the same. Developer's obligation to pay such difference shall be the personal obligation of the Developer and shall not be a lien upon the property covered by the Subdivision. However, Developer agrees that if it does not pay the difference within 60 days of billing by the City, the City may record a lien against any other property owned by Developer in the City and agrees that such a notice shall create a valid lien against such property to assure collection of the amount owed to the City.

3. Release of SID Assessment. Upon payment of the amounts provided in this Agreement, the City shall deliver to the Developer for recording a release and discharge of the lien of any assessment under the SID for the land covered by the Subdivision. The City will require the recording of that release prior to or at the time of the recording of the Plat to assure that the purchasers of lots in the Subdivision are not liable for the SID assessments.

4. Miscellaneous Provisions.

4.1. Time is of the Essence. It is agreed that time is of the essence in the performance of duties and obligations under this Agreement.

4.2 Notices. Any notice given under this Agreement shall be in writing and shall be delivered personally, be sent by facsimile transmission ("Fax") or be mailed by first class or express mail, addressed as follows:

To City: City of Saratoga Springs
 1307 North Commerce Drive, Suite 200
 Saratoga Springs, Utah 84043
 Attention: Ken Leetham
 Fax No. (801) 766-9794

To Developer: Summit Development & Management, LLC
 1270 West 1130 South, Suite 145
 Orem, UT 84058
 Attention: Ronald Johnston
 Fax No. (801) 764-9874

or at such other address as either party may designate by written notice to the other party as herein provided. Notice shall be deemed given when actually received if personally delivered; if sent by fax, when the fax is received, except that if the fax is received after normal business hours of the office at which it is received, on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States mail properly addressed and postage prepaid.

4.3. Covenant of Further Assurances. The parties to this Agreement agree to cooperate with each other in effectuating the terms and conditions of this Agreement and agree to execute such further agreements, conveyances and other instruments as may be reasonably required to carry out the intents and purposes of this Agreement.

4.4. Agreement Associated with Development. The rights and obligations of Developer under this Agreement are directly connected to and associated with the Development and the rights and duties of Developer under this Agreement may not be transferred or assigned except in connection with the assignment of the development rights for the Development without the written consent of the City.

4.5. Construction. This Agreement shall be governed and construed in accordance with the laws of the State of Utah. All section titles or captions of this Agreement are for convenience only and shall not be deemed part of this Agreement and in no way define, limit, augment, extend or describe the scope, content or intent of any part of this Agreement

4.6. Waiver. No failure or delay in exercising any right, power or privilege under this Agreement on the part of any party shall operate as a waiver thereof. No waiver shall be binding unless executed in writing by the party making the waiver.

4.7. Attorneys' Fees. The parties agree that should any party default in any of the covenants or agreements herein contained, the defaulting party shall pay all costs and expenses, including reasonable attorney's fees, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first hereinabove written.

CITY OF SARATOGA SPRINGS

By: [Signature]
Mayor

ATTEST:

[Signature]
Recorder



SUMMIT DEVELOPMENT & MANAGEMENT, LLC

[Signature]
Heath Johnston, Manager