

WHEN RECORDED MAIL TO:

Clark K. Taylor, Esq.  
36 South State Street  
Suite 1900  
Salt Lake City, UT 84111

**ENTRY NO. 00841836**

04/11/2008 04:03:17 PM B: 1924 P: 0391

Assignment PAGE 1/17  
ALAN SPRIGGS, SUMMIT COUNTY RECORDER  
FEE 51.00 BY SMITH KNOWLES PC



### ASSIGNMENT AND ASSUMPTION OF OBLIGATIONS

THIS ASSIGNMENT AND ASSUMPTION OF OBLIGATIONS is made as of April 11, 2008, by **NORTH SUMMIT DEVELOPMENT, L.C.**, a Utah Limited Liability Company ("Assignor"), in favor of **CEDAR HEIGHTS DEVELOPMENT, LC**, a Utah Limited Liability Company ("Assignee") with reference to the following facts:

A. Assignor is the owner of certain lands in Coalville City, Summit County, Utah, which are more particularly described on Exhibit A attached hereto (the "Cedar Heights Property").

B. United Park City Mines Company, a Delaware corporation ("UPCM"), is the owner of approximately 800 acres of lands in Summit County, Utah, which are more particularly described on Exhibit B hereto (the "UPCM Lands"). The UPCM Lands adjoin the Cedar Heights Property.

C. Assignor and UPCM entered into an Agreement dated March 15, 2006 (the "Agreement"), a copy of which is attached as Exhibit C hereto. Among other things the Agreement provides for the exchange of certain parcels, the acknowledgment of a prescriptive easement, and the granting of certain easements, all on the terms and provisions set forth in the Agreement. The provisions of the Agreement constitute covenants running with and for the benefit of the Cedar Heights Property and the UPCM Lands, and are binding upon Assignor, UPCM, and their respective successors and assigns. Section 10 of the Agreement provides that any successor or assign to the interest of Assignor in all or any part of the Cedar Heights Property shall assume in writing all of the obligations of Assignor under the Agreement as to the lands conveyed or assigned.

D. Assignor has entered into a contract to sell the Cedar Heights Property to Assignee. In connection with such sale, and in order to satisfy the provisions of Section 10 of the Agreement, Assignor has agreed to sell and assign to Assignee, and Assignee has read, reviewed, understood and agreed to assume all of the rights and obligations of Assignor under the Agreement. Assignor and Assignee intend that this Assignment and Assumption of Obligations be executed and delivered by each party and recorded in the records of Summit County immediately prior to the recording of the deed from Assignor to Assignee conveying the Cedar Heights Property.

NOW THEREFORE, in consideration of the foregoing facts and the sale and purchase of the Cedar Heights Property:

1. Assignor hereby assigns, transfers and conveys to Assignee all of the rights, benefits and obligations of Assignor under the Agreement.

2. Assignee has read, reviewed and understands the terms of the Agreement and hereby agrees to and accepts such assignment and, in addition, expressly assumes and agrees to keep, perform and fulfill all of the terms, obligations, covenants, agreements, warranties, representations, and indemnities required to be kept, performed and fulfilled by Assignor under the Agreement.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption of Obligations as of the date first set forth above.

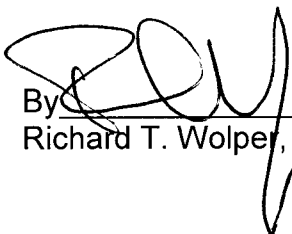
ASSIGNOR:

**NORTH SUMMIT DEVELOPMENT, L.C.,**  
a Utah Limited Liability Company

By   
\_\_\_\_\_  
Melven E. Smith, Manager

ASSIGNEE:

**CEDAR HEIGHTS DEVELOPMENT, L.C.,**  
A Utah Limited Liability Company

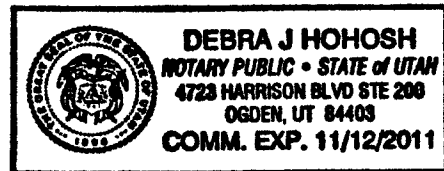
By   
\_\_\_\_\_  
Richard T. Wolper, Manager

STATE OF UTAH )  
 ) ss.  
COUNTY OF WEBER )

The foregoing instrument was acknowledged before me this 11 day of April 2008, by Melven E. Smith, Manager of North Summit Development, L.C., a Utah Limited Liability Company.

Debra J Hohosh  
NOTARY PUBLIC  
Residing at: Ogden, Ut

My commission expires 11-12-11.



STATE OF UTAH )  
 ) ss.  
COUNTY OF WEBER )

The foregoing instrument was acknowledged before me this 11 day of April 2008, by Richard T. Wolper, Manager of Cedar Heights Development, L.C., a Utah Limited Liability Company.

Debra J Hohosh  
NOTARY PUBLIC  
Residing at: Ogden, Ut

My commission expires 11-12-11.

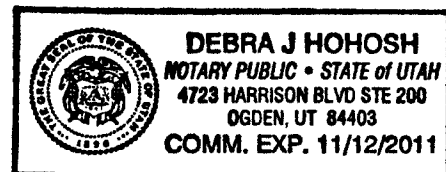


Exhibit A

Legal Description of Cedar Heights Property

Tax ID: CT-250

THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, EXCEPTING THEREFROM THE FOLLOWING: BEGINNING AT THE CENTER OF SAID SECTION 4; AND RUNNING THENCE SOUTH 6.50 CHAINS; THENCE EAST 1.28 CHAINS; THENCE NORTH 30°41' EAST 5.27 CHAINS; THENCE NORTH 48°35' EAST 2.97 CHAINS; THENCE WEST 6.19 CHAINS TO THE PLACE OF BEGINNING. AT THE END OF THE 1.50 CHAINS ON THE THIRD COURSE THERE IS A MINUS OFFSET BOUNDED BY A REGULARLY CURVED LINE WHICH TERMINATES AT THE END OF THE THIRD CHAIN AND WHOSE GREATEST DISTANCE FROM THE GIVEN LINE AT THE POINT OF OFFSET IS (.75) CHAINS. THERE IS ALSO A PLUS OFFSET AT THE END OF THE FOURTH CHAIN ON THE SAME COURSE WHOSE GREATEST DISTANCE AT THE POINT OF OFFSET IS (.75) CHAINS AND WHICH TERMINATES AT THE END OF SAID COURSE. (Serial No. CT-250.)

TOGETHER WITH THE FOLLOWING DESCRIBED REAL PROPERTY:

(East Detention Basin)

BEGINNING AT A POINT EAST 3,997.28 FEET AND NORTH 1,787.15 FEET FROM THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 2 NORTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN. THENCE AS FOLLOWS: S 90°00'00" E 131.51 FEET; THENCE S 00°00'00" W 264.69 FEET; THENCE S 89°53'03" W 131.30 FEET TO THE COALVILLE CITY BOUNDARY; THENCE N 00°02'45" W 264.96 FEET ALONG SAID BOUNDARY LINE TO THE POINT OF BEGINNING. (Part of NS-329)

LESS AND EXCEPTING THE FOLLOWING DESCRIBED PARCELS A AND B:

Parcel A (North Culinary Tank, Irrigation Reservoir and Debris Basin Parcel):

*Part of  
CT-250 &  
NS-340*

A PART OF THE EAST HALF OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN. BEGINNING AT A POINT THAT IS EAST 3,740.57 AND NORTH 2,257.40 FEET FROM THE NORTHWEST CORNER OF SECTION 9, T. 2 N., R. 5 E., SLB&M (BASIS AND BEARING: SOUTH 5,306.31 FEET FROM THE NORTHWEST CORNER TO THE SOUTHWEST CORNER OF SAID SECTION 9). THENCE AS FOLLOWS: N 34°36'00" W 434.38 FEET TO THE COALVILLE CITY BOUNDARY LINE; THENCE N 89°37'15" W 139.27 FEET ALONG SAID CITY BOUNDARY; THENCE N 35°32'04" E 738.63 FEET; THENCE S 49°30'58" E 277.94 FEET; THENCE S 00°14'41" E 459.33 FEET; THENCE S 21°30'29" W 94.56 FEET; THENCE S 39°07'03" W 96.99 FEET; THENCE SOUTHWESTERLY 45.32 FEET ALONG A CURVE TO THE RIGHT (R=180.00' DELTA=14°25'35" T=22.78' CH=45.20' CHB=S 46°19'50" W); THENCE S 53°32'38" W 33.22 FEET; THENCE SOUTHWESTERLY 16.62 FEET ALONG A CURVE TO THE RIGHT TO A CURVE TO THE LEFT (R=18.00' DELTA=52°54'09" T=8.96' CH=16.04' CHB=S 79°59'42" W); THENCE SOUTHWESTERLY 116.89 FEET ALONG A CURVE TO THE LEFT TO A CURVE TO THE RIGHT (R=45.00' DELTA=148°49'33" T=161.31' CH=86.69' CHB=S 32°02'00" W); THENCE SOUTHEASTERLY 20.01 FEET ALONG A CURVE TO THE RIGHT TO A CURVE TO THE RIGHT (R=18.00' DELTA=63°42'30" T=11.18' CH=19.00' CHB=S 10°31'32" E); THENCE SOUTHWESTERLY 11.57 FEET ALONG A CURVE TO THE RIGHT TO A CURVE TO A NON-TANGENT LINE (R=185.00' DELTA=03°35'02" T=5.79' CH=11.57' CHB=S 23°07'14" W); THENCE N 90°00'00" W 38.59 FEET TO THE POINT OF BEGINNING.

Parcel B (UPCM Access Road Parcel):

*Part of CT-250*

BEGINNING AT A POINT EAST 3,997.28 FEET AND NORTH 2,436.86 FEET FROM THE NORTHWEST CORNER OF SECTION 9, T.2N., R 5E., SLB&M. THENCE AS FOLLOWS: S 39°06'39" W 78.32 FEET; THENCE SOUTHWESTERLY 60.43 FEET ALONG A CURVE TO THE RIGHT TO A TANGENT LINE (R=240.00' DELTA=14°25'36" T=30.38' CH=60.27' CHB=S 46°19'50" W); THENCE S 53°32'38" W 45.75 FEET; THENCE NORTHWESTERLY 65.27 FEET ALONG A CURVE TO THE LEFT TO A NON-TANGENT LINE (R=55.00' DELTA=67°59'30" T=37.09' CH=61.50' CHB=N 23°47'12" W); THENCE N 53°32'38" E 32.24 FEET; THENCE NORTHEASTERLY 45.32 FEET ALONG A CURVE TO THE RIGHT/LEFT TO A TANGENT LINE (R=180.00' DELTA=14°25'32" T=22.78' CH=45.20' CHB=N 46°19'50" E); THENCE N 39°07'03" E 97.00 FEET; THENCE N 21°30'29" E 94.56 FEET TO THE EASTERN BOUNDARY OF COALVILLE CITY; THENCE S 00°02'45" E 140.30 FEET ALONG SAID BOUNDARY TO THE POINT OF BEGINNING.

SUBJECT TO THE FOLLOWING THREE (3) EASEMENTS:

- 1) THAT CERTAIN "CORRECTIVE UTILITY EASEMENT" EXECUTED ON APRIL 9, 2008 BY NORTH SUMMIT DEVELOPMENT, L.C., A UTAH LIMITED LIABILITY COMPANY, AS GRANTOR, IN FAVOR OF COALVILLE CITY, A MUNICIPALITY, AS GRANTEE, AND FILED IN THE OFFICE OF THE SUMMIT COUNTY RECORDER IN BOOK NO. 1923 ON PAGE NO. 1806 AS ENTRY NO. 00841683.
- 2) THAT CERTAIN "CORRECTIVE GRANT OF ACCESS AND UTILITY EASEMENTS (ACCESS AND UTILITY RESERVATION PARCEL)" EXECUTED ON APRIL 9, 2008 BY NORTH SUMMIT DEVELOPMENT, L.C., A UTAH LIMITED LIABILITY COMPANY, AS GRANTOR, IN FAVOR OF UNITED PARK CITY MINES COMPANY, A DELAWARE CORPORATION, AS GRANTEE, AND FILED IN THE OFFICE OF THE SUMMIT COUNTY RECORDER IN BOOK NO. 1923 ON PAGE NO. 1818 AS ENTRY NO. 00841685.
- 3) THAT CERTAIN "CORRECTIVE GRANT OF ACCESS AND UTILITY EASEMENTS" EXECUTED ON APRIL 9, 2008 BY NORTH SUMMIT DEVELOPMENT, L.C., A UTAH LIMITED LIABILITY COMPANY, AS GRANTOR, IN FAVOR OF UNITED PARK CITY MINES COMPANY, A DELAWARE CORPORATION, AS GRANTEE, AND FILED IN THE OFFICE OF THE SUMMIT COUNTY RECORDER IN BOOK NO. 1923 ON PAGE NO. 1809 AS ENTRY NO. 00841684.

## Exhibit B

### UPCM Lands

Tax ID: NS-329

All of Section 3, T2N, R5E, SLBM, containing approximately 648.97 acres, and

Lot 1, and the SE1/4 of the NE1/4, and the E1/2 of the SE1/4 of Section 4, T2N, R5E, SLBM, containing approximately 162.27 acres.

Together with the following described parcel:

(UPCM Access Road Parcel)

BEGINNING AT A POINT EAST 3,997.28 FEET AND NORTH 2,436.86 FEET FROM THE NORTHWEST CORNER OF SECTION 9, T.2N., R 5E., SLB&M. THENCE AS FOLLOWS: S 39°06'39" W 78.32 FEET; THENCE SOUTHWESTERLY 60.43 FEET ALONG A CURVE TO THE RIGHT TO A TANGENT LINE (R=240.00' DELTA=14°25'36" T=30.38' CH=60.27' CHB=S 46°19'50" W); THENCE S 53°32'38" W 45.75 FEET; THENCE NORTHWESTERLY 65.27 FEET ALONG A CURVE TO THE LEFT TO A NON-TANGENT LINE (R=55.00' DELTA=67°59'30" T=37.09' CH=61.50' CHB=N 23°47'12" W); THENCE N 53°32'38" E 32.24 FEET; THENCE NORTHEASTERLY 45.32 FEET ALONG A CURVE TO THE RIGHT/LEFT TO A TANGENT LINE (R=180.00' DELTA=14°25'32" T=22.78' CH=45.20' CHB=N 46°19'50" E); THENCE N 39°07'03" E 97.00 FEET; THENCE N 21°30'29" E 94.56 FEET TO THE EASTERN BOUNDARY OF COALVILLE CITY; THENCE S 00°02'45" E 140.30 FEET ALONG SAID BOUNDARY TO THE POINT OF BEGINNING. (Part of Tax ID: CT-250)

**Exhibit C**

**Agreement dated March 15, 2006**

**(See Attached.)**

**NOTE: The Exhibits to the Agreement dated March 15, 2006 have been omitted from this Exhibit C.**

## AGREEMENT

THIS AGREEMENT (this "Agreement") is made and entered as of the 15<sup>th</sup> day of March, 2006, by and between United Park City Mines Company, a Delaware corporation (hereinafter "UPCM"), and North Summit Development, L.C., a Utah limited liability company (hereinafter "North Summit"). UPCM and North Summit are sometimes hereinafter individually referred to as the "Party" and collectively referred to as the "Parties".

### RECITALS

A. North Summit is the Owner of approximately thirty-six point eighty-five (36.85) acres in Coalville City (the "City"), Summit County (the "County"), State of Utah, as more particularly described on Exhibit A attached hereto (the "Cedar Heights Property"), upon which North Summit desires to create a subdivision to be known as the Cedar Heights P.R.U.D.

B. North Summit has submitted to the City a subdivision plat for the Cedar Heights P.R.U.D. which provides for the subdivision of the Cedar Heights Property into approximately one hundred four (104) to one hundred forty (140) separate building lots. A copy of such submitted subdivision is attached hereto as Exhibit B.

C. UPCM owns approximately eight hundred (800) acres of property in Summit County, State of Utah, as more particularly described on Exhibit C attached hereto (the "UPCM Property"), which abuts the Cedar Heights Property to the east. The location of the Cedar Heights Property and the UPCM Property are depicted on Exhibit D attached hereto.

D. UPCM, and its predecessors, have for over twenty years continuously traveled across the Cedar Heights Property for ingress and egress to the UPCM Property, and, therefore, UPCM has acquired a prescriptive access easement across the Cedar Heights Property in the location shown on Exhibit E (the "Prescriptive Easement").

E. Because the Prescriptive Easement is the only practical access to the UPCM Property, the City has discussed with North Summit providing access to the UPCM Property over the Cedar Heights Property.

F. Although UPCM and its predecessors have historically used the UPCM Property for agricultural, grazing, mining and other non-residential purposes, UPCM anticipates converting the use of the UPCM property into a residential development at some future date. UPCM desires to obtain, by way of fee title and easement, the unrestricted right of ingress and egress over, and the right to provide utility service under and over, the Cedar Heights Property to the UPCM Property.





G. North Summit desires to install a detention pond on the east side of the Cedar Heights Property to control the flow of storm drainage across the Cedar Heights Property ("Detention Basin"). The proposed location of the Detention Basin is on the UPCM Property, as depicted on Exhibit B attached hereto. Because the Detention basin is located on the UPCM Property, North Summit desires to obtain fee title to the land designated on Exhibit B for the Detention Basin.

H. In consideration of the mutual interests of the Parties as set forth above and elsewhere in this Agreement, the Parties desire to enter into this Agreement.

**NOW, THEREFORE**, the Parties agree as follows:

1. **Prescriptive Easement.** North Summit acknowledges the existence of the Prescriptive Easement, and agrees not to interfere with the Prescriptive Easement and UPCM's use thereof. The location of the Prescriptive Easement shall initially be the historic location or shall be as relocated by North Summit in connection with developing the internal road system of the Cedar Heights P.R.U.D., as set forth on Exhibit "B". The Prescriptive Easement is subject to expiration and abandonment as set forth below.
2. **North Summit's Grant of Fee Title to Road.** Within forty-five (45) days after the complete execution of this Agreement by the parties, and at least forty-five (45) days prior to North Summit conveying or further encumbering any portion of the Cedar Heights Property, North Summit shall convey to UPCM, by way of Warranty Deed in the form of Exhibit F attached hereto, the property identified on Exhibit B as "United Park City Mines Road and Utility Access." ("North Summit Warranty Deed"). At any time prior to dedicating the road within Phase 3, as shown on Exhibit "B" attached hereto, the Parties agree that UPCM may relocate the property described in the North Summit Warranty Deed to any location within the Access Reservation & Utility Easement Area. In such event the Parties will convey to each other the land necessary to accomplish the above.
3. **North Summit's Grant of Easement For Access and Utilities.** Within forty-five (45) days after the complete execution of this Agreement by the parties, and at least (7) days prior to North Summit conveying or further encumbering any portion of the Cedar Heights Property, North Summit shall convey to UPCM, by way of a non-exclusive perpetual Access and Utility Easement in the form of Exhibit G attached hereto, (i) the unrestricted right of ingress and egress for all purposes to and from the UPCM Property over and across all areas depicted as roads or rights-of-way on Exhibit B attached hereto and on any future plats recorded in connection with the Cedar Heights Property or the Cedar Heights P.R.U.D, and (ii) the unrestricted right for full utility service (including the right to connect and up-size at UPCM's expense) to and from the UPCM Property over,

across and under all areas depicted as roads, common areas, rights-of-way, utility corridors, utility lines and other utility areas on Exhibit B attached hereto and on any future plats recorded in connection with the Cedar Heights Property or the Cedar Heights P.R.U.D. ("Access and Utility Easement").

4. **North Summit's Grant of Easement For Future Access and Utilities Across Access Reservation Parcel.** Within forty-five (45) days after the complete execution of this Agreement by the parties, and at least seven (7) days prior to North Summit conveying or encumbering any portion of the Cedar Heights Property, North Summit shall convey to UPCM, by way of a non-exclusive perpetual Access and Utility Easement in the form of Exhibit H attached hereto, (i) the unrestricted right of ingress and egress for all purposes to and from the UPCM Property over and across all the area depicted as "Access and Utilities Reservation Parcel" on Exhibit B attached hereto, and (ii) the unrestricted right for full utility service to and from the UPCM Property over, across and under the area depicted as Access and Utility Reservation Parcel on Exhibit B attached hereto ("Easement for Future Access and Utility Service"). As set forth on Exhibit H, (i) UPCM may utilize the Access and Utility Reservation Parcel for access and utility service in the event that, in UPCM's sole and absolute discretion, the area subject to the North Summit Warranty Deed is insufficient to provide access and/or utility service to the UPCM Property. In addition, as set forth on Exhibit H, North Summit, and its developer successors and assigns, (i) shall fully cooperate, and not in any way oppose or hinder, UPCM's efforts to convey, dedicate, plat, permit, construct, install, operate and maintain access and utilities within the Access and Utility Reservation Parcel, and (ii) hereby irrevocably grants UPCM the power of attorney to sign all documents to do and perform all acts in and on behalf of North Summit and its developer successors and assigns, binding the same, which in UPCM's sole discretion shall deem necessary, expedient or desirable to convey, dedicate, plat, permit, construct, install, operate and maintain access and utilities within the Access and Utility Reservation Parcel. North Summit shall cause the face of each plat filed with the County relating to the Cedar Heights P.R.U.D. or the Cedar Heights Property to (i) disclose in full the power of attorney set forth in the immediately preceding sentence, and (ii) state that UPCM may locate roads and utilities within the Access and Utility Reservation Parcel without the necessity of obtaining a plat amendment.

5. **North Summit's Representation and Warranty as to Title.** North Summit represents and warrants to UPCM that North Summit holds fee simple absolute title to the Cedar Heights Property, subject only to the exceptions set forth on Exhibit I attached hereto. North Summit shall convey to UPCM the North Summit Warranty Deed, Access and Utility Easement, and the Easement for Future Access and Utility Service subject only to the permitted title exceptions set forth on Exhibit J attached hereto.



6. **Subdivision Plats and Conditions, Covenants & Restrictions to be Subject and Subordinate to and Disclose Grants by North Summit: Disclosure in Marketing Materials.** North Summit shall cause all plats and conditions, covenants and restrictions ("CC&Rs") recorded with the County relating to the Cedar Heights P.R.U.D. or the Cedar Heights Property to be subject and subordinate to those items listed in the Notice of Obligations (as defined below), including the North Summit Warranty Deed, Access and Utility Easement, and the Easement for Future Access and Utility Service, by, with respect to all plats, a specific statement on the face thereof, and, with respect to all CC&Rs, a specific statement therein, which statements shall include the name of each of the foregoing documents and the related County recording information (e.g, date of recording, document number, and book and page numbers). In addition, North Summit shall disclose, by recording in the office of the Recorder of Summit County, the Notice of Obligations (as defined below), the North Summit Warranty Deed, Access and Utility Easement, and the Easement for Future Access and Utility Service and the fact that the Cedar heights P.R.U.D. is subject to the terms thereof.

7. **UPCM's Grant of Title for Detention Basin.** Within forty-five (45) days after the complete execution of this Agreement by the parties, and at least seven (7) days prior to UPCM conveying or further encumbering any portion of the UPCM Property, UPCM shall convey to North Summit, by way of Warranty Deed in the form of Exhibit K attached hereto, the property identified on Exhibit B as the Detention Basin ("UPCM Deed"). As set forth on Exhibit K, the UPCM Deed contains a reservation for the right in favor of UPCM to (a) use the subject property for ingress and egress, provided that such access does not unreasonably interfere with the Detention Basin thereon, and (b) access and use the subject property and the Detention Basin and related infrastructure thereon for purposes relating to the drainage of the UPCM Property. North Summit (initially), and ultimately the Cedar Heights Homeowners Association, or their assigns, shall, at their sole cost and expense, construct and at all times maintain the Detention Basin so that it is safe and in good operable condition. North Summit (initially), and ultimately the Cedar Heights Homeowners Association, or their assigns, shall, at their sole cost and expense, promptly construct and at all times maintain a fence around the Detention Basin, satisfying the specifications set forth below in the paragraph entitled "Fencing". North Summit shall cause the CC&R's to include an obligation on the Cedar Heights Homeowners Association to maintain the Detention Basin and Fencing as set forth above, and upon North Summit doing so, North Summit is released from all obligation for maintenance of the Detention Basin and Fencing.

8. **UPCM's Representation and Warranty as to Title.** UPCM represents and warrants to North Summit that UPCM holds fee simple absolute title to the UPCM Property, subject only to the exceptions set forth on Exhibit K attached hereto. UPCM shall convey to Summit Park the UPCM Deed subject only to the permitted title exceptions set forth on Exhibit L attached hereto.

9. **Abandonment of Prescriptive Easement.** Upon recording with the County of the last of the following documents, all of which shall expire and shall be in strict conformity with this Agreement, the Prescriptive Easement shall expire and shall be abandoned upon the terms set forth below: (i) the Notice of Obligations, (ii) the North Summit Warranty Deed, (iii) Access and Utility Easement, (iv) the Easement for Future Access and Utility Service, (v) all final plats relating to any phase of the Cedar Heights P.R.U.D., and (vi) all dedications as contemplated in paragraph 12 below. Upon recording with the County of the last of such documents, North Summit shall provide written notice to UPCM stating that such all such documents have been filed with the County, triggering the right to have the Prescriptive Easement abandoned. If UPCM agrees that all such documents have been filed with the County, then UPCM shall promptly file with the County an Abandonment of Prescriptive Easement in the form of Exhibit M attached hereto. In the event UPCM disagrees that all such documents have been so filed, then UPCM shall promptly give North Summit notice of the same, and the Parties shall then have available to them any available rights and remedies.

10. **Written Assumption of Obligation by North Summit's Successors.** All developer successors and assigns in interest of North Summit to all or any phase of the Cedar Heights Property shall, as a condition to becoming such an assign or successor, execute and deliver to UPCM, an Assumption of Obligations in the form of Exhibit O attached hereto, under which any such assign or developer successor expressly assumes all of North Summit's obligations, covenants, agreements, warranties, representations and indemnities under this Agreement. No conveyance in violation of the terms of this paragraph shall be effective unless and until the subject Assumption of Obligations has been duly executed and delivered to UPCM, and North Summit shall have the affirmative duty and obligation to ensure that the same occurs. Notwithstanding any such assumption, North Summit shall continue to be bound by all of its obligations, covenants, agreements, warranties, representations and indemnities under this Agreement for so long as it retains, directly or indirectly (except any security interest), an interest in the Cedar Heights Property. The obligations of North Summit under this Agreement run with the Cedar Heights Property and the UPCM Property.

11. **Widening of a Portion of Subdivision Road to Sixty (60) Feet.** North Summit shall construct that portion of the road within the Cedar Heights P.R.U.D. designated for widening to sixty (60) feet, as shown on Exhibit P, and UPCM shall pay to North Summit the incremental cost of constructing the road sixty (60) feet wide rather than forty (40) feet wide as originally planned. North Summit shall amend the Cedar Heights P.R.U.D plat to reflect this widened road, as well as the sixty (60) foot road to be constructed on the land subject to the North Summit Warranty Deed. Subject to the approval of Coalville City, North Summit will, at the time of the rough-grading of the internal road system of the Cedar

Heights P.R.U.D., and at UPCM's expense, also construct the road to be located within the North Summit Warranty Deed area, as engineered, together with associated infrastructure and utilities to be located in or along such road, adjoining cul de sac , and/or the Access & Utility Reservation Parcel.

12. **UPCM to be Co-Grantee with City of Dedications.** Subject to approval by Coalville City, North Summit shall name UPCM as a co-grantee with the City in any deeds or easements creating utility corridors through the Cedar Heights Property. This obligation specifically excludes any obligation to include UPCM in any dedication of easements and roads by plat recordation.

13. **Fencing.** North Summit shall, at the time of the rough-grading of the internal road system of the Cedar Heights P.R.U.D., at its sole cost and expense install a fence along entire length of the easterly boundary of the Cedar Heights Property, including the Detention Basin, with the exception of intrusions as agreed between the Parties to accomplish the purposes of this Agreement. At that same time, an entrance gate will be installed at the expense of UPCM and located at the boundary of the cul de sac contiguous to the North Summit Warranty Deed area. The fence shall be a field fence constructed with wooden and steel posts, 47 inches of mesh with two barbed wire strands on the top, if allowed by the City, or with two barbless wire strands if barbed wire is not permitted, making the fence approximately 57 inches tall. North Summit (initially), and ultimately the Cedar Heights Homeowners Association shall at all times maintain the fence in good condition, except with respect to damage caused by UPCM or its lessees. North Summit shall cause the CC&R's to include an obligation on the Cedar Heights Homeowners Association to maintain the fence as set forth above, and upon North Summit doing so, North Summit is released from all obligation for maintenance of the fence.

14. **Preconstruction Meetings.** Before either Party commences construction of any of the improvements contemplated in this Agreement, the Parties shall have a meeting on the Cedar Heights Property to review the planned construction. The Parties agree to mutually cooperate throughout the entire construction process to ensure that the improvements contemplated in this Agreement will serve the purposes intended while at the same time minimizing the impact of these improvements upon both the UPCM Property and the Cedar Heights Property, and minimizing, without compromising functionality or safety, the costs of installation of the improvements. In the event either Party does not mutually cooperate with such meetings, the other Party may proceed with construction.

15. **Payment of Expenses.** Unless otherwise stated in this Agreement, the Parties shall bear their own expenses for engineering fees, legal fees, costs of construction, and materials.



16. **Recitals**. The above recitals are incorporated herein by reference and made a part hereof.
17. **Duties**. The Parties agree that any duties enumerated in this Agreement shall be binding on their respective successors and assigns.
18. **Amendment**. Any amendment, modification, termination, or rescission affecting this Agreement shall be made in writing, and signed by the Parties.
19. **Successors**. This Agreement shall be binding upon, and inure to the benefit of, the legal representatives, successors and assigns of the Parties hereto.
20. **Severability**. Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.
21. **Governing Law**. This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.
22. **Waiver**. No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.
23. **Captions**. The Captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.
24. **Integration**. This Agreement contains the entire and integrated agreement of the Parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducement, or understandings between the parties and not contained herein shall be of any force or effect.
25. **Ambiguities**. Each of the Parties hereto represents that this Agreement has been reviewed by independent legal counsel employed by the respective Parties for that purpose and that the same represents a document mutually agreed upon by said counsel fairly representing and setting forth the agreement of the Parties. Further, the terms of this Agreement are contractual and are the result of negotiations between the Parties. Each Party has cooperated in the drafting and preparation of this Agreement and hence, in any construction to be made of this Agreement, the same shall not be construed against any single Party.



26. **Authority and Consent.** The Parties represent and warrant that each has the right, legal capacity and authority to enter into, and perform its respective obligations under this Agreement, and that no approvals or consents of any other person, other than the respective Party, are necessary.

27. **Attorney's Fees.** If any Party to this Agreement brings any action to enforce any of the terms of this Agreement or to recover for a breach of this Agreement, then the prevailing Party shall be entitled to recover all attorneys' fees and costs, which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by law, whether such remedy is pursued by filing a suit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

28. **Notice of Obligations.** Within forty-five (45) days after the complete execution of this Agreement, the Parties shall execute and file the Notice of Obligations in the form attached hereto as Exhibit N, which shall create record notice of this Agreement, and the duties and obligations hereunder.

29. **Notices.** All notices shall be in writing and shall be deemed to have been sufficiently given or served when (i) sent by fax to the fax number set forth below and concurrently sent by 1<sup>st</sup> Class U.S. Mail, (ii) personally delivered, (iii) deposited in the United States mail, by registered or certified mail, or (iv) deposited with a reputable overnight mail carrier which provides delivery of such mail to be traced, addressed as follows:

To the UPCM: David J. Smith, Esq.  
United Park City Mines Company  
890 Main Street, Suite 5109  
Park City, Utah 84060  
Fax No. (435) 608-0968

With a copy to: Clark K. Taylor, Esq.  
VanCott, Bagley, Cornwall & McCarthy  
50 South Main Street, Suite 1600  
Salt Lake City, Utah 84144  
Fax No. (801) 534-0058

To North Summit: Gray Jensen  
P.O. Box 1031  
Morgan, Utah 84050  
Fax No. (801) 829-6131

With copy to: Mel Smith  
4723 Harrison Blvd., #200



Ogden, Utah 84403  
Fax No. (801) 476-0399

or to such other address or fax number, and to the attention of such other person or officer as either party may designate in writing by notice.

30. **Facsimile (FAX) Documents.** A signed facsimile transmission of this Agreement, and re-transmission of any signed facsimile transmission, shall be the same as execution and delivery of this Agreement as an original. If the transaction involves multiple parties, facsimile transmission may be executed in counterparts, and such counterparts, taken together, shall constitute one and the same instrument, and each such counterpart shall be deemed an original.

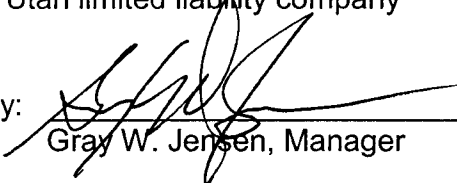
31. **Covenants to Run With Land.** This Agreement and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and all inure to the benefit of the Parties and all who hereafter acquire any interest in the Property and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each owner, now or in the future, of any interest in the Property shall comply with be subject to the terms and provisions of, including any financial obligations contained in, this Agreement. Any reference in this Agreement to North Summit or to UPCM shall also include and bind their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns to the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

United Park City Mines Company,  
a Delaware corporation

By:   
\_\_\_\_\_  
David J. Smith, Authorized Signing Officer

North Summit Development, L.C.,  
a Utah limited liability company

By:   
\_\_\_\_\_  
Gray W. Jensen, Manager



Exhibits:

- A – Legal Cedar Heights Property
- B – Subdivision Plat
- C – Legal of UPK Property
- D – Map depicting both Properties
- E – Prescriptive Easement
- F – Form of Warranty Deed North Summit to UPK
- G - Access and Utility Easement
- H - Easement for Future Access and Utility Service
- I – Exceptions to North Summit Title
- J – Permitted Exceptions to North Summit grants
- K – Exceptions to UPCM Title
- L – Permitted Exceptions to UPCM deed
- M – Notice of Abandonment
- N - Assumption Agreement
- O – Notice of Obligations
- P – Widened Road

A handwritten signature in black ink, appearing to be 'A. B.', located in the bottom right corner of the page.