

## DEVELOPMENT AGREEMENT

This Development Agreement (“**Agreement**”) is made and entered into this 30<sup>th</sup> day of November, 2004, by and between the City of Cedar Hills, a municipality and political subdivision of the State of Utah (the “**City**”) with its principal offices located at 3925 West Cedar Hills Drive, Cedar Hills, UT 84062; Geneva Rock Products, Inc. (“**Geneva**”) with its principal offices located at 1565 West 400 North, Orem, UT 84057; and Savage Companies (“**Savage**”) with its principal offices located at 6340 South 3000 East #600, Salt Lake City, UT 84121.

ENT. 38929:2005 PG 1 of 9  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2005 Apr 13 11:37 am FEE 0.00 BY SB  
RECORDED FOR CITY OF CEDAR HILLS

### RECITALS:

- A. Juniper Heights is a multi-plat subdivision situated within the incorporated area of the City, of which Plats A, B & E have heretofore been developed.
- B. Geneva is the owner of real property located within Juniper Heights, Plats A, B and E, situated within the incorporated area of the City.
- C. Geneva is also the owner of real property located within the proposed Juniper Heights, Plat C, situated within the incorporated area of the City as depicted on Attachment C attached hereto (“**Plat C**”).
- D. Savage is the owner of real property located within the proposed Juniper Heights, Plat D, situated within the incorporated area of the City as depicted on Attachment D attached hereto (“**Plat D**”).
- E. Geneva and Savage now desire to develop Plats C and D in accordance with applicable ordinances and procedures of the City, and the provisions of this Agreement.
- F. The City, acting pursuant to its authority under Utah law and in furtherance of its economic and land use policies, goals, objectives, ordinances, resolutions and regulations, has elected to enter into this Agreement.

### COVENANTS:

In consideration of the mutual covenants, conditions and considerations as more fully set forth below, the City, Geneva and Savage hereby agree as follows:

1. Recitals and Attachments.
  - 1.1 Each of the above Recitals and the Attachment(s) attached hereto are expressly made a part of this Agreement.
2. Plat Approval.
  - 2.1 Approval Process. Approval of individual subdivision plats for Plats C & D shall be submitted to the City and processed and approved by the City, in

accordance with City code provisions applicable under City code to the approval of subdivision plats at the time the plat is submitted.

- 2.2 Dedication and Improvements. Geneva and Savage agree to dedicate or cause to be dedicated to the City all roads, easements, rights of way and other public improvements as depicted on the final plats and as required by City ordinance.
- 2.3 Payment of Fees. Geneva and Savage shall pay usual and customary fees for required permits, plan review, connection fees, inspections, impact fees, etc. Park Land Impact Fees and Culinary Water Impact Fees, pursuant to the City's effective schedule at the time of submittal for preliminary plat approval, shall be paid in full at or before the time of recording of final plats. All other impact fees and other fees shall be paid at the time of building permit for each individual lot.
- 2.4 Compliance with City Standards. Geneva and Savage expressly acknowledge that nothing in this Agreement shall be deemed to relieve either from the obligation to comply with all applicable requirements of the City necessary for approval and recording of subdivision plats.
- 2.5 The City agrees to take all actions necessary, including the holding of public hearings, approving of all action necessary, and executing all documents required to effectuate the intent of the parties herein.

3. Responsibilities of the City.

- 3.1 The City, at its cost, will timely and professionally:
- (a) Complete the design and engineering and cause the construction of all storm drains, sidewalks or pathways, curbs, gutters and paving of Cottonwood Drive and adjust all pressure irrigation valves and sewer manholes to final grade including the Roundabout at the intersection of Cottonwood Drive and Ironwood Drive located within or adjacent to Plat D as shown on the attached Cottonwood Drive cross-sections marked as Attachments 3.1(a)(i) and (ii); and
  - (b) At such time as Geneva has removed all stockpiles of sand, gravel and topsoil from Plat D, which removal shall occur no later than November 30, 2005, the City may commence the development of Lot 12 within Plat D as a park and soccer field(s) with appropriate grading, storm drainage, detention basins, lawn, sidewalks, parking and lighting.

4. License and Easement.

- 4.1 In consideration of the performance by Geneva and Savage pursuant to this Agreement, the City agrees and now grants to Geneva and Savage, a temporary construction license and easement as necessary for Geneva on behalf of itself and Savage, at Geneva's cost, to timely and professionally:
- (a) Install an underground sewer line and storm drain line within Lot 2 of Plat D as depicted on Attachment D to serve the needs of Plats C and D;
  - (b) Construct an above ground storm water detention basin, complete with landscaping, upon Lot 2 of Plat D as depicted on Attachment D to serve the needs of Plats C and D and Cottonwood Drive; and
  - (c) Pave, with asphalt or other acceptable impervious surface, a pathway to a width of approximately ten feet (10'), within and upon the full length of the license and easement referred to in Section 4.1(a) above.
- 4.2 The temporary construction license and easement described in Section 4.1 above shall not exceed a width of twenty-five feet (25') unless specifically permitted by the City upon a showing of necessity. Geneva shall take reasonable care to keep the disturbance of native vegetation and soils to a minimum, and shall reasonably repair all disturbances thereto.

5. Responsibilities of Geneva and Savage.

- 5.1 Geneva, on behalf of itself and Savage, at Geneva's cost, will timely and professionally:
- (a) Cause the placement of an extension of the underground water line within Cottonwood Drive beginning west of the Roundabout intersection with Ironwood Drive and proceeding to the intersection of Ironwood Drive;
  - (b) Subject to Section 6.1 below, cause the placement of all underground utilities required for Plats C & D based upon engineering plans to be approved by the City's engineer (including but not limited to culinary water, pressurized irrigation water, sewer, storm drain, electrical and natural gas), but excluding the items that the City will cause to be placed pursuant to Section 3.1(a) above; and
  - (c) Construct or cause the construction of all sidewalks, curbs, gutters and pave all streets required by the development of Plats C and D, but excluding the items that are the responsibility of the City pursuant to Section 3.1(a) above.

5.2 At the election of the City, Geneva shall contract with the City, at a competitive price, to perform and complete the physical improvements required by the City pursuant to Sections 3.1(a) above. Geneva shall complete said improvements concurrent with Geneva's work required under Section 4.1 above. The City and Geneva shall enter into a separate "Construction Agreement" to accomplish the purposes of this Section 5.2.

6. Utilities Within Cottonwood Drive.

6.1 The City covenants and agrees that in no event will the City require Geneva or Savage to place any underground utilities within Cottonwood Drive between the Roundabout at the intersection of Cottonwood Drive and Ironwood Drive to the south boundary of Cottonwood Drive between Lots 1 and 2 of Plat D except as indicated in Section 5.1(a).

7. Subject to Provision.

7.1 This Agreement is expressly subject to Plats C and D being approved and accepted by the City's Planning and Zoning Commission and the City's Council no later than December 7, 2004.

7.2 If the City fails to approve and accept Plats C and D by 11:59 PM on December 7, 2004, then Geneva and Savage, or either of them, may terminate this Agreement by providing written notice to the City of its intention to terminate. In the event that final approval and acceptance by the City occurs after December 7, 2004, but neither Geneva nor Savage have notified the City of their intent to terminate this Agreement, then the provisions of this Article 7 shall be deemed waived and this Agreement shall continue in full force and effect.

8. Miscellaneous Provisions.

8.1 Agreement to Run with the Land. This Agreement shall be recorded against the property contained within the boundaries of proposed Plats C & D and shall be deemed to run with the land and shall be binding on all successors and assigns of the property.

8.2 Assignment. No part of this Agreement, nor the rights extending herefrom, may be assigned to any other party without the prior written consent of the City.

8.3 No Joint Venture, Partnership, or Third Party Rights. This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor any rights or benefits to individuals or entities not a party hereto.

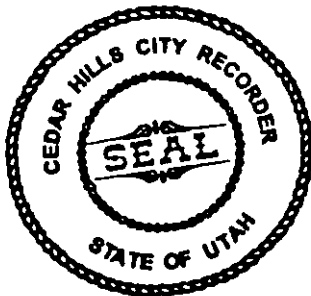
- 8.4 Right of Access. Representatives of the City shall have the reasonable right of access to the property within Plats C & D during the period of construction to inspect or observe any work thereon.
- 8.5 Further Documentation. This Agreement is entered into by all parties with the recommendation and anticipation that subsequent agreements implementing and carrying out the provisions hereof may be necessary. The parties agree to negotiate in good faith with respect to all such future agreements.
- 8.6 Severability. If any provision of this Agreement is deemed by a court of competent jurisdiction to be invalid for any reason, this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance hereof shall remain in full force and effect.
- 8.7 Applicable Law. This Agreement shall be construed in accordance with the law of the State of Utah, with venue in Utah County.
- 8.8 Attorney's Fees. If any part of this Agreement is breached, the party in default agrees to pay the attorney's fees and all costs incurred by the non-defaulting party in the enforcement of this Agreement.
- 8.9 Reimbursement Obligation. Lot 13 of Plat D shall be subject to a reimbursement obligation by the owner who first seeks a building permit to construct permanent improvements thereon. No building permit shall be issued for Lot 13 until the reimbursement obligation has been satisfied in its entirety. The reimbursement obligation shall be comprised of the costs incurred by the City for the construction of one-half of that section of Cottonwood Drive upon which Lot 13 fronts, plus the cost of curb, gutter and sidewalk along the frontage of Lot 13 and one-fourth of the round-about at the intersection of Cottonwood Drive and Ironwood Drive. The owner upon whom this reimbursement obligation is effective should contact the City Engineer of the City of Cedar Hills for an exact computation of costs.

Executed in triplicate as of the date above set forth.

City of Cedar Hills

By: *Michael C. McGee*  
Michael C. McGee, Mayor

Attest: *Kim E. Holindrak*  
Kim E. Holindrak, City Recorder



Geneva Rock Products, Inc.

By: AT Schellenberg  
Albert T. Schellenberg, President

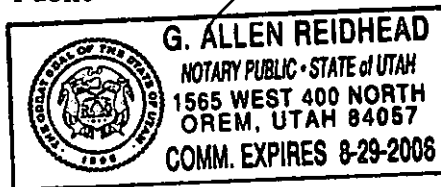
Savage Companies

By: James T. Jensen  
Its: Executive Vice President

State of Utah )  
  :SS  
County of Salt Lake )

The foregoing Development Agreement was acknowledged before me on this 20 day of Nov, 2004, for and on behalf of Geneva Rock Products, Inc., by Albert T. Schellenberg, its President.

G. Allen Reidhead  
Notary Public



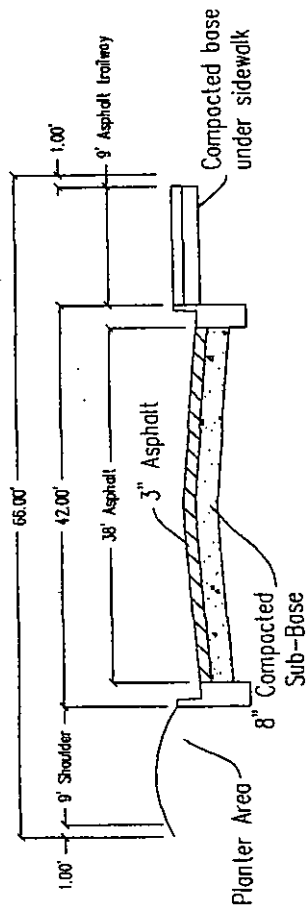
State of Utah )  
  :SS  
County of Salt Lake )

The foregoing Development Agreement was acknowledged before me on this 2nd day of December, 2004, for and on behalf of Savage Companies, by James T. Jensen, its Executive Vice President.

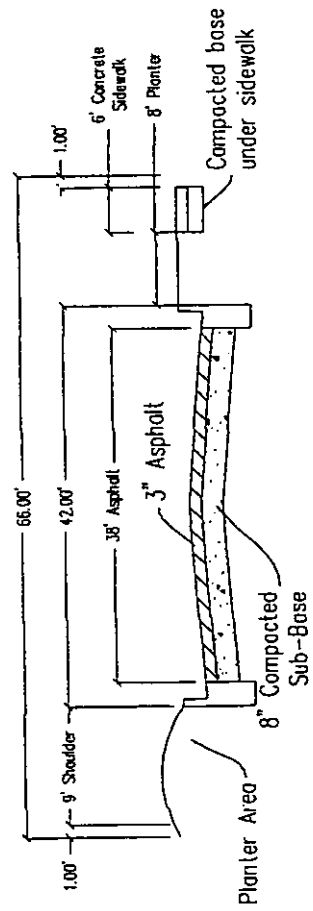
Kristina L Nicol  
Notary Public



Attachment 3.1(a)



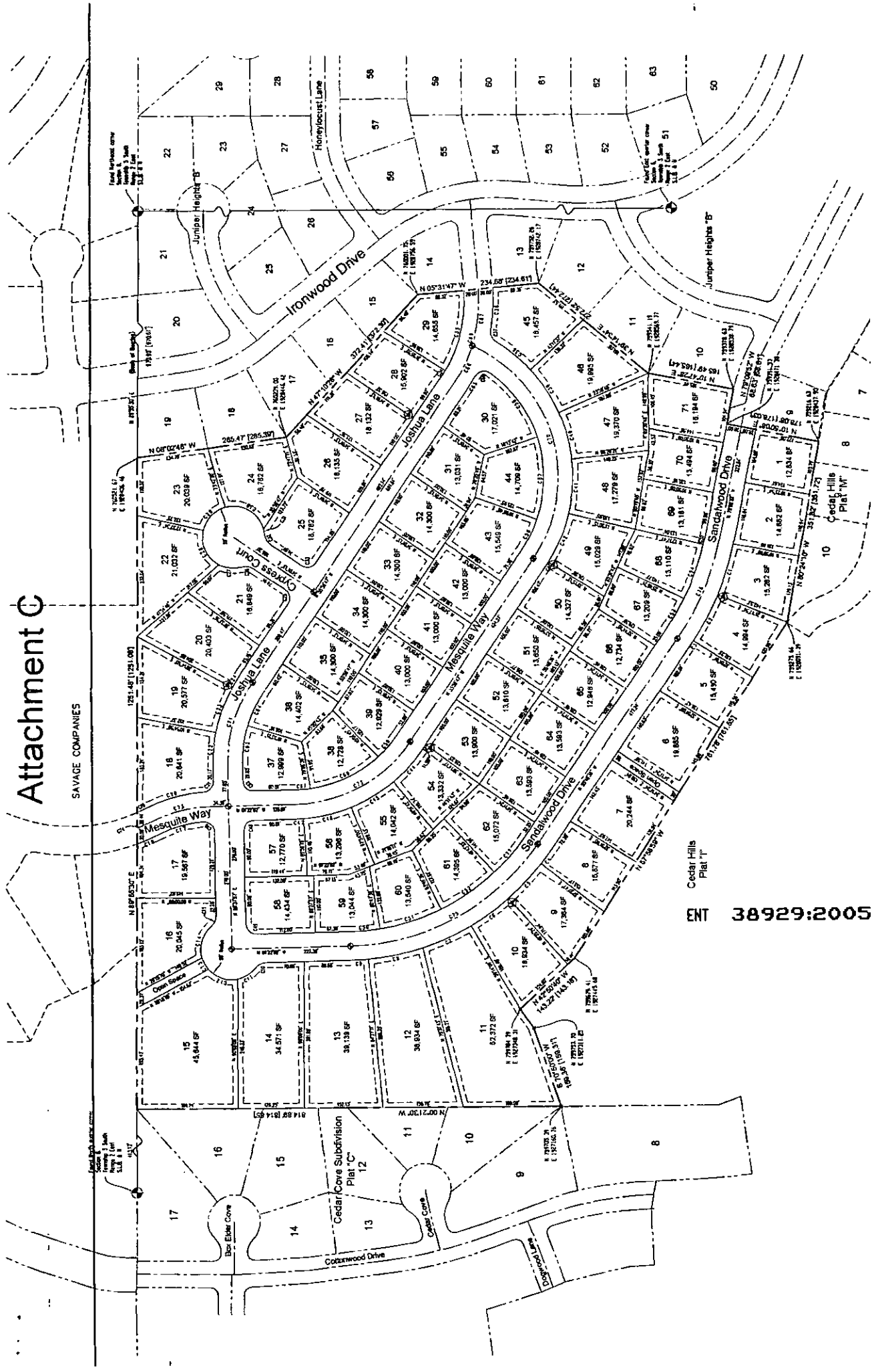
Cottonwood Drive  
Cross Section West of Mesquite Way



Cottonwood Drive  
Cross Section East of Mesquite Way

# Attachment C

SAVAGE COMPANIES





# Attachment D

**Note:**

Area to be deeded to the City:  
Lots 1, 1a, 2 & 12 = 14.08 Acres

Area to be dedicated to the City: 0.06 Acre

