

North Summit Recreation Special Service District (NSRSSD)

P.O. Box 783, Coalville, UT 84017

Memorandum

TO: Summit County Council

FROM: Nathan Brooks, District Manager

DATE: February 8, 2018

RE: County Council Meeting – Wednesday, February 14, 2018

The North Summit Recreation Special Service District has completed the required land O and M Agreement with Coalville City. Please review section 1.6 of the document, it has been edited to meet the County Council's recommendation and sufficed the Recreation District. The Recreation District is requesting that the County Council approve the document so that we can progress the project into the design phase.

WHEN RECORDED MAIL TO:

**Coalville City
PO Box 188
Coalville, Utah 84017**

**DECLARATION OF COVENANTS, AGREEMENTS, RESTRICTIONS AND
CONDITIONS AFFECTING THE USE OF CERTAIN REAL PROPERTY LOCATED
IN COALVILLE CITY, SUMMIT COUNTY, UTAH**

WHEREAS, the City of Coalville, a municipal corporation of the State of Utah (hereinafter "City"), is the owner of certain real property located in Coalville, Summit County, Utah known as CT-348-X (CT-348) and more particularly described in Exhibit A which is attached hereto and incorporated by reference herein (hereinafter referred to as the "Property"); and,

WHEREAS, the North Summit Recreation Special Service District (hereinafter the "District") is a special service district created pursuant to the provisions of the Special Service District Act, Utah Code Annotated ("UCA") §§17D-1-101, et. seq. Article XI, Section 8 of the Constitution of Utah; and

WHEREAS, the District's purpose as declared in Summit County Code, Title 2, Chapter 11, Part 1 is to provide recreational services and programs through facilities or systems acquired or constructed for that purpose through construction, purchase, lease, contract, gift or condemnation or any combination thereof; and

WHEREAS, the Summit County Council, as the governing board of the District and pursuant to Summit County Code, Title 2, Chapter 11, Part 5 and UCA §17D-1-301, has retained the power to acquire an interest in real property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property rights; and

WHEREAS, the City has agreed to convey the Property to the District, for certain declared uses and purposes that are consistent with the District's above-stated purpose; and

WHEREAS, the District owns property known as CT-340-X (CT-340) (hereinafter referred to as the "District Property"), which is adjacent to the Property owned by the City and is more particularly described in Exhibit B which is attached hereto and incorporated by reference herein; and

WHEREAS, the Property and the District Property shall sometimes collectively be referred to herein as the "Properties"; and

WHEREAS, the City and the District have agreed that upon conveyance of the Property to the District, the Property shall be held subject to the provisions of this declaration; and

NOW, THEREFORE, IT IS DECLARED that the Property shall be conveyed by the City to the District, who shall occupy and hold the Property subject to the following restrictions, conditions,

covenants and agreements between the City and the District and their respective successors and assigns.

1.1 Use of the Property: The Property has been an undeveloped parcel which has not been utilized by the City for any particular purpose. The Property shall be held by the District and used for the following purposes and for no other purpose:

1.1.1 For a public park;

1.1.2 For recreational purposes;

1.1.3 For public and private meetings, receptions and events consistent with a public park; or

1.1.4 For any purpose incidental to and related to the foregoing purposes.

1.2 Development: Within three months after conveyance of the Property to the District, the District shall apply for any and all necessary permits on the Properties to create a public park. Development of the Properties shall be at the discretion of the District so long as it comports with Section 1.1, above. The concept plan for the public park shall be presented to the Coalville City Council, must be approved by the City, who shall not unreasonably withhold its approval, and shall be compliant with City codes and ordinances. The District shall be required to comply with each and all of the requirements of the City's development code but shall not have to pay fees for applications, engineering review, building permits, impact fees and other similar fees.

1.3 Water and Utility Services. The City is not conveying any water rights appurtenant to the Property. The District shall pay for culinary water and sewer services in accordance with the City's established rate schedules. Utility services provided by other utility companies shall be at the District's sole expense.

1.4 Roadways. There is an existing City undeveloped platted road which traverses the Property with entrances and exits from the north and the south as shown on City plats. This roadway shall remain as a platted City road and shall be maintained by the City.

1.5 Easements. Any and all existing City owned utility easements for underground sewer, culinary water, storm drains and secondary water lines located within the Property and District Property shall remain. The City reserves easements for the maintenance, repair and replacement of such lines as the same are now located, and/or that may be developed, including the right of ingress and egress and the use of adjoining properties as reasonably required for such purposes. In the event the City requires further grants of easements for culinary water, sewer lines, storm drains, secondary water systems, or otherwise, either for service to the Property or to other properties within the City, the District shall grant such easements to the City without cost to the City, providing however, that the same shall not unreasonably interfere with the District's use of the Property. All expenses for maintenance, repair and replacement of existing lines and for the installation, maintenance, repair and replacement of future underground lines shall be at the expense of the City, including expenses for restoration of the surface of the Property and for repair or replacement of any surface improvements which shall be damaged in the process.

- 1.6 **Public Park and Reverter Provisions.** A fundamental and material consideration of the City in deeding the Property to the District is that the property be used for the purposes outlined in Section 1.1, above and in the event the Property is not used for these purposes, title to the Properties together with all improvements and appurtenances thereto shall revert to the City. In the event of a reverter as provided for in this paragraph, the District agrees to quit claim title to the Properties to the City effective as of the end of the calendar year during which the Properties cease to be used for the purposes outlined in Section 1.1. Reversion of the Properties to the City is conditioned upon the City using the Properties for the purposes outlined in Section 1.1 above and prior to a quit claim of the Properties to the City, the City and the District shall enter into a restrictive use covenant in favor of the District whereby the City shall agree to use the Properties for the purposes outlined in Section 1.1 above. In the event the City does not approve the public park and said approval is to unreasonably withheld, it shall be considered grounds for reversion of the Property as provided for in this paragraph, but shall not be considered grounds for reversion of the District Property.
- 1.7 **Expenses.** With the exception of permit fees as outlined in Section 1.2, above, the District, as owner of the Properties, shall pay all expenses incurred for the Properties' development and the improvements. Upon completion of the development and improvements to the Properties, it is intended that the City will be initially be responsible for the maintenance and repair of the Properties as to be set forth in a separate maintenance agreement. The Properties and all buildings, fences and improvements shall be kept and maintained in a clean, attractive and safe condition and in a good state of repair. Grasses shall be adequately irrigated to preserve and promote a well maintained community appearance.
- 1.8 **Insurance.** The District, at its sole cost and expense, shall maintain general public liability insurance against claims for personal injury, death or property damage occurring in, upon or about the Property. The limits of liability for such insurance shall not be less than two million dollars (\$2,000,000.00).
- 1.9 **Encumbrances.** In the event there be a reverter of title to the City as provided for in Paragraph 1.6 above, then any encumbrance against the Property incurred by the District shall be paid when due by the District and the District shall indemnify and hold the City harmless therefrom and the Property shall not be encumbered by any obligation of the District incurred after the date of such reverter and conveyance.
- 1.10 **Enforcement.** These covenants, agreements, restrictions and conditions constitute equitable servitudes and may be enforced by the City by proceedings at law or in equity against the District or any persons violating or threatening or attempting to violate the same, either to restrain and enjoin violation or to recover damages. The prevailing party in any such litigation shall be entitled to recover its costs of suit, including reasonable attorney's fees.
- 1.11 **Severability.** Invalidation of any one or more of the covenants or agreements set forth herein shall not affect any of the other covenants or agreements, which shall remain in full force and effect.
- 1.12 **Amendment.** This Declaration may be amended by written agreement between the parties hereto. In the event of a reversion and/or conveyance of title to the City as provided for in

Paragraph 1.6 above, or if the Property shall hereafter be otherwise transferred to the City, then this declaration shall be deemed void.

IN WITNESS WHEREOF, the parties have executed this declaration this _____ day of February 2018.

ATTEST:

COALVILLE CITY, a municipal Corporation,



City Recorder

By: _____
Trever Johnson
Its: Mayor

ATTEST:

Summit County, a political subdivision of the State of Utah

County Clerk

By: _____
Chair of the Summit County Council, as governing board of the District

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF UTAH:

Sheldon A Smith
Coalville City Attorney

Attorney for the District

Exhibit A
CT-348 (aka CT-348-X)

A PORTION OF LAND LOCATED IN THE NW1/4 OF SEC 16 T2NR5E SLBM & HAVING A BASIS OF BEARING TAKEN AS W BETWEEN THE N1/4 COR & THE NW COR OF SD SEC 16 DESC AS FOLLOWS: BEG AT A PT W 416.88 FT & S 73.07 FT FROM THE N1/4 COR OF SEC 16 T2NR5E SLBM WH PT IS LOCATED ON THE S'LY LINE OF INDIAN HILLS SUBDIVISION PHASE I & RUN TH S 0°50'18" E 340.00 FT; TH S 89°02'45" W 325.09 FT TO THE E'LY LINE OF BEACON AVE BEING A COALVILLE CITY STREET; TH ALONG SD STREET LINE ALONG THE ARC OF A CUR TO THE LEFT 164.05 FT RAD 170.00 FT CHORD BEARING N 28°34'15" W 157.75 FT; TH N 56°12'53" W 159.99 FT ALONG SDLINE; TH ALONG SD LINE ALONG THE ARC OF A CUR TO THE RIGHT RAD 130.00 FT CHORD BEARING N 32°15'37" W 105.57 FT; TH S 89°44'00" E 408.03 FT; TH N 1°06'53" W 30.50 FT; TH E 177.41 FT TO THE PT OF BEG CONT 3.30 AC UWD-79 M65-559 M219-595(5-13-82) 1801-222 (NOTE: ABOVE DESC IS FROM 1801-222-223) 1815-1713

Exhibit B
CT-340 (aka CT-340-X)

BEG AT A PT N 89°32'51" W 406.03 FT & S 0°28'23" E 73.07 FT FROM THE N1/4 COR OF SEC 16 T2N R5E SLBM, WH PT BEING LOCATED AT THE NW COR OF THE INDIAN HILLS SUB, PLAT 3; & RUN TH S 0°28'23" E 587.64 FT ALG THE W?LY LINE OF INDIAN HILLS SUB, PLAT 3 ALSO BEING THE W?LY LINE OF SETTLERS DR; TH N 89°31'37" E 154.98 FT ALG THE S?LY LINE OF SAID SUB; TH S 0°28'23" E 913.24 FT ALG THE W?LY LINE OF PARCEL CD-346; TH S 89°47'08" W 339.58 FT ALG THE PROJECTION LINE OF AN OLD FENCE LINE & ALG SAID FENCE LINE; TH N 0°39'44" W 1159.46 FT ALG THE E?LY LINE OF BEACON HILL SUB, A. MILLINER SUB & PARCEL CT-336-X; TH ALG THE S?LY LINE OF PARCEL CT-348-X N 89°29'54" E 175.87 FT; TH N 0°23'09" W 340.00 FT ALG THE E?LY LINE OF SAID PARCEL TO THE S?LY LINE OF INDIAN HILLS SUB, PH 1; TH S 89°32'51" E 12.03 FT ALG SAID LINE TO THE PT OF BEG. CONT 8.31 AC MI639 M6-298-9 M129-675 M134-387 2178-1010