

SUBDIVISION IMPROVEMENTS AGREEMENT
Desert Sol HDHO Subdivision

This **SUBDIVISION IMPROVEMENTS AGREEMENT** (the “Agreement”) is made this ____ day of _____ 2022 (“Effective Date”) by and between **GRAND COUNTY, UTAH**, a Utah political subdivision, 125 E Center St, Moab, Utah 84532 (hereinafter referred to as “COUNTY”), and **Sandstone Cottages, LLC**, a Limited Liability Corporation located in Utah at 7585 S. Union Park Ave, Ste 200, Salt Lake City, UT 84047 (hereinafter referred to as “SUBDIVIDER”).

RECITALS

WHEREAS, SUBDIVIDER owns real property located in Grand County, Utah particularly described in *Exhibit A*, attached hereto and incorporated herein;

WHEREAS, on June 7, 2022, the COUNTY approved the Final Plat for the Desert Sol Subdivision (the “Plat”), a high density housing residential subdivision (“the Subdivision”), subject to the terms and conditions noted on the Plat and in Grand County Ordinance No. 651 and this Agreement;

WHEREAS, the COUNTY and SUBDIVIDER mutually acknowledge that the matters set forth herein are reasonable conditions and requirements to be imposed by COUNTY in connection with its approval of the Plat, and that such matters are necessary to protect, promote and enhance the public health, safety, and welfare.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE MUTUAL COVENANTS, AND THE APPROVAL, EXECUTION, AND ACCEPTANCE OF THE PLAT BY THE COUNTY, IT IS FURTHER AGREED AS FOLLOWS :

1. **IMPROVEMENTS.** SUBDIVIDER agrees to construct the “Required Improvements” as specified in the final construction plans prepared by City Consultants Engineering, which were submitted and approved with the Plat application for the Property on May 11, 2022, as amended and updated (the “Plans”) and as provided herein. An estimate of the cost of the Required Improvements is itemized on *Exhibit B*, attached hereto and incorporated herein by this reference (the “Cost Estimate”). “Construction” and “installation” may be used interchangeably herein.

2. **DEVELOPMENT REQUIREMENTS.** SUBDIVIDER shall develop the Property, pursuant to the Plat, this Agreement, the Code, the Construction Standards, and all other applicable laws, rules and regulation under the regulatory supervision of the COUNTY. Except as otherwise specified herein, if any such authorities are in conflict, the terms of this Agreement shall supersede and control the terms of development; provided, however, that the Plat shall supersede and control over the terms of any other authority.
3. **UTILITIES.** SUBDIVIDER shall install and bury underground all water and sewer mains, service stub-outs, stormwater drainage facilities, and electrical, natural gas, telephone and cable television lines shown in the Plans prior to construction of any overlaying street, curb, sidewalk, pedestrian/bicycle path or gutter to prevent unnecessary pavement cuts. In addition, SUBDIVIDER shall provide an as-built survey of such utilities prepared by a professional land surveyor showing horizontal and vertical locations. The COUNTY shall receive a copy of such survey prior to any backfill as a condition precedent to releasing the construction performance bond.
4. **CONSTRUCTION AND INSPECTION.** The Required Improvements shall be constructed and inspected as follows:
 - a. Notice of Commencement. SUBDIVIDER shall provide the COUNTY with one (1) week's advanced notice of commencement of construction of the Required Improvements, which notice shall describe the type of improvement being installed and the schedule for construction.
 - b. Construction Mitigation. SUBDIVIDER shall ensure that construction does not create a nuisance for surrounding property owners. As used herein, nuisance shall include dust, glare/light, and noise that is not confined to the boundaries of the property, as further regulated by Grand County Code.
 - i. Sand/Dirt. During construction, SUBDIVIDER shall use proper sand and dirt and erosion control to minimize impact on adjacent properties and maintain streets and roads in such a manner that they may be reasonably traveled upon. The COUNTY may order construction to cease or abatement measure be taken, and SUBDIVIDER shall comply with the same, when the COUNTY determines in its sole discretion that sand or dirt emanating from the Property related to construction activities is unacceptable.
 - ii. Noise. SUBDIVIDER shall confine the hours of construction operations to 7 am to 9 pm (and 9 am to 9 pm on Sunday), or as otherwise provided by the Grand County Code.
 - iii. Light/Glare. SUBDIVIDER shall comply with the requirements of Section 6.6 of the Grand County Code. Specifically, during construction, SUBDIVIDER shall fully shield all outdoor lighting, whether it be temporary for construction or permanent, and shall not place fixtures at a location, angle, or height that directs illumination outside the boundaries of the Property.
 - c. Inspection. The COUNTY may inspect the Requirement Improvements during regular business hours in its sole discretion, and no less frequently than requested

by SUBDIVIDER. No excavation, facility or improvement shall be covered or buried until inspected by the COUNTY, unless such inspection is waived in writing.

- d. Notice of Violation. If the COUNTY determines that construction is not consistent with the Plans, the Code, the Construction Standards or any other applicable rules and regulations, the County shall provide SUBDIVIDER with written Notice of Violation and SUBDIVIDER shall immediately stop work until corrections are made.
- e. Notice of Failure. As soon as practical, SUBDIVIDER shall contact the COUNTY upon the failure of any performance testing, or of any issues that arise that may prevent construction from proceeding in accordance with the Plans.
- f. Final Acceptance. The COUNTY shall not approve a full release of the Improvements Collateral, as defined in Section 5, until the Required Improvements obtain final acceptance by the COUNTY pursuant to Section 9.5.5.D and E of the Code.

5. COLLATERAL.

- a. Improvements Collateral. Prior to recording of the Plat or commencement of construction, and to secure SUBDIVIDER'S obligations hereunder, SUBDIVIDER shall furnish a Completion Assurance/Set Aside Letter from a national banking association pursuant to Section 9.5.3.B.3 of the Grand County Code in an amount equal to one hundred and twenty-five percent (125%) of the Cost Estimate of the unfinished Required Improvements (the "Improvements Collateral").
- b. Release. From time to time, as the Required Improvements are completed, SUBDIVIDER may apply in writing to the COUNTY for a partial or full release of the Improvements Collateral. Each release request shall be summarized on the County's Collateral Release Form and must show, or include the following:
 - i. Dollar amount of the original Requirements Collateral;
 - ii. Description of the Required Improvements completed, including dollar value;
 - iii. Description of the unfinished Required Improvements, including dollar value;
 - iv. Amount and date of all previous Improvements Collateral released;
 - v. Amount of the Improvements Collateral to be released;
 - vi. Release or waivers of mechanics liens of all parties who have furnished work, services, or materials for the Required Improvements, and
 - vii. Reasonable fees, if required by the COUNTY, to cover the cost of administration and inspections.

Upon such request, the COUNTY shall inspect the Required Improvements, both those completed and unfinished. If the COUNTY determines from the inspection that the Required Improvements have been completed, as provided herein, the COUNTY shall release a corresponding portion of the Improvements Collateral within thirty (30) days of inspection. The release shall be made in writing signed by the COUNTY. The amount to be released shall be the amount of the remaining

Improvements Collateral LESS one hundred and twenty-five percent (125%) of the cost of the unfinished Required Improvements; provided, however, that the Improvements Collateral shall not be released in full until SUBDIVIDER posts the Warranty Collateral required hereunder.

- c. Notice of Deficiency. If, upon inspection or otherwise, the COUNTY determines that SUBDIVIDER has violated its obligations hereunder, the COUNTY shall mail a written Notice of Deficiency to SUBDIVIDER requesting repairs within thirty (30) days; provided, however, that in the event of an emergency as determined in the COUNTY's sole discretion, an advanced Notice of Deficiency is not required.
 - d. Repair by County. If SUBDIVIDER does not undertake such abatement measures or repairs as requested or in the event of an emergency, the COUNTY shall have the right but not the obligation to make the repairs at SUBDIVIDER's expense, in which event the COUNTY is not limited by the amount of the Collateral.
 - e. Assignment. In the event SUBDIVIDER fails to complete the Required Improvements, the COUNTY may assign the Improvements Collateral to a subsequent owner who acquires the Property, or a portion thereof, by purchase, foreclosure, or otherwise, which subsequent owner is bound by this Agreement.
 - f. Conflict. In the event of conflict between Section 9.5.5. of the Grand County Code and this Section 5, this Section 5 shall control.
6. **TIMELINE**. No later than twenty-four (24) months after the Effective Date, SUBDIVIDER shall complete the Required Improvements. The Required Improvements shall be deemed complete once the Required Improvements obtain final acceptance by the COUNTY pursuant to Section 9.5.5.D and E of the Code. If construction has not commenced within one year of the Effective Date, the COUNTY may, in its sole discretion, require resubmittal of the construction plans for review and compliance with current standards and engineering requirements. The COUNTY may also extend the deadlines in this Section 5 for good cause with a written amendment hereto signed by both Parties pursuant to Section 9.5.5.A(2) of the Code.
7. **COUNTY EASEMENTS**.
- a. Emergency Easement. SUBDIVIDER hereby grants to the COUNTY a perpetual right of access to, on and over all private roads within the Property for emergency purposes.
 - b. Temporary Easement. SUBDIVIDER hereby grants to the COUNTY a temporary, nonexclusive right of access to, on and over the Property for the purposes of constructing, maintaining, and repairing the Required Improvements during construction and through the Warranty Period.
8. **WARRANTY**. SUBDIVIDER hereby warrants the Required Improvements are free from defective workmanship or materials for a period of one (1) year after the Required Improvements obtain final acceptance by the COUNTY pursuant to Section 9.5.5.D and E of the Code, pursuant to the following:

- a. Warranty Collateral. Prior to release of the Improvements Collateral, and to secure SUBDIVIDER'S obligations hereunder, SUBDIVIDER shall furnish cash or a good and sufficient, unconditional warranty bond in favor of Grand County, or certified check payable to "Grand County," in an amount equal to ten percent (10%) of the total Cost Estimate (the "Warranty Collateral").
 - b. Notice of Deficiency. If the COUNTY determines that the Required Improvements are defective during the Warranty period, which shall include revegetation of areas disturbed by SUBDIVIDER, the COUNTY shall mail a written Notice of Deficiency to SUBDIVIDER requesting repairs within thirty (30) days; provided, however, that in the event of an emergency as determined in the COUNTY'S sole discretion, an advanced Notice of Deficiency is not required.
 - c. Repair by County. If SUBDIVIDER does not undertake such abatement measures or repairs as requested or in the event of an emergency, the COUNTY shall have the right but not the obligation to make the repairs at SUBDIVIDER'S expense, in which event the COUNTY is not limited by the amount of the Collateral.
 - d. Release. The COUNTY shall release the Warranty Collateral within thirty (30) days of the expiration of the Warranty less any costs or expenses incurred by the COUNTY to repair defective workmanship or materials during the Warranty period.
9. **BREACH**. Upon breach by SUBDIVIDER of any obligation hereunder, the COUNTY hereby reserves all of its remedies under this Agreement, the Code, and Utah law, including the right to invoke Collateral, refuse to issue building permits, certificates of occupancy, or utility connections. Further, the COUNTY is entitled to reimbursement for all costs and expenses incurred to enforce this Agreement, including attorneys' fees and costs and as provided in Section 4 above. Any amounts due and owing by SUBDIVIDER to the COUNTY under this Agreement which are not paid in a timely manner may be certified to the Grand County Treasurer for collection with taxes.
 - a. Collateral Proceeds. In the event the COUNTY invokes Collateral, the proceeds shall be applied first to the COUNTY'S fees and expenses, including attorneys' fees, and then to completing or repairing the unfinished or defective Required Improvements. Excess Collateral proceeds, if any, are payable to SUBDIVIDER. The COUNTY has no obligation to utilize any funds, other than the Collateral proceeds, to complete any of the Required Improvements.
10. **MISCELLANEOUS**.
 - a. Recording. SUBDIVIDER shall record this Agreement in the real property records of Grand County, Utah simultaneously with the Final Plat.
 - b. Covenants Run with the Land/Limitation. The covenants of this Agreement shall run with that portion of the real property located in Grand County.
 - c. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns, heirs, agents, employees, representatives, and transferees.
 - d. Headings. The paragraph headings are descriptive only and do not imply nor limit substantive material.

- e. Waiver. The failure to enforce or waiver of any specific requirement herein by either party shall not be construed as a general waiver of this Agreement.
- f. Severability. Should any part of this Agreement be declared invalid by a court of competent jurisdiction, the valid parts of this Agreement shall remain in effect.
- g. No Relationship. SUBDIVIDER is not an agent or employee of the COUNTY.
- h. Amendment. This Agreement may be amended only by an instrument in writing signed by both parties.

GRAND COUNTY COMMISSION

Jacques Hadler, Chair

STATE OF UTAH)
) ss.
COUNTY OF GRAND)

On _____, 2022, Jacques Hadler, Chair of the Grand County Commission, personally appeared before me and acknowledged and swore to me that the foregoing Subdivision Improvement Agreement was signed on behalf of Grand County.

Witness my hand and seal.

, NOTARY PUBLIC

Owner/Developer: Sandstone Cottages, LLC

Steve Broadbent, Manager

STATE OF UTAH)
) ss.
COUNTY OF GRAND)

On _____, 2022, Steve Broadbent, Manager of Sandstone Cottages, LLC, appeared before me and acknowledged and swore to me that they executed the foregoing Subdivision Improvements Agreement freely and voluntarily and for the uses and purposes stated herein.

NOTARY PUBLIC

EXHIBIT A
Legal Description

That certain real property located in Grand County Utah, State of Utah, more particularly described as:

Parcel 1:

Beginning 381.9 feet South and 247 feet East of the West Quarter Corner Section 22, T26S, R22E, SLM, thence North 51 °02' East 693.2 feet; thence South 38 °58' East 254.1 feet; thence South 51 °02' West 539. 8 feet; thence North 38 °58' West 116. 9 feet; thence South 51 °02' West 118.4 feet; thence North 53 °23' West 141. 5 feet to the point of beginning. (Parcel No. 02-0022-0049)

Parcel 2:

Beginning at a point which bears South 556.84 feet and East 482.35 feet from the West 114 Corner Section 22, T26S, R22E, SLM, running thence North 53°23' West 31 feet; thence North 51 °02' East 627. 9 feet; thence South 38°58' East 30 feet; thence South 51 °02' West 620.2 feet to the point of beginning. (Parcel No. 02-0022-0049)

Parcel 3:

Beginning 466. 3 feet South and 360. 6 feet East of the West 1/4 corner, Section 22, Township 26 South, Range 22 East, SLM, thence North 51 ° 02' East 118.4 feet; thence South 38 ° 58' East 116.9 feet; thence South 51 ° 02' West 88.1 feet; thence North 53 ° 23' West 120. 7 feet to the point of beginning. (Parcel No. 02-0022-0050)

EXHIBIT B
Cost Estimate

[Insert OPC]