

**SUBDIVISION IMPROVEMENTS AGREEMENT
Arroyo Crossing Subdivision – Phase I**

This **SUBDIVISION IMPROVEMENTS AGREEMENT** (the “Agreement”) is made this 15th day of October 2019 (“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 **MOAB AREA COMMUNITY LAND TRUST**, a Utah nonprofit corporation, 1701 Murphy Lane, Moab, Utah 84532 (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 (the “Subdivision”);

WHEREAS, COUNTY approved the Final Plat for Phase I on October 15, 2019 (the “Plat”) for the Arroyo Crossing Subdivision, a residential subdivision of 300 Lots (“the Subdivision”), subject to the terms and conditions noted on the Plat, Arroyo Crossing PUD Master Plan (the “Master Plan”), Ordinance No. 600, the Development Agreement recorded against the Subdivision in the real property records of Grand County, 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 Master Plan, 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 SET Engineering, which were submitted and approved with the Plat application for the Property on October 28, 2019 as amended and updated (the “Plans”) and as provided herein prior to recordation of the Final Plat; provided, however, that SUBDIVIDER may later request an amendment to this Agreement wherein SUBDIVIDER agrees to guarantee the unfinished Required Improvements with collateral equal to one hundred and twenty five (125) percent of the cost of such unfinished Required Improvements. 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 and construct all Improvements, pursuant to: a) the Plans, Plat, and this Agreement (collectively referred to herein as the “Project Documents”); b) the Grand County Land Use Code (the “Code”) and the Grand County Construction Standards (the “Construction Standards”); and c) all other applicable laws, rules and regulation under the regulatory supervision of the COUNTY. 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.

In the event that the SUBDIVIDER desires to dedicate certain Required Improvements to the COUNTY in the future, prior to acceptance of such Required Improvements, the COUNTY shall certify that the Required Improvements comply with the Project Documents and shall require SUBDIVIDER to repair or replace portions of the Required Improvements to bring those portions into compliance with the Project Documents and the Code and Constructions Standards then in effect.

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.
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 estimated 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 the 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 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. **TIMELINE**. Prior to SUBDIVIDER recording the Plat and 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.
6. **PUBLIC DEDICATION**. SUBDIVIDER shall be responsible for the costs of construction, materials, and testing of all public Required Improvements within the Subdivision. The COUNTY shall not approve a full release of the Improvements Collateral until SUBDIVIDER conveys all public roads, streets, curbs, gutters, sidewalks, and pedestrian paths with adequate easements and rights-of-way free and clear of any liens and encumbrances to the COUNTY.
7. **PROJECT PHASING**. The SUBDIVIDER intends to construct the Subdivision in multiple phases. This Agreement and the amount of Collateral required herein shall apply only to Phase I of the project, as specified in the Project Documents; provided, however,

that SUBDIVIDER shall record utility and drainage easements to serve future phases of development simultaneously with the Phase 1 Final Plat and Subdivision Improvements Agreement.

Future phases of Subdivision shall require separate Subdivision Improvement Agreements, which shall require that SUBDIVIDER improve Spanish Valley Drive to the minor collector road standard as described within the Spanish Valley Transportation Master Plan in effect at that time.

8. COUNTY EASEMENTS.

- a. Emergency Easement. SUBDIVIDER hereby grants to the COUNTY a perpetual right of access to, on and over all 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.

9. 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. Collateral, defined. Prior to recording the Plat 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.
- e. Additional Warranty. In the event that the SUBDIVIDER desires to dedicate certain Required Improvements to the COUNTY in the future, SUBDIVIDER shall warrant the dedicated Required Improvements are free from defective

workmanship or materials for an additional period of one (1) year after SUBDIVIDER dedicates the Required Improvements.

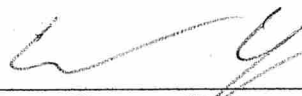
10. **BREACH.** Upon breach by SUBDIVIDER of any obligation hereunder, the COUNTY hereby reserves all of its remedies under this Agreement, the Code, and Utah law, including the right to invoke Collateral, refuse to issue building permits, certificates of occupancy, or utility connections. Further, the 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, and then to curing any other breach. 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.

11. **MISCELLANEOUS.**

- a. Recording. SUBDIVIDER shall record this Agreement in the real property records of Grand County, Utah upon mutual execution.
- 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.

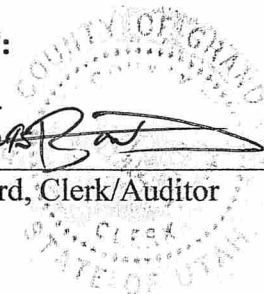
GRAND COUNTY COUNCIL


Evan Clapper, Chair

11/14/19

ATTEST:


Chris Baird, Clerk/Auditor



SUBDIVIDER SIGNATURES FOLLOW

SUBDIVIDER: MOAB AREA COMMUNITY LAND TRUST

Audrey Graham

By: Audrey Graham
Its: Chair

ATTEST:

Kaitlin Meyers

By: Kaitlin Meyers
Its: Secretary

State of UTAH)
) ss.
County of GRAND)

On November 13, 2019, Audrey Graham, Chair, and Kaitlin Meyers, Secretary, of the MOAB AREA COMMUNITY LAND TRUST, Subdivider, personally appeared before me and acknowledged and swore to me that the foregoing Subdivision Improvements Agreement was signed on behalf of the Subdivider by authority in its Articles of Incorporation and Bylaws.

Witness my hand and seal.

Bryony Chamberlain Hill

, NOTARY PUBLIC

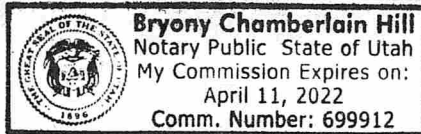


EXHIBIT A
Legal Description

A parcel of real property located in Grand County, Utah, particularly described as:

Beginning at a point on the westerly right-of-way of Spanish Valley Drive, said point being South 89°11'08" West 905.32 feet from the East Quarter corner of Section 17, Township 26 South, Range 22 East, Salt Lake Base and Meridian, and proceeding with said right-of-way thence with a curve having a radius of 880.00 feet, to the right with an arc length of 361.80 feet, (a chord bearing of South 42°25'50" East 359.26 feet); thence South 30°39'12" East 1219.17 feet to a point on the McKnight Properties Industrial Subdivision north boundary; thence along said boundary South 89°21'03" West 1281.28 feet to the Southwest corner of the NE¼SE¼ of said Section 17; thence North 00°03'31" East 30.00 feet to a corner on a Grand County road right-of-way; thence along said right-of-way South 89°26'36" West 225.14 feet to the southeast corner of The General Distributing Company Tract; thence along said Tract North 00°03'31" East 629.56 feet to a point on the Starbuck Tract; thence along said Tract North 89°22'04" East 225.12 feet; thence South 00°03'31" West 16.07 feet; thence South 89°41'04" East 100.58 feet; thence South 00°19'37" West 571.37 feet; thence North 81°04'01" East 56.70 feet; thence North 00°19'37" East 63.38 feet; thence 59°04'01" East 256.00 feet; thence South 30°51'16" East 68.95 feet; thence North 59°05'11" East 56.00 feet; thence North 30°51'16" West 68.64 feet; thence North 59°04'01" East 89.69 feet; thence North 30°51'58" West 440.00 feet; thence North 59°04'01" East 89.29 feet; thence with a curve having a radius of 122.00 feet, to the left with an arc length of 107.51 feet, (a chord bearing of North 63°49'21" West 104.07 feet); thence North 89°52'11" West 83.39 feet; thence with a curve having a radius of 15.00 feet, to the left with an arc length of 23.51 feet, (a chord bearing of South 45°13'28" West 21.18 feet); thence North 89°41'06" West 56.00 feet; thence North 00°19'37" East 39.40 feet; thence North 89°28'48" West 101.52 feet; thence North 00°03'31" East 477.20 feet to Northwest corner of the NE¼SE¼ of said Section 17; thence along the north line of said Section 17 North 89°11'08" East 415.94 feet to the point of beginning, having an area of 25.53 acres, more or less.

EXHIBIT B
Cost Estimate

INSERT

ARROYO CROSSING DEVELOPMENT - Moab, Utah

OPINION OF PROBABLE COST

PHASE 1 - Earthwork, Infrastructure, and Road Improvements

Updated 10/29/2019



ENGINEERING

No.	Item Description	Quantity	Unit	Unit Price	Amount
1	General Requirements				
2	Mobilization/Demobilization	1	LS	\$ 50,000	\$ 50,000
3	Construction Surveying	1	LS	\$ 25,000	\$ 25,000
4	Quality Control & Material Testing (Soils, Concrete, Asphalt, etc.)	1	LS	\$ 25,000	\$ 25,000
5	Traffic Control	1	LS	\$ 10,000	\$ 10,000
6	Potholing	1	LS	\$ 10,000	\$ 10,000
7	Stormwater Management and Erosion Control	1	LS	\$ 20,000	\$ 20,000
8	As-builts, Punchlist and Closeout	1	LS	\$ 5,000	\$ 5,000
9	Earthwork				
10	Clearing and Grubbing	23	Acres	\$ 1,500	\$ 34,500
11	Cut	41000	CY	\$ 4.0	\$ 164,000
12	Fill	37000	CY	\$ 5.0	\$ 185,000
13	Utilities				
14	Sewer Main				
15	Doghouse manhole to connect to existing main	2	EA	\$ 7,000	\$ 14,000
16	Sanitary Sewer Manhole including Concrete Collars	19	EA	\$ 5,000	\$ 95,000
17	8" SDR-35 PVC Sewer Main (including stubs into tracts and Raptor Run)	3668	LF	\$ 41	\$ 150,388
18	4" Sewer Service	67	EA	\$ 1,500	\$ 100,500
19	Storm Drain				
20	24" HDPE Storm Drain - Pipe System 1	484	LF	\$ 55	\$ 26,620
21	24" HDPE Storm Drain - Pipe System 2 - to EAST side of Spanish Valley Drive	279	LF	\$ 55	\$ 15,345
22	24" HDPE Storm Drain - Pipe System 3 - to EAST side of Spanish Valley Drive	771	LF	\$ 55	\$ 42,405
23	24" HDPE Storm Drain - Pipe System 4	50	LF	\$ 55	\$ 2,750
24	24" FES	10	EA	\$ 500	\$ 5,000
25	Concrete Waterway and Waterway Transition Structure	3	EA	\$ 7,000	\$ 21,000
26	Concrete Channel / Sidewalk Underdrain	1	EA	\$ 3,000	\$ 3,000
27	Curb Inlet Box (single), Frame, and Grate	4	EA	\$ 3,000	\$ 12,000
28	Curb Inlet Box (double), Frame, and Grate (includes 1 Double Catch Basin)	7	EA	\$ 5,000	\$ 35,000
29	Cleanout Box, Frame, and Grate	6	EA	\$ 3,000	\$ 18,000
30	Detention Pond Fine Grading (for pipe systems 2, 3, & 4 corner)	4	EA	\$ 5,000	\$ 20,000
31	Detention Pond Outlet Structure (4x4x3 Precast Concrete Box) and 18" Pipe	4	EA	\$ 6,000	\$ 24,000
32	Rip Rap Energy Dissipator (10 CY each w/Filter Fabric, loosely placed)	15	EA	\$ 2,000	\$ 30,000
33	Rip Rap Check Dams in Southerly Channel	15	EA	\$ 250	\$ 3,750
34	60" Culvert in Spanish Valley Dr, w/CIP Winged Headwalls, and Rip Rap Inlet/Outlet	1	LS	\$ 55,000	\$ 55,000
35	Culinary Water Main				
36	Connect to Existing Main (including gate valves)	3	EA	\$ 7,500	\$ 22,500
37	8" C-900 PVC Water Main (includes westerly extension to Budweiser Lane)	4529	LF	\$ 40	\$ 181,160
38	3/4" Service	67	EA	\$ 1,750	\$ 117,250
39	Hydrant Lateral and Assembly (including Tee, GV, etc.)	7	EA	\$ 6,000	\$ 42,000
40	Air Release/Vac Valve	2	EA	\$ 2,000	\$ 4,000
41	8" Gate Valve Cluster (4x or 3x including Thrust Blocks, Boxes, Collars, etc)	7	EA	\$ 7,500	\$ 52,500
42	Watermain relocation (dip) for Storm Drain Pipe 2 in Spanish Valley Drive	1	LS	\$ 7,500	\$ 7,500
43	Irrigation Water Main				
44	Connect to Existing Main (including gate valves)	2	EA	\$ 4,500	\$ 9,000
45	4" PVC Irrigation Main	3989	LF	\$ 25	\$ 99,725
46	3/4" Irrigation Service	67	EA	\$ 1,250	\$ 83,750
47	4" Gate Valve Cluster (4x or 3x including Thrust Blocks, Boxes, Collars, etc)	7	EA	\$ 5,000	\$ 35,000
48	Franchise Utilities (Trenching and Backfilling Only)				
49	Electric and Communication (along both sides of roads)(No Design yet)	5695	LF	\$ 5	\$ 28,475
50	Road Improvements				
51	South Plateau Drive - Type 1 Onsite - ~1,050' full width + ~300' transition to 26' width				
52	Asphalt Paving (3" depth) [34' width, 5,290 SY]	840	Tons	\$ 125	\$ 105,000
53	Base Course (11" depth)	1517	CY	\$ 35	\$ 53,095
54	Compacted Sub-Base Course (12" depth)	1655	CY	\$ 10	\$ 16,550
55	6" Mountable Curb and Gutter - Type D - both sides (includes break for Tracts F&G entrances)	2000	LF	\$ 30	\$ 60,000
56	4' Concrete Sidewalk - Attached - Both Sides	889	SY	\$ 45	\$ 40,005
57	Budweiser Lane - SW Offsite Road ~725 feet				
58	Asphalt Paving 2" Top Mat [26' wide for 510' (over existing and widened road)]	165	Tons	\$ 150	\$ 24,750
59	Asphalt Paving along edges (2" depth) [~270'x2' north side, ~500'x5.2' south side]	40	Tons	\$ 150	\$ 6,000