

RECORDING REQUESTED BY:

COTTONWOOD TITLE INSURANCE AGENCY, INC.

WHEN RECORDED, MAIL TO:

Hansen Black Anderson Ashcraft PLLC
Attn: Tom Bagley
3051 West Maple Loop Drive, Suite 325
Lehi, Utah 84043

Tax Parcel and Serial No.:

00-0020-4219; OWC-0456-3-002-035
00-0020-9372; OWC-0456-7-002-035
00-0020-9572; OWC-0180-4-035-025
00-0020-9040; OWC-0456-6-002-035
00-0020-2698; OWC-0455-2-001-035
00-0021-5546; OWC-0457-9-003-035
00-0021-5547; OWC-0457-A-003-035
00-0021-5548; OWC-0457-B-003-035
00-0021-5549; OWC-0457-C-003-035
00-0021-5552; OWC-0456-A-002-035
00-0021-5553; OWC-0456-B-002-035
00-0021-5554; OWC-0456-C-002-035
00-0021-5555; OWC-01813-035-025
00-0021-5556; OWC-0181-4-035-025
00-0021-5557; OWC-0456-D-002-035
00-0021-5558; OWC-0455-4-001-035
00-0021-5559; OWC-0455-5-001-035

(Space Above for Recorder's Use)

OTIA # 127718-A JTF

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this “**Agreement**”) is made as of April 1, 2021 by SDP REIT, LLC, a Delaware limited liability company (“**SDP REIT**”), and SDF FINANCIAL 2020, LP, a Delaware limited partnership (“**SDP 2020**,” and collectively with SDP REIT, “**Subordinating Lender**”), for the benefit of BENLOCH RANCH IMPROVEMENT ASSOCIATION NO. 1, a Utah nonprofit corporation (“**Association**”), and MILLER HARRISON LLC (“**Association Trustee**”).

A. On July 2, 2020, BENLOCH RANCH DEVELOPMENT GROUP, LLC, a Utah limited liability company (“**Declarant**”), with the consent and authorization of BENLOCH RANCH LAND COMPANY, LLC, a Utah limited liability company (“**Developer**”), with the acknowledgement and agreement of the Association, and with the acknowledgement of Bond Trustee, entered into that certain Declaration of Covenants, Conditions and Restrictions for Benloch Ranch Improvement Association No. 1, recorded on July 6, 2020 as entry 480407 in the official records of Wasatch County, Utah (the “**Original Declaration**”).

B. The Original Declaration created a lien of Assessments (as defined in the Original Declaration) pursuant to an Assessment Plan (as defined in the Original Declaration) contained in a Benefit Apportionment Analysis (as defined in the Original Declaration) prepared by the Administrator (as defined in the Original Declaration) and attached as Exhibit “J” to the Original Declaration. Pursuant to that certain Indenture referenced in the Original Declaration, the Association’s lien and right to collect the Assessments secures its indebtedness under those certain Special Assessment Bonds, Series 2020 issued by Association in the amount of \$33,790,000.00 (the “**Series 2020 Bonds**”). The real property in Wasatch County, Utah, as more particularly described on Exhibit A attached hereto (the “**Assessed Property**”), remains subject to the lien of the Association securing payment of Assessments.

C. All of the Series 2020 Bonds were sold to two Bondholder entities, who continue to hold the Series 2020 Bonds. Developer has requested that Bondholders authorize an incremental bonding capacity for the Assessed Property in the amount of \$19,750,000.00. Bondholders, by and through the Bond Trustee, have agreed to authorize and consent to the issuance and sale to Bondholders of additional bonds under the Indenture for purposes of funding the Additional Financed Improvements (as defined in the Declaration Amendment).

D. Contemporaneously herewith, Declarant, with the consent and authorization of the Bondholders and acknowledgements of the Bond Trustee, and the consent of Subordinating Lender, desires to amend the Original Declaration pursuant to that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Benloch Ranch Improvement Association No. 1 dated April 5, 2021 (the “**Declaration Amendment**” and collectively with the Original Declaration, the “**Declaration**”) whereby the Declarant will cause the Association to issue Special Assessment Bonds, Series 2021 (the “**Series 2021 Bonds**,” and together with the Series 2020 Bonds, the “**HOA Bonds**”) and the Association shall enter into a First Supplemental Indenture of Trust and Pledge to be executed and delivered by the Association and the Trustee, supplementing that certain Indenture of Trust and Pledge, dated as of July 1, 2020, between the Association and the Trustee (collectively, the “**Indenture**,” and together with the Declaration and the other documents evidencing the HOA Bonds, the “**Bond Documents**”). The HOA Bonds are secured by the lien of the Assessments (the “**HOA Assessment Lien**”) on the Assessed Property, as more particularly set forth in the Declaration.

E. Developer and AJ Fireside Park City LLC, a Delaware limited liability company (“**AJ Fireside**”), made, executed and delivered to Subordinating Lender a certain Secured Promissory Note payable to Subordinating Lender in the principal amount of \$79,448,469.00 (as amended, the “**Subordinated Debt**”).

F. The Subordinated Debt is secured by, among other things, a (i) Trust Deed, Assignment of Rents, Security Agreement, and Financing Statement recorded on March 17, 2021 as Entry No. 496028 in the official records of Wasatch County, Utah, encumbering certain real property situated in Wasatch County, Utah, which real property includes, without limitation, the Assessed Property (the “**Trust Deed**”), and (ii) UCC1 Financing Statement recorded on March 17, 2021 as Entry No. 496029 in the official

records of Wasatch County, Utah (the “**Financing Statement**” and together with the Trust Deed, the “**Subordinated Lien**”).

G. As a condition to the issuance of the Series 2021 Bonds, the Association, Association Trustee, Bondholders, and Bond Trustee has required that Subordinating Lender subordinate its security interest in the Assessed Property to the HOA Assessment Lien and the Bond Documents. Therefore, the Association, Association Trustee, and Subordinating Lender desire to establish the respective priorities of their liens.

NOW, THEREFORE, in consideration of the mutual agreements set out herein, and in consideration of the Association issuing the Series 2021 Bonds, the parties agree as follows:

1. Except as set forth in this Agreement, Subordinating Lender hereby subordinates all Subordinated Debt, now or hereafter existing, to the HOA Assessment Lien and all extensions, renewals, modifications and refinancings of the HOA Assessment Lien up to the full amount of the HOA Assessment Lien. Nevertheless, so long as no default has occurred and is continuing under the Bond Documents, Subordinating Lender shall be entitled to collect all payments to which it is entitled in accordance with the terms of the Subordinated Debt, including, without limitation, interest and principal payments.

2. Regardless of any priority otherwise available to Subordinating Lender by law or by agreement, any security interest, lien, claim or right Subordinating Lender may now hold or hereafter acquire in the Assessed Property, including without limitation through the Subordinated Lien, shall be and remain fully subordinated and junior for all purposes to the HOA Assessment Lien and the Bond Documents, including without limitation all liens, rights, and obligations created by or arising under the Declaration, including all modifications to and extensions thereof. Notwithstanding the foregoing, the Association and Association Trustee acknowledge the foregoing subordination shall be limited to the Assessed Property only and shall not apply to any real property, other than the Assessed Property, or other collateral securing the Subordinated Debt.

3. Subordinating Lender agrees that the Declarant, Association and/or Bond Trustee may modify any terms of the HOA Bonds and of any agreements pursuant to which collateral is pledged to secure the HOA Bonds in compliance with the Bond Documents; *provided, however*, that notwithstanding anything to the contrary in this Agreement, neither the Declarant, Association, nor Bond Trustee may make any amendment to any of the Bond Documents that results in an increase in the amount of the HOA Assessment Lien without Subordinating Lender’s prior written consent. No such modification shall in any way impair the priority of the Bond Documents or the rights of the Bondholders hereunder, even if such modification is prejudicial to the rights or interests of Subordinating Lender or any other person or entity.

4. Association Trustee agrees to provide notice to Subordinating Lender promptly upon the receipt of any notice the Association Trustee receives of a default under the Bond Documents at the following address:

SDP REIT

Attention: Michael C. Nixon
1240 East 2100 South, Suite 300
Salt Lake City, Utah 84106

SDP 2020
Attention: Michael C. Nixon
1240 East 2100 South, Suite 300
Salt Lake City, Utah 84106

5. If there are any legal proceedings arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and disbursements, in addition to any other relief to which such party may be entitled. This Agreement shall be binding on and inure to the benefit of the respective successors, heirs and assigns of the parties hereto. Each party hereto agrees to submit to the exclusive jurisdiction of the State of Utah in the event of any litigation involving this Agreement. This Agreement is governed by the internal laws of the State of Utah without reference to choice of law rules.

[SIGNATURE PAGE ON NEXT PAGE]

EXHIBIT A**DESCRIPTION OF THE ASSESSED PROPERTY**

The following tracts of land in the County of Wasatch, State of Utah:

Parcel 1:

Part of the Northeast and Northwest quarters of Section 2, the Northeast quarter of Section 3, Township 3 South, Range 5 East, Salt Lake Base and Meridian, U.S. Survey, described as follows:

Beginning at a point on the Southerly right of way line of Benloch Ranch Road, said point being North $89^{\circ}31'27''$ East 6017.58 feet and South $00^{\circ}28'33''$ East 632.41 feet from a found brass cap monument at the Southwest corner of Section 34, Township 2 South, Range 5 East (said Southwest corner of Section 34, Township 2 South, Range 5 East being South $89^{\circ}31'27''$ West 16027.88 feet from the Northeast corner of Section 1, Township 3 South, Range 5 East and being the basis of bearings for this project), and running thence along said Southerly right of way line the following seven (7) courses: (1) along a non-tangent curve turning to the right with a radius of 320.00 feet, an arc length of 5.01 feet, a delta angle of $00^{\circ}53'50''$, a chord bearing of South $55^{\circ}15'54''$ East, and a chord length of 5.01 feet; (2) South $54^{\circ}48'59''$ East 122.63 feet; (3) along a tangent curve turning to the left with a radius of 1555.00 feet, an arc length of 306.88 feet, a delta angle of $11^{\circ}18'26''$, a chord bearing of South $60^{\circ}28'12''$ East, and a chord length of 306.38 feet; (4) South $66^{\circ}07'25''$ East 250.14 feet; (5) along a tangent curve turning to the left with a radius of 705.00 feet, an arc length of 178.14 feet, a delta angle of $14^{\circ}28'39''$, a chord bearing of South $73^{\circ}21'44''$ East, and a chord length of 177.67 feet; (6) South $80^{\circ}36'04''$ East 756.52 feet; and (7) along a tangent curve turning to the left with a radius of 1315.00 feet, an arc length of 613.39 feet, a delta angle of $26^{\circ}43'33''$, a chord bearing of North $86^{\circ}02'06''$ East, and a chord length of 607.84 feet; thence South $17^{\circ}19'41''$ East 73.31 feet; thence South $31^{\circ}03'02''$ East 99.94 feet; thence South $13^{\circ}12'27''$ East 123.35 feet; thence South $09^{\circ}37'26''$ West 160.48 feet; thence South $30^{\circ}23'51''$ West 123.37 feet; thence South $52^{\circ}15'06''$ West 102.40 feet; thence South $26^{\circ}59'52''$ West 488.46 feet; thence South $31^{\circ}59'27''$ West 146.05 feet; thence South $44^{\circ}19'13''$ West 146.05 feet; thence South $56^{\circ}38'59''$ West 146.05 feet; thence South $68^{\circ}58'46''$ West 146.05 feet; thence South $81^{\circ}18'32''$ West 146.05 feet; thence North $86^{\circ}55'42''$ West 136.73 feet; thence North $79^{\circ}18'30''$ West 268.60 feet; thence North $69^{\circ}54'02''$ West 98.11 feet; thence North $55^{\circ}36'39''$ West 115.81 feet; thence North $36^{\circ}10'33''$ West 176.90 feet; thence North $26^{\circ}58'51''$ West 76.04 feet; thence North $12^{\circ}34'50''$ West 76.97 feet; thence South $75^{\circ}44'48''$ West 29.13 feet; thence along a tangent curve turning to the right with a radius of 1117.22 feet, an arc length of 246.34 feet, a delta angle of $12^{\circ}38'00''$, a chord bearing of South $82^{\circ}03'48''$ West, and a chord length of 245.84 feet; thence South 113.04 feet; thence South $17^{\circ}17'32''$ West 97.61 feet; thence South $29^{\circ}49'19''$ West 172.83 feet; thence South $48^{\circ}35'21''$ West 172.83 feet; thence South $67^{\circ}25'39''$ West 174.12 feet; thence South $86^{\circ}15'56''$ West 172.83 feet; thence North $78^{\circ}06'15''$ West 167.29 feet; thence North $69^{\circ}00'37''$ West 137.42 feet; thence North $53^{\circ}32'36''$ West 222.67 feet; thence North $12^{\circ}53'17''$ West 224.48 feet; thence North $23^{\circ}24'22''$ East 224.02 feet; thence North $62^{\circ}51'42''$ East 265.60 feet; thence North $53^{\circ}48'40''$ East 58.57 feet; thence

North 37°16'02" West 487.87 feet; thence North 05°00'04" West 125.71 feet; thence North 06°55'10" East 135.96 feet; thence North 19°24'49" East 138.25 feet; thence North 31°04'15" East 117.65 feet; thence North 43°23'25" East 152.72 feet; thence North 61°07'00" East 55.99 feet; thence North 61°30'31" East 60.19 feet; thence North 60°30'43" East 281.65 feet; thence South 33°53'57" East 177.36 feet; thence North 80°47'54" East 48.95 feet; thence along a non-tangent curve turning to the right with a radius of 125.00 feet, an arc length of 109.31 feet, a delta angle of 50°06'15", a chord bearing of North 10°07'54" East, and a chord length of 105.86 feet; thence North 35°11'22" East 99.40 feet to the point of beginning.

Parcel 2:

Part of the North half of Section 2 and the Northwest quarter of Section 1, Township 3 South, Range 5 East, and part of the South half of Section 35, Township 2 South, Range 5 East, Salt Lake Base and Meridian, U.S. Survey, described as follows:

Beginning at a point on the Southerly right of way line of S.R. 32, said point being North 89°31'27" East 7546.18 feet and North 00°28'33" West 332.51 feet from a found brass cap monument at the Southwest corner of Section 34, Township 2 South, Range 5 East (said Southwest corner of Section 34, Township 2 South, Range 5 East being South 89°31'27" West 16027.88 feet from the Northeast corner of Section 1, Township 3 South, Range 5 East and being the basis of bearings for this project); thence along the Southerly right of way line of S.R. 32 the following eleven (11) courses: (1) North 69°06'21" East 582.54 feet; (2) North 69°12'39" East 422.32 feet; (3) South 88°26'59" East 300.00 feet; (4) North 89°39'42" East 324.08 feet; (5) North 82°24'02" East 333.19 feet; (6) North 59°39'18" East 336.67 feet; (7) North 41°13'03" East 300.01 feet; (8) North 71°55'29" East 195.18 feet; (9) North 71°56'08" East 237.32 feet; (10) North 71°53'17" East 347.09 feet; and (11) North 72°01'10" East 24.25 feet; thence South 00°06'29" East 1344.16 feet; thence North 89°33'35" East 2357.77 feet; thence South 05°05'03" West 269.83 feet; thence South 00°38'10" West 60.11 feet; thence South 01°09'16" West 1673.29 feet; thence North 90°00'00" West 3362.43 feet; thence North 14°22'39" West 186.51 feet; thence along a tangent curve turning to the right with a radius of 245.00 feet, an arc length of 214.39 feet, a delta angle of 50°08'16", a chord bearing of North 10°41'26" East, and a chord length of 207.62 feet; thence North 35°45'34" East 258.55 feet; thence along a tangent curve turning to the left with a radius of 355.00 feet, an arc length of 679.09 feet, a delta angle of 109°36'10", a chord bearing of North 19°02'28" West, and a chord length of 580.18 feet; thence North 73°50'33" West 320.44 feet; thence along a tangent curve turning to the left with a radius of 620.00 feet, an arc length of 377.39 feet, a delta angle of 34°52'31", a chord bearing of South 88°43'12" West, and a chord length of 371.59 feet; thence South 71°16'56" West 805.33 feet; thence along a tangent curve turning to the right with a radius of 1205.00 feet, an arc length of 591.33 feet, a delta angle of 28°07'00", a chord bearing of South 85°20'26" West, and a chord length of 585.41 feet; thence North 80°36'04" West 388.71 feet; thence North 09°23'56" East 13.88 feet; thence along a tangent curve turning to the right with a radius of 95.00 feet, an arc length of 76.64 feet, a delta angle of 46°13'13", a chord bearing of North 32°30'33" East, and a chord length of 74.57 feet; thence North 55°37'09" East 115.57 feet; thence along a tangent curve turning to the left with a radius of 190.00 feet, an arc length of 317.88 feet, a delta angle of 95°51'29", a chord bearing of North 07°41'25" East, and a chord length of

282.08 feet; thence North $40^{\circ}14'20''$ West 81.39 feet; thence along a tangent curve turning to the right with a radius of 120.00 feet, an arc length of 103.96 feet, a delta angle of $49^{\circ}38'16''$, a chord bearing of North $15^{\circ}25'12''$ West, and a chord length of 100.74 feet; thence North $09^{\circ}23'56''$ East 56.96 feet; thence along a tangent curve turning to the right with a radius of 170.00 feet, an arc length of 188.66 feet, a delta angle of $63^{\circ}35'09''$, a chord bearing of North $41^{\circ}11'31''$ East, and a chord length of 179.13 feet; thence North $72^{\circ}52'40''$ East 359.41 feet; thence along a non-tangent curve turning to the left with a radius of 155.00 feet, an arc length of 422.46 feet, a delta angle of $156^{\circ}09'47''$, a chord bearing of North $05^{\circ}03'41''$ West, and a chord length of 303.32 feet; thence North $83^{\circ}08'34''$ West 80.15 feet; thence along a tangent curve turning to the right with a radius of 70.00 feet, an arc length of 71.15 feet, a delta angle of $58^{\circ}14'16''$, a chord bearing of North $54^{\circ}01'27''$ West, and a chord length of 68.13 feet; thence North $24^{\circ}54'19''$ West 84.46 feet to the point of beginning.

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