

CT/A #149054-WHF

Affecting Parcel Nos. See Exhibit A & B

When Recorded, Return to:

Brad Flynt
Holland & Hart LLP
645 South Cache Street, Suite 100
PO Box 68
Jackson, Wyoming 83001

00-0020. 9372
00-0020 9572
00-0021-5554
00-0021-5555
00-0021-5556
00-0021-5557

Ent 512322 Bk 1389 Pg 1675 - 1691
MARCY M. MURRAY, Recorder
WASATCH COUNTY CORPORATION
2021 Dec 17 09:56AM Fee: \$40.00 TC
For: Cottonwood Title Insurance Agency, In
ELECTRONICALLY RECORDED

Space above for Recorder's use

INFRASTRUCTURE REIMBURSEMENT AGREEMENT

Date as of December 16 2021

between

BENLOCH RANCH LAND COMPANY, LLC

and

R&D BENLOCH RANCH, LLC

(Space above this line for Recorder's use only)

INFRASTRUCTURE REIMBURSEMENT AGREEMENT

THIS INFRASTRUCTURE REIMBURSEMENT AGREEMENT (the “**Agreement**”) is made and entered into by and between BENLOCH RANCH LAND COMPANY, LLC, a Utah limited liability company (“**Benloch Ranch**”), and R&D BENLOCH RANCH, LLC, a Utah limited liability company (“**R&D**”). R&D and Benloch Ranch may each be referred to as a “**Party**”, and collectively, the “**Parties**.”

A. Benloch Ranch is the owner of that certain real property located in Wasatch County, State of Utah, more particularly described in Exhibit A attached hereto (the “**Benloch Ranch Property**”).

B. Contemporaneously herewith, Benloch Ranch is conveying to R&D that certain real property located in Wasatch County, State of Utah, more particularly described in Exhibit B attached hereto (the “**R&D Property**”). The Benloch Ranch Property and R&D Property may each be referred to as a “**Property**”, and collectively, the “**Properties**.”

C. All or portions of the Properties are subject to some or all of the County Approvals (as defined below).

D. In connection with the conveyance of the R&D Property to R&D from Benloch Ranch, and in order to facilitate the orderly and efficient development of the Properties in accordance with the County Approvals, Benloch Ranch and R&D wish to enter into an arrangement for the purpose of creating certain easement rights over the R&D Property, providing for the coordinated construction of certain Project Improvements (as defined below) on the R&D Property, and for the fair allocation of the costs associated with such improvements.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Benloch Ranch and R&D agree as follows:

ARTICLE I. DEFINITIONS; INTERPRETATION.

1.01 **Definitions.** The terms used in this Agreement shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below, and shall incorporate the concepts set forth in each definition.

- (a) “**Agreement**” has the meaning set forth in the introductory paragraph hereof.
- (b) “**Benloch Ranch Property**” has the meaning set forth in the Recitals.
- (c) “**Benloch Ranch**” has the meaning set forth in the introductory paragraph hereof.
- (d) “**Beneficiary**” means a beneficiary, mortgagee, or holder of a Deed of Trust, and/or the assignee of such beneficiary, mortgagee, or holder.

- (e) **“Benloch Ranch Development Agreement”** means that certain Benloch Ranch Development Agreement dated June 4, 2020, by and between Benloch Ranch and the County, as the same may be amended from time to time.
- (f) **“Business Day”** means any day other than a Saturday, Sunday, or day that is a legal holiday under the laws of the State of Utah or is a day on which banking institutions located in the State of Utah are authorized or required by law or other governmental action to close.
- (g) **“R&D Property”** has the meaning set forth in the Recitals.
- (h) **“R&D”** has the meaning set forth in the introductory paragraph hereof.
- (i) **“Closing”** has the meaning set forth in Section 2.5(b) hereof.
- (j) **“Costs”** means all previously approved, reasonable, actual, documented out-of-pocket costs and expenses, with no markup by Benloch Ranch, incurred in connection with the construction, installation, repair, and/or performance of the Work and the Project Improvements hereunder, including, without limitation, all bond premiums paid in connection with the Work and Project Improvements, and all plan check, permit and other fees and costs incurred in connection with obtaining the necessary permits and approvals to undertake the Work.
- (k) **“County Approvals”** means, collectively, the Benloch Ranch Development Agreement, Entitlement Agreement, the Previously Approved Master Plans, the Project Master Plan, and the Preliminary Plan.
- (l) **“County Council”** means the Wasatch County Council.
- (m) **“County”** means the Wasatch County, a political subdivision of the State of Utah.
- (n) **“Easement Area”** means the R&D Property.
- (o) **“Effective Date”** means the date that a fully executed original of this Agreement is recorded in the Wasatch County Recorder’s Office.
- (p) **“Entitlement Agreement”** means, as at any time amended, that certain Entitlement Agreement for Aspens, Christensen and Cummings Developments, with an effective date of August 17, 2016, by and between the County, Jordanelle Special Service District, a body corporate and politic, and Jordanelle Special Service District Special Improvement District No. 2005-2, a Utah improvement district, and other Parties thereto, recorded in the Official Records of the Wasatch County Recorder on October 12, 2016 as Entry No. 429994.
- (q) **“Lot”** means a lot within the R&D Property.

- (r) **“Master Declaration”** means the Master Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Benloch Ranch recorded in the real property records of Wasatch County, Utah on June 16, 2021 as Entry No. 502142, as the same may be amended from time to time.
- (s) **“Preliminary Plan”** means that certain preliminary plan for the Properties approved by the County Council on June 19, 2019.
- (t) **“Previously Approved Master Plans”** means those certain previously approved masterplans for the Properties as described in the Benloch Ranch Development Agreement.
- (u) **“Project Improvements”** shall mean all infrastructure improvements intended for public or private use and located within the boundaries of the Project, including but not limited to any proposed sewer lines, water lines, roads, electricity, gas, telephone, detention basins, curb and gutter, trails, recreational facilities, ponds, pathways, Open Space, landscaping and hardscaping.
- (v) **“Project Master Plan”** means that certain master plan for the Properties approved by the County Council on June 19, 2019, as at any time amended.
- (w) **“Project”** shall mean the Property and the development on the Property which is the subject of the Benloch Ranch Development Agreement and the Entitlement Agreement, including all Phases or plats regularly approved by the County and any ancillary and additional improvements or endeavors incident to the development of the Project.
- (x) **“Reimbursement Amount”** has the meaning set forth in Section 2.5(b) below.
- (y) **“Scope of the Easement”** means (i) community drainage (including, without limitation, the drainage of storm water flows, diffused surface water, and directed storm water), including drainage off the Benloch Ranch Property, in both its natural state and as now or hereafter developed in accordance with applicable law and all development entitlements and approvals issued by applicable governmental authorities, including, without limitation, the County Approvals, (ii) the construction, installation, use and enjoyment, repair, replacement, and maintenance of the Work and the Project Improvements; and (iii) such access as may be necessary to enjoy the foregoing rights.
- (z) **“Work”** means the provision of all labor, materials, supplies, equipment, services, permitting, required inspections and testing, approvals for completing the Project and Project Improvements, all in accordance with the Project Master Plan.

1.02 **References.** All references to Exhibits or Schedules refer to Exhibits or Schedules, as applicable, attached to this Agreement and all such Exhibits and Schedules are incorporated herein by reference. The words “this Agreement,” “herein,” “hereof,” “hereto,” “hereinafter” and

words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision of this Agreement.

1.03 **Other Usages.** When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and the neuter and vice versa. The use in this Agreement of the term “including” and related terms such as “include” shall in all cases mean “without limitation.” The words “will” and “shall” have the same meaning.

1.04 **Headings.** The various headings of this Agreement are included for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

1.05 **Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is a Business Day. Unless otherwise expressly provided herein, the last day of any period of time described herein shall be deemed to end at 5:00 p.m., Utah time.

ARTICLE II. GRANT OF EASEMENTS; PERFORMANCE OF THE WORK.

2.01 **Grant of Easements.** R&D hereby grants to Benloch Ranch, for the benefit of the Benloch Ranch Property solely to the extent of the Scope of the Easement, the execution of the Work and completion of the Project Improvements, a perpetual, non-exclusive easement over, across, and under the Easement Area. To the extent of any conflict between the Scope of the Easement contained herein and the easements for the benefit of Benloch Ranch as the Declarant pursuant to the Master Declaration, the more expansive rights provided to Benloch Ranch shall apply.

2.02 **No Obligation; Generally.** Benloch Ranch and R&D hereby agree that Benloch Ranch shall have the right, but not obligation, to make any of the Project Improvements on, to or through the R&D Property in accordance with this Agreement. Benloch Ranch shall perform and complete the Work in a good and workmanlike manner, using quality materials and properly licensed and bonded contractors. In addition, Benloch Ranch shall perform the Work, if any, in compliance with all applicable laws and development approvals and entitlements (including, without limitation, the County Approvals), and substantially in accordance with the approved Project Master Plan. Benloch Ranch will ensure that no mechanic liens for Work performed will be recorded against the R&D Property. For the avoidance of doubt, Benloch Ranch shall have no obligation to make any Project Improvements on, through or to the R&D Property, and R&D’s reimbursement obligations under Section 2.5 shall only apply to the extent Benloch Ranch makes or has made any Project Improvements to the R&D Property.

2.03 **Construction.** At least seven (7) days before Benloch Ranch begins construction and installation of any portion of the Project Improvements or otherwise begins Work on the R&D Property, but no earlier than May 1, 2022, Benloch Ranch shall deliver to R&D a written notice of its intent to proceed with such Work and generally described the work to be performed and provide an estimated budget for such improvements (each a “**Work Notice**”). A Work Notice

may be sent via email to such email address(es) specified by R&D. Upon receipt of such Work Notice, all improvements and costs associated therewith must be approved by R&D within five (5) business days or object to such improvements. Failure to object to any improvements and the estimated costs set forth in a Work Notice within five (5) business days shall constitute its deemed consent to such improvements and costs. All Work shall be done in a first-class manner consistent with the reasonable commercial specifications, any regulatory specifications and the requirements contained in the Master Declaration, the Development Agreement, the Development Standards and any other County or Declarant requirement for the Project. R&D shall have the right to visually inspect the Work from time to time, provided that such inspection does not interfere with the progress of the Work and so long as the contractors are not required to remove or tear out any improvements to inspect the Work.

Subject to the foregoing paragraphs, R&D and Benloch Ranch acknowledge and agree that Benloch Ranch shall be solely responsible for and shall have complete control of, charge over, responsibility for and liability related to timing and sequencing, and construction means, methods, techniques, and procedures in connection with performance of any Work; provided, however, all such expenditures made by Benloch Ranch in connection with the Work shall be at market rates.

2.04 **Maintenance.**

(a) **Maintenance.** Following the completion of any Work by Benloch Ranch, R&D shall be responsible to maintain, repair, and replace the Work in the Easement Area in a first-class manner consistent with the requirements contained in the Master Declaration, the Development Agreement, the Development Standards and any other County or Declarant requirements for the Project.

2.05 **Payment for the Work.**

(a) **Obligation for Costs.** In the course of undertaking and completing the Work and the Project Improvements, if at all, Benloch Ranch may advance all funds necessary to pay the Costs. Prior to undertaking any Work which Benloch Ranch desires to be reimbursed for by R&D, Benloch Ranch shall submit to R&D a budget in accordance with Section 2.03 and the parties agree to work in good faith to agree upon the Costs for the Work. If for any reason the parties are unable to agree upon the Cost of the Work, the parties shall obtain bids for the Work from contractors of their choosing and the project engineer of record shall reasonably determine the Costs which are to be reimbursed in accordance with this Agreement. Notwithstanding the foregoing, ultimate financial responsibility for all Costs incurred by Benloch Ranch for the Work and Project Improvements relating to the R&D Property shall be borne solely by R&D, and R&D shall reimburse Benloch Ranch for R&D's proportional share of all approved Costs as provided in Section 2.5(b) and (c) below.

(b) **Reimbursement of Costs.** No later than fifteen (15) days before the requested time for payment, Benloch Ranch shall submit to R&D, a payment request to cover payment of certain Costs of Work to be reimbursed pursuant to this Agreement (such amount, the "**Reimbursement Amount**"). Within fifteen (15) days following submission of a payment request, R&D shall pay to Benloch Ranch the Reimbursement Amount, in immediately available funds. In the event R&D is unable to pay Benloch Ranch the Reimbursement Amount in a timely

manner as provided for herein, such amount shall be added to the amount owed to Benloch Ranch, and shall be paid by R&D to Benloch Ranch at the closing of any sale of the R&D Property or any Lot (each, a “**Closing**”).

(c) **Reimbursement Amount.** Notwithstanding anything herein to the contrary, the Reimbursement Amount shall consist of the actual cost per linear foot of utilities and other improvements brought to or through the R&D Property; actual cost per linear foot of roads brought to or through the R&D Property; and all actual Costs for ponds, common areas, water, pathways, and similar landscaping and hardscaping enhancements to the R&D Property and shall in no case include any Costs associated with any improvements on or related to any Property that is not the R&D Property.

2.06 **Covenants Regarding Construction.** Benloch Ranch and R&D hereby covenant with one another as follows:

(a) **Insurance.** During the period in which Benloch Ranch is performing any Work, Benloch Ranch shall maintain and carry, at its sole expense, commercial general liability insurance, on an occurrence form, adequate to protect the interest of the Parties to this Agreement, which shall name R&D as an additional insured, and which shall be the primary liability insurance for all claims or liabilities arising from, or incidental to, this Agreement and the Work.

(b) **Efforts to Lower Costs.** In each instance in this Agreement where a Cost, is to be incurred, the Parties shall use good faith efforts to keep such Cost to a reasonable minimum consistent with good development practices and the timing requirements expressed in this Agreement.

(c) **Protection Against Mechanics’ Liens.** Without in any way lessening R&D’s obligations for or Benloch Ranch’s rights to reimbursement under Section 2.5, while pursuing the Work, Benloch Ranch agrees that it shall pay when due, all Costs, and shall indemnify, defend and hold harmless R&D from any mechanics’ liens, actions or liabilities arising from non-payment of such Costs for Work engaged at the express direction of Benloch Ranch. In the event Benloch Ranch shall have a bona fide dispute with the architect, engineer, contractor or other person or entity performing the Work, Benloch Ranch may withhold payment pending resolution of such dispute, and may engage counsel and undertake such action as is reasonably necessary to resolve such dispute at the earliest possible date, and all costs reasonably incurred in resolving such dispute shall be a reimbursable Cost so long as Benloch Ranch has acted in good faith in resolving such dispute. If, by reason of the withholding of any payment pending resolution of a bona fide dispute, any mechanics’ liens are filed against the R&D Property, Benloch Ranch shall, upon written demand of R&D, post such surety bond as is necessary to release such mechanics’ lien(s) from the R&D Property.

(d) **Unreasonable Interference.** Benloch Ranch shall perform the work hereunder in a manner so as to avoid unreasonably interfering with the use and enjoyment of the R&D Property; provided, however, that R&D acknowledges and accepts that during the construction, improvement, maintenance, and repair of the Project Improvements and the Work, certain adverse impacts such as noise, odor, dust, and interference with access (but not elimination of access) are unavoidable.

ARTICLE III. RESERVED.

ARTICLE IV. LENDER PROTECTION.

4.01 **Generally.** This Agreement shall not prevent or limit in any manner the encumbrance of the Benloch Ranch Property or the R&D Property by each respective owner, or any portion thereof or any improvement thereon, by one or more Deeds of Trust. The Beneficiary under any Deed of Trust shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Deed of Trust made in good faith and for value;

(b) A Beneficiary that has submitted a request in writing to Benloch Ranch and R&D in the manner specified herein for giving notices, shall be entitled to receive written notification from R&D and Benloch Ranch of any default under this Agreement;

(c) If R&D or Benloch Ranch receives a request from a Beneficiary for a copy of any notice of default given by R&D or Benloch Ranch under the terms of this Agreement, a copy of such notice shall be sent to the applicable Beneficiary within five (5) days of sending the notice of default to R&D or Benloch Ranch, as the case may be, and such Beneficiary shall have the right, but not the obligation, to cure the default during the remaining cure period allowed to Benloch Ranch or R&D, as applicable, under this Agreement, but in no event less than thirty (30) days from Beneficiary's receipt of such notice of default; and

(d) Any Beneficiary (or its affiliate) who comes into possession of the Benloch Ranch Property or the R&D Property, or any part thereof, pursuant to foreclosure or deed in lieu of foreclosure of its Deed of Trust shall come into such possession subject to the terms of this Agreement.

4.02 **Certificate of Compliance.** Within ten (10) Business Days of the request therefore, Benloch Ranch and R&D, as applicable, will execute and deliver to any requesting Beneficiary a certificate of compliance acknowledging that this Agreement is in full force and effect and no Party is in default hereunder. Failure to provide the requested certificate within such ten (10) business day period shall constitute a confirmation that this Agreement is in full force and effect and that neither Party is in default hereunder. Nothing herein or in any such certificate, however, shall be deemed to relieve any Party of its obligations under this Agreement or its liability for failure to perform its obligations under this Agreement.

ARTICLE V. AMENDMENTS.

5.01 This Agreement shall not be amended, in whole or in part, except by a joint written agreement of the Parties to this Agreement.

ARTICLE VI. ASSIGNMENT; BINDING EFFECT; TERMINATION; PARTIAL RELEASE.

6.01 The terms contained herein shall inure to the benefit of and bind all Parties hereto and their respective heirs, executors, administrators, successors and assigns subject to the following:

(a) The easements granted under this Agreement shall be easements appurtenant to the Properties. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the Benloch Ranch Property and the R&D Property, and each covenant to do or refrain from doing some act hereunder with regard to development of the Benloch Ranch Property and R&D Property, as applicable, (i) is for the benefit of and is a burden upon every portion of the Benloch Ranch Property and R&D Property, as applicable, (ii) runs with the Benloch Ranch Property and R&D Property, and each portion thereof, and (iii) is binding upon each Party and each successor in interest; and

(b) Notwithstanding any other provisions of this Agreement, R&D may not assign its obligations under this Agreement without the prior written consent of Benloch Ranch. This Agreement may not be assigned by Benloch Ranch without the prior written consent of R&D; provided, however, that consent to assignment to the owner of a neighboring phase of Benloch Ranch Property will not be unreasonably withheld, delayed, or conditioned.

(c) This Agreement shall terminate with respect to both the R&D Property and the Benloch Ranch Property, upon the recordation in the Wasatch County Recorder's Office of a notice, executed by R&D and Benloch Ranch, of R&D's payment in full of the Reimbursement Amount.

(d) In the event of the sale of an individual Lot to a bona fide third-party consumer purchaser for value, provided that R&D is current on all Reimbursement Amounts and is otherwise not in default hereunder, Benloch Ranch agrees to provide R&D with a partial release of this Agreement as to the individual Lot in recordable form.

ARTICLE VII. DEFAULT.

7.01 Benloch Ranch or R&D, respectively, shall be in default hereunder in the event such Party fails to perform or comply with any obligation or agreement of such Party contained herein and such default shall continue for a period of thirty (30) days following notice from the non-defaulting Party; provided, however, that if such default is not of the type that could reasonably be cured within such thirty (30) day period, the defaulting Party shall have such additional time as may be necessary to complete such cure, provided the defaulting Party initiates its curative efforts within said thirty (30) day period and thereafter diligently pursues and completes such cure within a reasonable time. Notwithstanding the foregoing, the cure period for a default arising from the failure to pay any Reimbursement Amount shall only be five (5) days following written notice to R&D. Upon an event of default hereunder, each non-defaulting Party shall be entitled to exercise all rights and remedies available to such Party at law or in equity, all of which shall be cumulative, but shall not be entitled to recover any circumstantial, punitive, lost profits or any form of speculative damages, all of which are hereby waived expressly and

knowingly by Benloch Ranch and R&D, respectively, nor be entitled to rescind or otherwise terminate this Agreement.

ARTICLE VIII. MISCELLANEOUS PROVISIONS.

8.01 **Notices.** All notices required under this Agreement must be: (a) in writing; (b) signed by the Party giving notice; and (c) received by the other Party or the other party's agent no later than the applicable date referenced in this Agreement. The address to which notices to a recipient Party shall be sent shall be the address last provided by the recipient Party or, if no such address exists, to the address of such recipient Party at its portion of the Benloch Ranch Property or R&D Property, as applicable, or, if no such address exists, to the last known address of such recipient Party. The initial addresses for notices under this Agreement are as follows and, if the Party so to be served is Benloch Ranch, addressed to Benloch Ranch as follows:

If to R&D:

R&D Benloch Ranch, LLC
 % Maxim Capital Management, LLC
 1055 Ashbury Street
 San Francisco, CA 94117

With a copy to:

LAW OFFICES OF SUSAN J. COFANO
 Attn: Susan J. Cofano, Esq.
 574 Cobble Drive
 Montrose, CO 81403

If to Benloch Ranch:

Benloch Ranch Land Company, LLC
 2780 N. Moose Wilson Road
 Wilson, WY 83014
 Attn: Jamie Mackay
 jamie@mackaydevelopments.com

With a copy to:

Holland & Hart LLP
 Attention: Matt Kim-Miller
 645 South Cache Street, Suite 100,
 P.O. Box 68
 Jackson, WY 83001

Service of any such notice or demand so made by personal delivery, registered or certified mail, recognized overnight courier or facsimile transmission shall be deemed complete on the date of actual delivery as shown by the addressee's registry or certification receipt or, as to facsimile transmissions, by "answer back confirmation" (provided that a copy of such notice or demand is delivered by any of the other methods provided above within one (1) Business Day following receipt of such facsimile transmission), as applicable, or at the expiration of the third (3rd) Business Day after the date of dispatch, whichever is earlier in time. Any Party hereto may from time to time, by notice in writing served upon the others as aforesaid, designate a different mailing address to which or a different person to whose attention all such notices or demands are thereafter to be addressed.

8.02 **Further Assurances.** In addition to the acts and deeds recited herein and contemplated to be performed, executed or delivered by the Parties, the Parties hereby agree to perform, execute and deliver, or cause to be performed, executed and delivered, any and all such further documents, instruments or acts as may be reasonably required in order to consummate fully the transactions contemplated hereunder.

8.03 **Attorneys' Fees.** If any legal action or any arbitration or other proceeding is brought or if an attorney is retained for the enforcement of this Agreement or any portion thereof, or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing Party shall be entitled to recover from the other reimbursement for the reasonable fees of attorneys and other costs (including court costs and witness fees) incurred by it, in addition to any other relief to which it may be entitled. The term "prevailing Party" means the Party obtaining substantially the relief sought, whether by compromise, settlement or judgment.

8.04 **Entire Agreement.** This Agreement contains the entire agreement and understanding of the Parties in respect to the subject matter hereof, and the Parties intend for the literal words of this Agreement to govern and for all prior negotiations, drafts, letters-of-intent (both binding and non-binding), and other extrinsic communications, whether oral or written, to have no significance or evidentiary effect. The Parties further intend that neither this Agreement nor any of its provisions may be changed, amended, discharged, waived or otherwise modified orally except only by an instrument in writing duly executed by the Party to be bound thereby. Each Party hereto acknowledges that this Agreement accurately reflect the agreements and understandings of the Parties hereto with respect to the subject matter hereof and hereby waive any claim against the other Party which such Party may now have or may hereafter acquire to the effect that the actual agreements and understandings of the Parties hereto with respect to the subject matter hereof may not be accurately set forth in this Agreement.

8.05 **Governing Law.** This Agreement shall be governed by the internal laws of the State of Utah.

8.06 **Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

8.07 **Partial Validity; Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

8.08 **No Third Party Beneficiaries.** This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective permitted successors and assigns, and no third Party is intended to, or shall have, any rights hereunder.

8.09 **Joint Product of Parties.** This Agreement is the result of arms-length negotiations between the Parties to this Agreement, and their respective attorneys. Accordingly, no Party shall be deemed to be the author of this Agreement and this Agreement shall not be construed against any Party.

8.10 **Nature of Relationship.** It is specifically understood and agreed by and between the Parties hereto that no Party is acting as the agent of the other in any respect hereunder and that

each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement.

8.11 **Time.** Time is of the essence under this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each Party is signing this Agreement as of the date of the notarization of such Party's signature, but in each case to be effective as of the Effective Date.

R&D:

R&D BENLOCH RANCH, LLC,
a Utah limited liability company

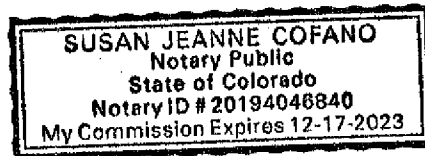
By: *Jeremy Ricks*
Name: J & B Western States Development Group, Inc. - its Manager
Title: By: Jeremy Ricks, its President

STATE OF COLORADO)
)§
COUNTY OF MESA)

The foregoing instrument was acknowledged before me, a notary public, on this 13th day of December, 2021, by Jeremy Ricks, Manager of R&D BENLOCH RANCH, LLC, a Utah limited liability company.

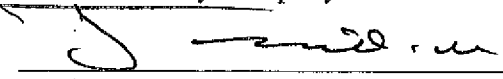
Susan Cofano
Notary Public
Residing at: 574 Cobble Drive, Montrose, CO 81403

(Seal)




BENLOCH RANCH:

BENLOCH RANCH LAND COMPANY, LLC,
a Utah limited liability company

By: 
Name: Jamie Mackay
Title: President

STATE OF UTAH)
)§
COUNTY OF SALT LAKE)

This instrument was acknowledged before me on this 9 day of December, 2021,
by Jamie Mackay, the President of Benloch Ranch Land Company, LLC, a Utah limited liability
company.


Notary Public

(Seal)

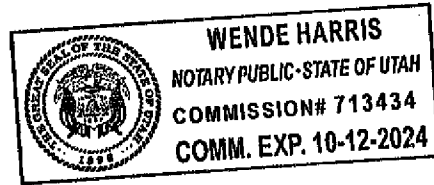


Exhibit A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN WASATCH COUNTY, UTAH AND IS DESCRIBED AS FOLLOWS:

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

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, AND PART OF THE SOUTHWEST QUARTER 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 BENLOCH RANCH ROAD, SAID POINT BEING N89°31'27"E 6017.58 FEET AND S00°28'33"E 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 S89°31'27"W 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°33'50", A CHORD BEARING OF S55°15'54"E, AND A CHORD LENGTH OF 5.01 FEET; (2) S54°48'59"E 122.63 FEET; (3) ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 1555.00 FEET, AN ARC LENGTH OF 306.86 FEET, A DELTA ANGLE OF 11°18'26", A CHORD BEARING OF S60°28'12"E, AND A CHORD LENGTH OF 306.38 FEET; (4) S66°07'25"E 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°28'39", A CHORD BEARING OF S73°21'44"E, AND A CHORD LENGTH OF 177.67 FEET; (6) S80°36'04"E 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°43'33", A CHORD BEARING OF N86°02'06"E, AND A CHORD LENGTH OF 607.84 FEET; THENCE S17°19'41"E 73.31 FEET; THENCE S31°03'02"E 99.94 FEET; THENCE S13°12'27"E 123.35 FEET; THENCE S09°37'26"W 160.48 FEET; THENCE S30°23'51"W 123.37 FEET; THENCE S52°15'06"W 102.40 FEET; THENCE S26°59'52"W 458.46 FEET; THENCE S31°59'27"W 146.05 FEET; THENCE S44°19'13"W 146.05 FEET; THENCE S56°38'59"W 146.05 FEET; THENCE S68°58'46"W 146.05 FEET; THENCE S81°18'32"W 146.05 FEET; THENCE N86°55'42"W 136.73 FEET; THENCE N79°18'30"W 268.60 FEET; THENCE N69°54'02"W 98.11 FEET; THENCE N55°36'39"W 115.81 FEET; THENCE N36°10'33"W 176.90 FEET; THENCE N26°58'51"W 76.04 FEET; THENCE N12°34'50"W 76.97 FEET; THENCE S75°44'48"W 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°38'00", A CHORD BEARING OF S82°03'48"W, AND A CHORD LENGTH OF 245.84 FEET; THENCE SOUTH 113.04 FEET; THENCE S17°17'32"W 97.61 FEET; THENCE S29°49'19"W 172.83 FEET; THENCE S48°35'21"W 172.83 FEET; THENCE S67°25'39"W 174.12 FEET; THENCE S86°15'56"W 172.83 FEET; THENCE N78°06'15"W 167.29 FEET; THENCE N69°00'37"W 137.42 FEET; THENCE N53°32'36"W 222.67 FEET; THENCE N12°53'17"W 224.48 FEET; THENCE N23°24'22"E 224.02 FEET; THENCE N62°51'42"E 265.60 FEET; THENCE N53°48'40"E 58.57 FEET; THENCE N37°16'02"W 487.87 FEET; THENCE N05°00'04"W 125.71 FEET; THENCE N06°55'10"E 135.96 FEET; THENCE N19°24'49"E 138.25

FEET; THENCE N31°04'15"E 117.65 FEET; THENCE N43°23'25"E 152.72 FEET; THENCE N61°07'00"E 55.99 FEET; THENCE N61°30'31"E 60.19 FEET; THENCE N60°30'43"E 281.65 FEET; THENCE S33°53'57"E 177.36 FEET; THENCE N80°47'54"E 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 N10°07'54"E, AND A CHORD LENGTH OF 105.86 FEET; THENCE N35°11'22"E 99.40 FEET TO THE POINT OF BEGINNING.

CONTAINING 94.109 ACRES MORE OR LESS.

[continued on following page]

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 N89°31'27"E 7546.18 FEET AND N00°28'33"W 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 S89°31'27"W 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) N69°06'21"E 582.54 FEET; (2) N69°12'39"E 422.32 FEET; (3) S88°26'59"E 300.00 FEET; (4) N89°39'42"E 324.08 FEET; (5) N82°24'02"E 333.19 FEET; (6) N59°39'18"E 336.67 FEET; (7) N41°13'03"E 300.01 FEET; (8) N71°55'29"E 195.18 FEET; (9) N71°56'08"E 237.32 FEET; (10) N71°53'17"E 347.09 FEET; AND (11) N72°01'10"E 24.35 FEET; THENCE S00°06'29"E 1344.16 FEET; THENCE N89°33'35"E 2357.77 FEET; THENCE S05°05'03"W 269.83 FEET; THENCE S00°38'10"W 60.11 FEET; THENCE S01°09'16"W 1673.29 FEET; THENCE N90°00'00"W 3362.43 FEET; THENCE N14°22'39"W 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 N10°41'26"E, AND A CHORD LENGTH OF 207.62 FEET; THENCE N35°45'34"E 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 N19°02'28"W, AND A CHORD LENGTH OF 580.18 FEET; THENCE N73°50'33"W 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 S88°43'12"W, AND A CHORD LENGTH OF 371.59 FEET; THENCE S71°16'56"W 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 S83°20'26"W, AND A CHORD LENGTH OF 585.41 FEET; THENCE N80°36'04"W 388.71 FEET; THENCE N09°23'56"E 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 N32°30'33"E, AND A CHORD LENGTH OF 74.57 FEET; THENCE N55°37'09"E 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 N07°41'25"E, AND A CHORD LENGTH OF 282.08 FEET; THENCE N40°14'20"W 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°38'16", A CHORD BEARING OF N15°25'12"W, AND A CHORD LENGTH OF 100.74 FEET; THENCE N09°23'56"E 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°35'09", A CHORD BEARING OF N41°11'31"E, AND A CHORD LENGTH OF 179.13 FEET; THENCE N72°52'40"E 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°09'47", A CHORD BEARING OF N05°03'41"W, AND A CHORD LENGTH OF 303.32 FEET; THENCE N83°08'34"W 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°14'16", A CHORD BEARING OF N54°01'27"W, AND A CHORD LENGTH OF 68.13 FEET; THENCE N24°54'19"W 84.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 253.812 ACRES MORE OR LESS.

LESS AND EXCEPT: The real property identified on Exhibit B

Exhibit B**LEGAL DESCRIPTION**

PART OF THE NORTH HALF OF SECTION 2, 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 N89°31'27"E 7546.18 FEET AND N00°28'33"W 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 S89°31'27"W 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 FIVE (5) COURSES: (1) N69°06'21"E 582.54 FEET; (2) N69°12'39"E 422.32 FEET; (3) S88°26'59"E 300.00 FEET; (4) N89°39'42"E 324.08 FEET; (5) N82°24'02"E 125.85 FEET; THENCE SOUTH 281.62 FEET; THENCE S16°33'38"W 196.36 FEET; THENCE S73°26'22"E 300.00 FEET; THENCE S16°33'38"W 60.00 FEET; THENCE SOUTH 859.71 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF BENLOCH RANCH ROAD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY THE FOLLOWING FIVE (5) COURSES: (1) N73°50'33"W 177.91 FEET; (2) 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 S88°43'12"W, AND A CHORD LENGTH OF 371.59 FEET; (3) S71°16'56"W 805.33 FEET; (4) 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 S85°20'26"W, AND A CHORD LENGTH OF 585.41 FEET; AND (5) N80°36'04"W 388.71 FEET TO THE EASTERLY RIGHT OF WAY LINE OF FIRESIDEDRIVE; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE THE FOLLOWING THIRTEEN (13) COURSES: (1) N09°23'56"E 13.88 FEET; (2) 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 N32°30'33"E, AND A CHORD LENGTH OF 74.57 FEET; (3) N55°37'09"E 115.57 FEET; (4) 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 N07°41'25"E, AND A CHORD LENGTH OF 282.08 FEET; (5) N40°14'20"W 81.39 FEET; (6) 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°38'16", A CHORD BEARING OF N15°25'12"W, AND A CHORD LENGTH OF 100.74 FEET; (7) N09°23'56"E 56.96 FEET; (8) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 170.00 FEET, AN ARCLNGTH OF 188.66 FEET, A DELTA ANGLE OF 63°35'09", A CHORD BEARING OF N41°11'31"E, AND A CHORD LENGTH OF 179.13 FEET; (9) N72°52'40"E 359.41 FEET; (10) 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°09'47", A CHORD BEARING OF N05°03'41"W, AND A CHORD LENGTH OF 303.32 FEET; (11) N83°08'34"W 80.15 FEET; (12) 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°14'16", A CHORD BEARING OF N54°01'27"W, AND A CHORD LENGTH OF 68.13 FEET; AND (13) N24°54'19"W 84.46 FEET TO THE POINT OF BEGINNING.