

BOX ELDER COUNTY
SUBDIVISION IMPROVEMENT
AGREEMENT

1. **Parties:** The parties to this Subdivision Improvement Agreement ("the Agreement") are Brodie Calder, ("the Developer") and Box Elder County, ("the County").
2. **Effective Date:** The Effective Date of this Agreement will be the date that final subdivision plat approval is granted by the County Commission ("the Commission").

RECITALS

WHEREAS, the Developer seeks permission to subdivide property within the unincorporated area of Box Elder County, to be known as Brodie Calder Subdivision (the "Subdivision"), which property is more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the County seeks to protect the health, safety and general welfare of the residents by requiring the completion of various improvements in the Subdivision and thereby to limit the harmful effects of substandard subdivisions, including premature subdivision which leaves property undeveloped and unproductive; and

WHEREAS, the purpose of this Agreement is to protect the County from the cost of completing subdivision improvements itself and is not executed for the benefit of material, laborers, or others providing work, services or material to the Subdivision or for the benefit of lot or home buyers in the Subdivision; and

WHEREAS, the mutual promises, covenants, and obligations contained in this Agreement are authorized by state law and the Box Elder County Land Development & Management Code;

THEREFORE, the Parties hereby agree as follows:

DEVELOPER'S OBLIGATIONS

3. **Improvements:** The Developer will construct and install, at his own expense, those on-site and off-site subdivision improvements listed on Exhibits A & B attached hereto and incorporated herein by this reference ("the Improvements"). The Developer's obligation to complete the Improvements will arise upon final plat approval by the County, will be independent of any obligations of the County contained herein and will not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the development.

4. **Security:** To secure the performance of his obligations hereunder, the Developer will deposit with Northern Title Company on or prior to the effective date, an irrevocable deposit in escrow in the amount of \$139,004, and enter into an Escrow Agreement between Developer, County, and Northern Title Company. A copy of which is attached hereto as Exhibit C. The escrow will be payable to the County at any time upon presentation of (i) an affidavit executed by an authorized County official stating that the Developer is in default under this Agreement; and (ii) the original of the escrow.
5. **Standards:** The Developer will construct the Improvements according to the Public Works Standards and Technical Specifications as incorporated herein by Exhibits A & B.
6. **Warranty:** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of one year from the date that the County accepts the improvement when completed by the Developer. The 10% contingency designated in the approved cost estimate (Exhibit "B") is to provide for this warranty.
7. **Completion Periods:** The Developer will commence work on the Improvements within one year from the Effective Date of this Agreement (the "Commencement Period") and the Improvements, each and every one of them, will be completed within eighteen (18) months from the Effective Date of this Agreement (the "Completion Period").
8. **Compliance with Law:** The Developer will comply with all relevant laws, ordinances, and regulations in effect at the time of final subdivision plat approval when fulfilling his obligations under this Agreement. When necessary to protect public health, the Developer will be subject to laws, ordinances and regulations that become effective after final plat approval.
9. **Dedication:** The developer will dedicate to the County or other applicable agency as designated by the County the Improvements listed on Exhibit A and Exhibit B attached hereto and incorporated herein by this reference pursuant to the procedure described in Paragraph 13 below.

COUNTY'S OBLIGATIONS

10. **Plat Approval:** The County will grant final subdivision plat approval to the Subdivision under the terms and conditions previously agreed to by the Parties if those terms and conditions are consistent with all relevant state laws and local ordinances in effect at the time of final plat approval.

11. **Inspection and Certification:** The County will inspect the Improvements as they are being constructed and, if acceptable to the County Engineer, certify such improvement as being in compliance with the standards and specifications of the County. Such inspection and certification, if appropriate, will occur within five (5) days of notice by the Developer that he desires to have the County inspect an improvement. Before obtaining certification of any such improvement, the Developer will present to the County valid lien waivers from all persons providing materials or performing work on the improvement for which certification is sought. Certification by the County Engineer does not constitute a waiver by the County of the right to draw funds under the Escrow on account of defects in or failure of any improvement that is detected or which occurs following such certification.
12. **Notice of Defect:** The County will provide timely notice to the Developer whenever inspection reveals that an improvement does not conform to the standards and specifications shown on the approved subdivision improvement drawings on file in the Box Elder County Engineering and Surveyor's Office or is otherwise defective. The Developer will have 30 days from the issuance of such notice to cure or substantially cure the defect. The County may not declare a default under this Agreement during the 30 day cure period on account of any such defect unless it is clear that the Developer does not intend to cure the defect. The Developer will have no right to cure defects in or failure of any improvement found to exist or occurring after the County accepts dedication of the improvement(s).
13. **Acceptance of Dedication:** The County or other applicable agency will accept the dedication of any validly certified improvement within 30 days of the Developer's offer to dedicate the improvement. The County's or agency's acceptance of dedication is expressly conditioned on the presentation by the Developer of a policy of title insurance, where appropriate, for the benefit of the County showing that the Developer owns the improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the County in its reasonable judgment. Acceptance of the dedication of any improvement does not constitute a waiver by the County of the right to draw funds under the Escrow on account of any defect in or failure of the improvement that is detected or which occurs after the acceptance of the dedication. The Improvements must be offered to the County in no more than one dedication per month.
14. **Reduction of Security:** After the acceptance of any improvement, the Escrow may be reduced by an amount equal to the estimated cost of the improvement as shown on Exhibit B. At the request of the Developer, the County will execute a certificate of release verifying the acceptance of the improvement and waiving its right to draw on the Escrow to the extent of such amount. A Developer in default under this Agreement will have no right to such a certificate. Upon the acceptance of all of the Improvements, the balance that may be drawn under the Escrow will be available to the County for 365 days during the Warranty Period.
15. **Use of Proceeds:** The County will use funds drawn under the Escrow only for the purposes of completing the Improvements or correcting defects in or failures of the Improvements.

OTHER PROVISION

16. **Events of Default:** The following conditions, occurrences or actions will constitute a default by the Developer during the Construction Period:

- a. Developer's failure to commence construction of the Improvements within one year of final subdivision plat approval;
- b. Developer's failure to complete construction of the Improvements within eighteen (18) months from the date the Agreement is executed.
- c. Developer's failure to cure the defective construction of any improvement within the applicable cure period;
- d. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer;
- e. Foreclosure of any lien against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure.

The County may not declare a default until written notice has been given to the Developer.

17. **Measure of Damages:** The measure of damages for breach of this Agreement will be the reasonable cost of completing the Improvements. For improvements upon which construction has not begun, the estimated cost of the Improvements as shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount nor the amount of the Escrow establishes the maximum amount of the developer's liability. The County will be entitled to complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever commenced.

18. **County's Rights Upon Default:** When any event of default occurs, the County may draw on the Escrow to the extent of the face amount of the credit less 90 percent of the estimated cost (as shown on Exhibit B) of all improvements theretofore accepted by the County. The County will have the right to complete improvements itself or contract with a third party for completion, and the Developer hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such improvements. Alternatively, the County may assign the proceeds of the Escrow to a subsequent developer (or a lender) who has acquired the Subdivision by purchase, foreclosure or otherwise who will then have the same rights of completion as the County if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished improvements. In addition, the County also may suspend final plat approval during which time the Developer will have no right to sell, transfer, or otherwise convey lots or homes within the Subdivision without the express written approval of the County or until the Improvements are completed and approved by the County. These remedies are cumulative in nature except that during the Warranty Period, the County's only remedy will be to draw funds under the Escrow.

19. **Indemnification:** The Developer hereby expressly agrees to indemnify and hold the County harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work at the development site and elsewhere pursuant to this Agreement. The Developer further agrees to aid and defend the County in the event that the County is named as a defendant in an action concerning the performance of work pursuant to this Agreement except where such suit is brought by the Developer. The Developer is not an agent or employee of the County.
20. **No Waiver:** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both County and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The County's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.
21. **Amendment or Modification:** The parties to this Agreement may amend or modify this Agreement only by written instrument executed by the County and by the Developer or his authorized officer. Such amendment or modification will be properly notarized before it may be effective.
22. **Attorney's Fees:** Should either party be required to resort to litigation, arbitration, or mediation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator, or mediator awards relief to both parties, each will bear its own costs in their entirety.
23. **Vested Rights:** The County does not warrant by this Agreement that the Developer is entitled to any other approval(s) required by the County, if any, before the Developer is entitled to commence development of the Subdivision or to transfer ownership of property in the Subdivision.
24. **Third Party Rights:** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement, except that if the County does not exercise its rights within 60 days following knowledge of an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the County to exercise its rights.
25. **Scope:** This Agreement constitutes the entire agreement between the parties and no statement(s), promise(s) or inducement(s) that is/are not contained in this Agreement will be binding on the parties.
26. **Time:** For the purpose of computing the Commencement, Abandonment, and Completion Periods, and time periods for County action, such times in which civil disaster, acts of God, or extreme weather conditions occur or exist will not be included if such times prevent the Developer or County from performing his/its obligations under the Agreement.

27. **Severability:** If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
28. **Benefits:** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the County. Such approval may not be unreasonable withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors, and assigns of the Developer. There is no prohibition on the right of the County to assign its rights under this Agreement. The County will release the original developer's Escrow if it accepts new security from any developer or lender who obtains the Property. However, no act of the County will constitute a release of the original developer from this liability under this Agreement.
29. **Notice:** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:
- If to Developer: Attn: Brodie Calder
 Address: 4542 West 14800 North
 Garland, UT. 84312
- If to County: Attn: Community Development Director
 Address: 01 South Main Street
 Brigham City, UT. 84302
30. **Recordation:** Either Developer or County may record a copy of this Agreement in the Recorder's Office of Box Elder County, Utah.
31. **Immunity:** Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.
32. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, Escrow will be deemed to be proper only if such action is commenced in District Court for Box Elder County. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

Dated this 18 day of August, 2021.

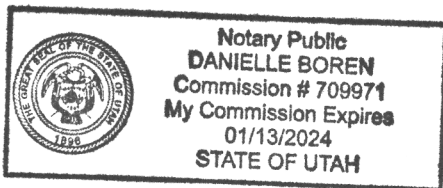
Brodie Calder
Brodie Calder

ACKNOWLEDGEMENT

State of Utah)
ss
County of Box Elder)

BEFORE ME THE UNDERSIGNED, a Notary Public, within and for said State and County, on this 18th day of August, 2021, personally appeared Brodie Calder, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument as a free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



Danielle Boren
Notary Public
Residing at: Tremonton Utah

APPROVED AS TO FORM:

Stephen Hadfield
Box Elder County Attorney
Stephen Hadfield

Jeff Hadfield
Chairperson, Box Elder County Commission

8-19-21
Date

ATTEST

Marla Young
Box Elder County Clerk
Marla Young

EXHIBIT A: PROPERTY DESCRIPTION TO BE SUBDIVIDED

See Exhibit A

EXHIBIT B: REQUIRED ON & OFF SITE SUBDIVISION IMPROVEMENTS

See Exhibit B

EXHIBIT C: ESCROW AGREEMENT

See Exhibit C

BEGINNING AT THE NORTHEAST OF SAID SECTION 3 AND RUNNING THENCE SOUTH 89°39'00" EAST 207.21 FEET ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 01°33'44" WEST 2530.89 FEET; THENCE SOUTH 89°05'53" WEST 830.53 FEET; THENCE NORTH 00°54'07" WEST 351.35 FEET; THENCE SOUTH 88°35'06" WEST 202.06 FEET; THENCE SOUTH 01°24'54" EAST 126.63 FEET; THENCE SOUTH 86°00'19" WEST 205.72 FEET; THENCE SOUTH 01°24'55" EAST 84.24 FEET; THENCE SOUTH 42°28'23" WEST 30.00 FEET; THENCE SOUTHERLY ON A NON-TANGENT CURVE TO THE RIGHT ALONG THE ARC OF A 55.00 FOOT RADIUS CURVE, A DISTANCE OF 132.65 FEET, CHORD BEARS SOUTH 21°34'05" WEST 102.76 FEET, HAVING A CENTRAL ANGLE OF 138°11'23"; THENCE IN A SOUTHWESTERLY DIRECTION WITH A REVERSE TANGENT CURVE TO THE LEFT OF A 20.00 FOOT RADIUS CURVE, A DISTANCE OF 45.84 FEET, CHORD BEARS SOUTH 25°00'28" WEST 36.44 FEET, HAVING A CENTRAL ANGLE OF 131°18'37" TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF BEAVER DAM ROAD; THENCE IN A NORTHWESTERLY DIRECTION ON A NON-TANGENT CURVE TO THE LEFT ALONG THE ARC OF A 397.43 FOOT RADIUS CURVE, A DISTANCE OF 142.70 FEET, CHORD BEARS NORTH 50°56'00" WEST 141.93, HAVING A CENTRAL ANGLE OF 20°34'19" ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE TO THE SOUTHERLY PROJECTION OF AN EXISTING FIELD SEPARATION AND THE SOUTHERLY PROJECTION OF AN EXISTING FENCE LINE ACCEPTED AS THE WEST LINE OF LOT 1, OF SAID SECTION 3 AND THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 3; THENCE NORTH 01°24'55" WEST 2484.03 FEET ALONG SAID EXISTING FENCE LINE AND THEN SAID EXISTING FIELD SEPARATION TO THE NORTHWEST CORNER OF SAID LOT 1, BEING A POINT ON THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE ALONG SAID NORTH LINE THE FOLLOWING TWO (2) COURSES: (1) NORTH 89°56'13" EAST 1326.95 FEET TO THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 13 NORTH, RANGE 2 WEST, BEING A BOX ELDER COUNTY REBAR AND CAP; AND (2) SOUTH 88°50'28" EAST 17.80 FEET TO THE POINT OF BEGINNING. CONTAINING 83.95 ACRES.

BRODIE CALDER SUBDIVISION "EXHIBIT B"**ENGINEER'S ESTIMATE**

DATE: AUGUST 17, 2021

WORK ITEM #	ITEM	UNIT	QUANTITY	UNIT PRICE	TASK PRICE
I. STREET IMPROVEMENTS - ON-SITE					
1	MOBILIZATION, CLEARING & SITE PREPARATION - CUL-DE-SAC	LS	1	\$2,700.00 /LS	\$2,700
2	SAWCUT - BEAVER DAM ROAD	LF	70	\$6.00 /LF	\$420
3	CUL-DE-SAC: 8" SCARIFY - SUBGRADE PREP & COMPACT TO 95%	SF	8,950	\$0.20 /SF	\$1,790
4	CUL-DE-SAC: 8" UNTREATED BASE COURSE (3/4" - 1-1/2") - IN-PLACE	SF	8,950	\$0.88 /SF	\$7,876
5	CUL-DE-SAC: 3" ASPHALT - IN-PLACE	SF	8,610	\$1.85 /SF	\$15,929
6	PRIVATE ROAD - CUT ROAD & EAST SWALE TO GRADE - DISPOSE MTRL. ON-	LS	1	\$4,500.00 /LS	\$4,500
7	PRIVATE ROAD: 8" SCARIFY - SUBGRADE PREP & COMPACT TO 95%	SF	33,338	\$0.20 /SF	\$6,668
8	PRIVATE ROAD: 6" GRANULAR BORROW (3" - 6") - IN-PLACE	SF	33,338	\$0.67 /SF	\$22,336
9	PRIVATE ROAD: 8" UNTREATED BASE COURSE (3/4" - 1-1/2") - IN-PLACE	SF	33,338	\$0.88 /SF	\$29,337
10	SEAL COAT	SY	957	\$1.60 /SY	\$1,531
11	COMPACTION TESTING	LS	1	\$1,500.00 /LS	\$1,500

SUBTOTAL:

\$94,587

II. DRAINAGE IMPROVEMENTS

12	GRADE/SHAPE DRAINAGE POND	LS	1	\$2,200.00 /LS	\$2,200
13	DRAINAGE SWALE AROUND CUL-DE-SAC (PAVED) - 15" DEPTH	LS	1	\$1,800.00 /LS	\$1,800
14	DRAINAGE SWALE AROUND CUL-DE-SAC (NORTH-PVT. ROAD) - 15" DEPTH	LS	1	\$1,800.00 /LS	\$1,800
15	15" RCP ACROSS ENTRY TO POND - FURNISH & INSTALL	LF	64	\$35.00 /LF	\$2,240
16	15" RCP ACROSS PRIVATE ROAD	LF	218	\$35.00 /LF	\$7,630
17	15" RCP - POND TO TYPE V CATCH BASIN	LF	120	\$35.00 /LF	\$4,200
18	15" RCP - DELIVER ON-SITE FOR LOTS 2 & 3	LF	48	\$20.00 /LF	\$960
19	DRAINAGE POND CONTROL STRUCTURE	LS	1	\$2,800.00 /LS	\$2,800
20	REPLACE EXISTING CATCH BASIN WITH TYPE V CATCH BASIN	LS	1	\$3,100.00 /LS	\$3,100
21	CATCH BASIN ON UPSTREAM SIDE OF ENTRANCE	LS	1	\$2,800.00 /LS	\$2,800
22	15" FLARED END SECTION	EA	9	\$250.00 /EA	\$2,250

SUBTOTAL:

\$31,780

III. CULINARY WATER IMPROVEMENTS

23	NOTE: RUN SEPARATE 2-INCH PIPES IN ROAD TO LOTS	LS	0	\$0.00 /EA	NIC
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SUMMARY:

STREET IMPROVEMENTS					\$94,587
STORM DRAINAGE IMPROVEMENTS					\$31,780
CULINARY WATER IMPROVEMENTS					NIC

SUBTOTAL: SITE IMPROVEMENTS:

\$126,367

10% CONTINGENCY

\$12,637

GRAND TOTAL:**\$139,004**

SUBDIVISION COST ESTIMATE APPROVAL

Brent W. Slater

BRENT W. SLATER, PLS

JONES & ASSOCIATES

BOX ELDER COUNTY ENGINEERS

8-18-2021

DATE

“EXHIBIT C”**ESCROW AGREEMENT**

This Agreement, made this August 18, 2021 by and between BOX ELDER COUNTY (hereinafter "County"), and BRODIE CALDER (hereinafter "Developer"), and NORTHERN TITLE COMPANY, (hereinafter "Escrow Agent").

RECITALS:

WHEREAS, The Developer is developing the Brodie Calder Subdivision, a copy of which is attached hereto as Exhibit “A” and more specifically described as:

A PART OF THE NORTHEAST QUARTER OF SECTION 3 AND THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 12 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT THE NORTHEAST OF SAID SECTION 3 AND RUNNING THENCE SOUTH 89°39'00" EAST 207.21 FEET ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 01°33'44" WEST 2530.89 FEET; THENCE SOUTH 89°05'53" WEST 830.53 FEET; THENCE NORTH 00°54'07" WEST 351.35 FEET; THENCE SOUTH 88°35'06" WEST 202.06 FEET; THENCE SOUTH 01°24'54" EAST 126.63 FEET; THENCE SOUTH 86°00'19" WEST 205.72 FEET; THENCE SOUTH 01°24'55" EAST 84.24 FEET; THENCE SOUTH 42°28'23" WEST 30.00 FEET; THENCE SOUTHERLY ON A NON-TANGENT CURVE TO THE RIGHT ALONG THE ARC OF A 55.00 FOOT RADIUS CURVE, A DISTANCE OF 132.65 FEET, CHORD BEARS SOUTH 21°34'05" WEST 102.76 FEET, HAVING A CENTRAL ANGLE OF 138°11'23"; THENCE IN A SOUTHWESTERLY DIRECTION WITH A REVERSE TANGENT CURVE TO THE LEFT OF A 20.00 FOOT RADIUS CURVE, A DISTANCE OF 45.84 FEET, CHORD BEARS SOUTH 25°00'28" WEST 36.44 FEET, HAVING A CENTRAL ANGLE OF 131°18'37" TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF BEAVER DAM ROAD; THENCE IN A NORTHWESTERLY DIRECTION ON A NON-TANGENT CURVE TO THE LEFT ALONG THE ARC OF A 397.43 FOOT RADIUS CURVE, A DISTANCE OF 142.70 FEET, CHORD BEARS NORTH 50°56'00" WEST 141.93, HAVING A CENTRAL ANGLE OF 20°34'19" ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE TO THE SOUTHERLY PROJECTION OF AN EXISTING FIELD SEPARATION AND THE SOUTHERLY PROJECTION OF AN EXISTING FENCE LINE ACCEPTED AS THE WEST LINE OF LOT 1, OF SAID SECTION 3 AND THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 3; THENCE NORTH 01°24'55" WEST 2484.03 FEET ALONG SAID EXISTING FENCE LINE AND THEN SAID EXISTING FIELD SEPARATION TO THE NORTHWEST CORNER OF SAID LOT 1, BEING A POINT ON THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE ALONG SAID NORTH LINE THE FOLLOWING TWO (2) COURSES: (1) NORTH 89°56'13" EAST 1326.95 FEET TO THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 13 NORTH, RANGE 2 WEST, BEING A BOX ELDER COUNTY REBAR AND CAP; AND (2) SOUTH 88°50'28" EAST 17.80 FEET TO THE POINT OF BEGINNING. CONTAINING 83.95 ACRES.

and;

WHEREAS, Developer is seeking approval by County of his subdivision and certain improvements, more particularly described on the Subdivision Plat, a copy of which is attached as Exhibit “A” and the engineers cost estimate a copy of which is attached as Exhibit "B," are not yet complete; and

WHEREAS, Developer is agreeable to securing the completion of such improvements by depositing funds into escrow and Escrow Agent is agreeable to accepting funds in escrow and to act as Escrow Agent, subject to the terms and conditions of this agreement, and the following:

- Escrow Agent is holding funds in escrow from Brodie Calder, in the amount of \$139,004. The escrow funds are for improvements for the Brodie Calder Subdivision as per the attached engineering estimate attached as Exhibit “B” and

will be disbursed accordingly.

- Escrow Agent agrees to pay the escrow funds to Box Elder County at any time upon presentation of an affidavit executed by an authorized County official stating that the Developer is in default under this Agreement.
- If the Developer is considered to be in default, the money will be payable at sight to the County and will bear an expiration date not earlier than two years after the Effective Date of this Agreement.

NOW THEREFORE, based upon the above recitals and other good and valuable consideration, it is mutually agreed as follows:

1. ESCROW AGENT: Northern Title Company is a Utah Corporation and does hereby accept appointment as Escrow Agent.
2. AMOUNT AND PURPOSE OF ESCROW: Developer deposits with Escrow Agent the sum of \$139,004, which represents the estimated cost to complete the matters set forth on Exhibit "A" and Exhibit "B" attached hereto.
3. CONDITIONS OF ESCROW: The following terms and conditions shall apply to this Escrow Agreement:
 - A. Escrow Agent shall accept and hold the sum of \$139,004 from Developer pursuant to the terms of this Agreement.
 - B. In order to qualify for return of the escrowed funds, except for the 10% contingency, Developer must have completed the items set forth on Exhibit "A" and Exhibit "B" February 18, 2023.
 - C. Except for the 10% contingency, escrowed funds will be released to Developer upon completion of work and written approval of Box Elder County.
 - D. In the event the work is not completed by February 18, 2023, Escrow Agent shall disburse the escrowed funds to County, except for the 10% contingency, and County may secure the completion of such work in any manner it deems reasonable, whether through its own agents, or through independent contractors.
 - E. Escrow Agent shall release the 10% contingency, less any amounts used to repair warranty defects, to Developer upon the expiration of 1 year after final acceptancy by the County.
 - F. Escrowed funds shall be released to County upon presentation of an affidavit executed by County stating that Developer is in default.
4. CO-OPERATION OF DEVELOPER: Developer agrees to cooperate with County, or other parties in the performance of such work, and to allow access at reasonable times, if necessary to the performance of such work.
5. MISCELLANEOUS:

- A. Escrow Agent assumes no responsibility or warrants for the manner of the workmanship of the work completed.
- B. Developer and County agree to hold Escrow Agent harmless from and release it from all claims, suits, or demands in connection with this Escrow Agreement.
- C. All inspection fees shall be deducted from Escrow funds prior to issuing final check.

“Developer”

Brodie Calder
Brodie Calder

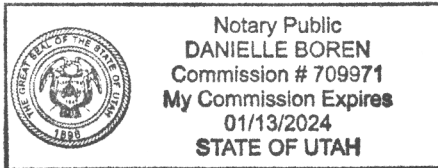
State of UTAH)

County of Box Elder)

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On this 10th day of August, 2021, before me, personally appeared Brodie Calder, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument as a free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal.



Danielle Boren
Notary Public

“County”

[Signature]
Commissioner, Box Elder County

ATTEST:

[Signature]
Box Elder County Clerk
Marla Young



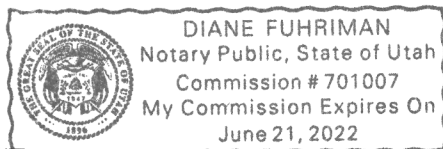
STATE OF Utah)

SS

COUNTY OF Box Elder)

BEFORE ME THE UNDERSIGNED, a Notary Public, within and for said State and County, on this 19 day of August, 2021, personally appeared Jeff Hadsfield, County Commissioner of Box Elder County, a corporation, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument as a free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



Diane Fuhrman
Notary Public

"Escrow Agent"

Craig A. Waege
Northern Title Company

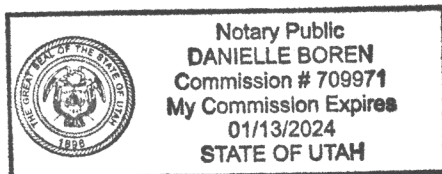
STATE OF Utah)

SS

COUNTY OF Box Elder)

BEFORE ME THE UNDERSIGNED, a Notary Public, within and for said State and County, on this 18th day of August, 2021, personally appeared Craig J. Waege, the Manager of Northern Title Company, a corporation, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the entity upon behalf of which the person acted, executed the instrument as a free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



Danielle Boren
Notary Public