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ENTRY NO. 01181836

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Agreement PAGE 1/9

RHONDA FRANCIS, SUMMIT COUNTY RECORDER

FEE 40.00 BY COALVILLE CITY



**DEVELOPER'S IMPROVEMENT AGREEMENT (DIA)
WITH COALVILLE CITY**

THIS AGREEMENT entered into this 7th day of JANUARY, 2022, between **WOHALI LAND ESTATES, LLC**, a Utah limited liability company, hereinafter referred to as "**Developer**," and **COALVILLE CITY CORPORATION**, a municipal corporation of the State of Utah located in Summit County, hereinafter referred to as the "**City**," hereby agrees as follows:

1. FINAL PLAT. Developer has presented to the City's Planning Commission and the City's City Council a proposed final plat for the subdivision of, and construction of improvements on, certain land in City to be known as Wohali Resort. As consideration for the granting of said approval and acceptance, Developer has agreed and does now agree to the provisions hereof and all other ordinances of City, subject to that certain Wohali Master Planned Development: Development Agreement, dated May 25, 2021, and recorded on July 14, 2021 as Entry No. 01168499 in the Summit County Recorder's Office (the "**Development Agreement**").

2. COMPLIANCE WITH SUBDIVISION STANDARDS. Developer agrees to comply with all ordinances, rules, regulations, requirements and standards of the City with respect to the construction and completion of said subdivision, and particularly to install and complete all of the subdivision and off-site improvements required, in accordance with the Development Agreement, which may include:

- A. Rough grading and finish grading and surfacing of streets.
- B. Curbs, gutters waterways, and driveway approaches.
- C. Sanitary sewers, including service connection to each lot.
- D. Street drainage and storm drainage structures.
- E. Water lines, including service connection to each lot.
- F. Fire hydrants.
- G. Sidewalks, walkways and trails.
- H. Traffic control signs.
- I. Street signs and numbers.
- J. Screening when required.
- K. Monuments.
- L. Street lighting.
- M. Secondary Irrigation

Said improvements and any others designated shall be done according to the specifications and requirements of the City. All work shall be subject to the inspection of City and the "Applicable Laws" (as defined in the Development Agreement), and any questions as to conformity with the City specifications or standards or as to the technical sufficiency of the work shall be decided by the City Engineer, in his/her reasonable discretion.

Developer agrees, as consideration for the City issuing building permits after initial acceptance of improvements to allow the City to collect and retain utility fees for the time between initial and final acceptance of the utility lines, as applicable.

Developer agrees that with the application for the first subdivision of the Wohali Resort, Developer shall pay for all fees incurred by the City for the acting City Engineer's services relating

to the subdivision in accordance with the City Subdivision Ordinance.

Building permits will be issued on condition that all improvements necessary to satisfy fire code requirements have been installed or that enough security is held in escrow to complete all required improvements for the Wohali Resort, including any repairs or replacement after initial installation.

3. TIME FOR COMPLETION AND EXTENSION OF TIME. All subdivision and off-site improvements shall be fully installed and completed within two (2) years from the date of this Agreement. If not completed within two (2) years, the Developer may apply to the City Council for an extension of time of one (1) year with additional one-year extensions after the first extension, if the City Council agrees. Said extensions shall be subject to adequate security for the completion of said improvements being made by increasing the amount of the escrow account.

4. SECURITY FOR COMPLIANCE. As security for compliance by Developer with the ordinance, rules, regulations, requirements and standards of the City and of Developer's agreements herein stated, including, but not limited to, the Development Agreement, Developer has delivered to the City an acceptable surety bond, approved by the City by the terms of which an acceptable third-party agrees to hold \$ 6,558,903.47 (which represents the cost of all required improvements as determined by the City Engineer) in bond (the "**Bond Amount**") for the use of the City in the event of Developer's failure or refusal to install, complete, construct, repair, or replace any subdivision and off-site improvements in accordance with the provisions of this Agreement and all City codes and ordinances. The decision of the City as to whether an improvement needs to be installed, constructed, completed, or replaced will be final. Upon completion and City acceptance of any of the required subdivision or off-site improvements, the portion of the Bond Amount allocated to such approved subdivision or off-site improvement shall be released and returned to Developer, up to the Warranty Amount (as defined below). No amount of the bond shall be released that would decrease the security below 120% of the cost to install the remaining improvements to the project, which shall be determined by the City at its sole discretion.

Should Developer fail or refuse to complete the Wohali Resort and off-site improvements in accordance with the provisions hereof, and the Development Agreement, and particularly within the time stated, or should Developer become insolvent before a completion thereof, then the City may, at its option, apply all sums of the Bond Amount to pay the cost of completing the subdivision and off-site improvements and to pay all related expenses including, but not limited to, court costs and reasonable attorney's fees.

Twenty percent (20%) of the Bond Amount (the "**Warranty Amount**"), shall constitute a guarantee that the said improvements are installed in accordance with the subdivision standards of the City as to quality and serviceability and shall be held by the City for a period of one (1) year from the time the last improvement is "initially accepted" by the City or until one (1) year after the time the last improvement needing repair or placement is again accepted (as applicable, the "**Warranty Period**"). At the end of the Warranty Period, the Warranty Amount shall be returned to Developer provided the subdivision and off-site improvements have proved to have been constructed or installed in accordance with the standards of the City as to quality and serviceability, otherwise, such Warranty Amount shall be applied toward construction or installation of said improvements in accordance with City standards or the repair or replacing the same so as to bring them into conformity with City standards. The City shall not issue any building permits until the improvements requiring repair, replacement, etc., are completed and again accepted.

5. **WAIVER.** The failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a failure to perform thereof shall not constitute a waiver of any such failure to perform or any other covenant, agreement, term, or condition. No waiver shall affect or alter the remainder of this Agreement, but each covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring failure to perform.

6. **TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement. In case either party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of the Agreement, the other party may pursue any and all remedies available in equity, or at law.

7. **GOVERNING LAW.** This Agreement shall be interpreted pursuant to, and the terms thereof governed by, the laws of the State of Utah. This Agreement shall be further governed by City ordinances in effect at the time of the execution of this Agreement, as altered, limited, or otherwise set forth in the Development Agreement. However, the parties expressly acknowledge that any subdivision or other development regulations enacted after the execution of the Agreement reasonably necessary to protect the health, safety and welfare of the citizens of City, shall also apply to the subdivision or development which is the subject of this Agreement.

8. **MODIFICATIONS, CAPTIONS AND SEVERABILITY.**

A. This Agreement may be amended or modified only by an instrument of equal formality signed by the respective parties.

B. The titles or captions of this Agreement are for convenience only and shall not be deemed in any way to define, limit, extend, augment, or describe the scope, content or intent of any part or parts of this Agreement.

C. If any portion of this Agreement is declared invalid by a court of competent jurisdiction, the remaining portions shall not be affected thereby, but shall remain in full force and effect.

9. **ASSIGNABILITY, NO THIRD PARTY BENEFICIARY.** No right or rights shall ever be assigned or sublet in part or in whole without the written consent of the parties to this Agreement. This Agreement is made solely and specifically between and for the benefit of the parties to it and their respective successors and assigns subject to the provisions of it relating to successors and assigns, and no other person, individual, corporation, or entity, shall have any rights, interest, or claims under this Agreement or be entitled to any benefits on account of this Agreement as a third-party beneficiary or otherwise.

10. **APPLICABILITY OF ORDINANCE.** This Agreement does not supersede but implements the City Subdivision Ordinance and all other ordinances and regulations applicable to the subdivision of land and construction of improvements thereon, and Developer agrees to comply in all respects with the provisions of said ordinance. No provision of this agreement shall limit the City in its rights or remedies under said subdivision ordinance or other applicable building ordinances.

11. SUCCESSORS ENFORCEMENT. The terms of this Agreement shall be binding upon the parties hereon, their heirs, executors, administrators, assigns or any parties legally acquiring the parties' interest through foreclosure, trust deed, sale, bankruptcy or otherwise. In the event either party must take legal action to enforce the terms of this agreement, the prevailing party shall have costs of court, including a reasonable attorney's fee.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned parties have executed this agreement this
7th day of JANUARY, 2022.

ATTEST:

COALVILLE CITY
CORPORATION

DEVELOPER

[Signature]
Mayor Date 01/13/22

Wahali Land Estates
Date 1-7-2022

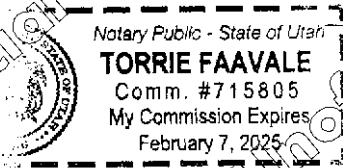
[Signature]
City Recorder Date 1/12/22

[Signature]
Title Managing Partner

[Signature]
City Attorney Date 1/10/2022

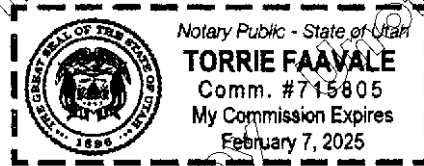
STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On the 1 day of January, 2022, personally appeared before me Mark Marsh, the signer of the above instrument who duly acknowledged that he executed the same in his official capacity as Mayor of Coalville City.



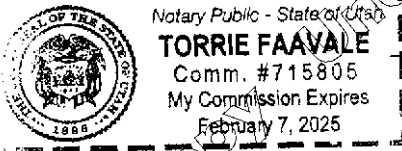
Torrie Faavale

NOTARY PUBLIC



STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On the 7 day of January, 2022, personally appeared before me Nachele D. Sargent, the signer of the above instrument who duly acknowledged that she executed the same in her official capacity as Recorder of Coalville City.

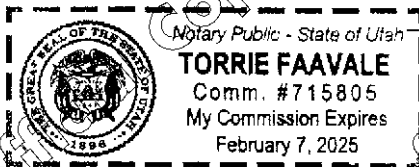


Nachele D. Sargent

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On the 7 day of January, 2022, personally appeared before me Sheldon Smith, the signer of the above instrument who duly acknowledged that he executed the same in his official capacity as City Attorney of Coalville City.

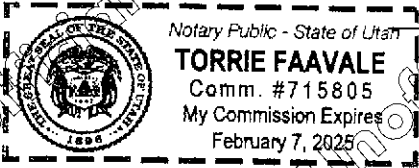


Sheldon Smith

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On the 7 day of January, 2022, personally appeared before me John R Kaiser, the signer of the above instrument who duly acknowledged that he executed the same in his official capacity as Managing Member of Wohali Land Estates.



[Signature]
NOTARY PUBLIC

**EXHIBIT A
PROPERTY DESCRIPTION**

Proposed **WOHALI PHASE 1 SUBDIVISION**, being more particularly described as follows:

PARCEL 1:

A parcel of land located in Section 18, Township 2 North, Range 5 East, Salt Lake Base and Meridian, Coalville, Summit County, Utah, more particularly described as follows:

Beginning at a point which is N89°11'21"E 2365.67 feet along the North Section Line of Section 18 from the Northwest corner of Section 18, Township 2 North, Range 5 East, Salt Lake Base and Meridian; thence North 89°11'21" East 60.01 feet; thence South 10°28'25" East 134.39 feet to a point on a 100.00 foot radius curve to the right, the center of which bears South 79°31'35" West; thence Southerly 23.58 feet along the arc of said curve through a central angle of 13°30'27" (chord bears South 03°43'12" East 23.52 feet) to a point on a 443.00 foot radius compound curve to the right, the center of which bears North 86°57'58" West; thence Southerly 171.95 feet along the arc of said curve through a central angle of 22°14'21" (chord bears South 14°09'13" West 170.87 feet) to a point on a 133.00 foot radius compound curve to the right, the center of which bears North 64°43'37" West; thence Southwesterly 70.46 feet along the arc of said curve through a central angle of 30°21'13" (chord bears South 40°27'00" West 69.64 feet) to a point on a 87.00 foot radius reverse curve to the left, the center of which bears South 34°22'24" East; thence Southwesterly 28.35 feet along the arc of said curve through a central angle of 18°40'16" (chord bears South 46°17'28" West 28.23 feet); thence South 36°57'21" West 96.91 feet to a point on a 15.00 foot radius non-tangent curve to the left, the center of which bears South 58°07'52" East; thence Southerly 21.21 feet along the arc of said curve through a central angle of 81°01'24" (chord bears South 08°38'34" East 19.49 feet); thence South 49°09'15" East 35.06 feet to a point on a 100.00 foot radius curve to the left, the center of which bears North 40°50'45" East; thence Easterly 158.59 feet along the arc of said curve through a central angle of 90°51'52" (chord bears North 85°24'49" East 142.48 feet); thence North 39°58'53" East 116.77 feet to a point on a 275.00 foot radius curve to the right, the center of which bears South 50°01'07" East; thence Northeasterly 81.89 feet along the arc of said curve through a central angle of 17°03'41" (chord bears North 48°30'44" East 81.59 feet); thence North 57°02'34" East 200.87 feet to a point on a 125.00 foot radius curve to the right, the center of which bears South 32°57'26" East; thence Easterly 193.95 feet along the arc of said curve through a central angle of 88°53'57" (chord bears South 78°30'27" East 175.07 feet); thence South 34°03'29" East 29.90 feet to a point on a 125.00 foot radius curve to the left, the center of which bears North 55°56'31" East; thence Southeasterly 85.51 feet along the arc of said curve through a central angle of 39°11'40" (chord bears South 53°39'19" East 83.85 feet); thence South 73°15'09" East 93.68 feet to a point on a 175.00 foot radius curve to the right, the center of which bears South 16°44'51" West; thence Southeasterly 53.64 feet along the arc of said curve through a central angle of 17°33'48" (chord bears South 64°28'14" East 53.43 feet); thence South 55°41'20" East 26.36 feet to a point on a 125.00 foot radius curve to the left, the center of which bears North 34°18'40" East; thence Easterly 143.66 feet along the arc of said curve through a central angle of 65°50'53" (chord bears South 88°36'47" East 135.88 feet); thence North 58°27'47" East 49.23 feet to a point on a 125.00 foot radius curve to the right, the center of which bears South 31°32'13" East; thence Easterly 157.41 feet along the arc of said curve through a central angle of 72°09'00" (chord bears South 85°27'43" East 147.21 feet); thence North 40°36'47" East 189.93 feet; thence North 10°37'48" East 189.19 feet; thence North 89°11'21" East 79.72 feet; thence South 56°22'29" East 169.81 feet; thence South 33°37'31" West 193.48 feet; thence South 52°52'18" East 156.58 feet; thence South 09°56'22" East 480.27 feet; thence South 86°16'33" West 82.25 feet; thence South 01°41'07" West 263.56 feet; thence South 88°18'53" East 198.14 feet; thence South 09°08'58" West 1,261.94 feet; thence North 83°04'19" West 187.88 feet; thence South 12°12'25" West 558.18 feet; thence North 77°47'35" West 481.29 feet; thence South 12°12'25" West 332.08 feet; thence South 87°51'01" West 380.73 feet to a point on a 275.00 foot radius non-tangent curve to the left, the center of which bears North 87°04'58" East; thence Southerly 25.05 feet along the arc of said curve through a central angle of 05°13'07" (chord bears South 05°31'36" East 25.04 feet); thence South 81°51'51" West 50.00 feet; thence South 58°47'03" West 205.16 feet; thence North 51°26'07" West 137.45 feet; thence North 32°37'56" West 218.97 feet; thence North 53°04'13" East 243.33 feet; thence North

30°45'49" East 650.95 feet; thence North 19°44'42" East 259.65 feet; thence North 44°52'56" East 169.31 feet; thence North 14°57'19" West 813.24 feet; thence North 22°01'51" East 621.24 feet; thence North 07°47'43" East 216.90 feet to a point on a 175.00 foot radius non-tangent curve to the right, the center of which bears North 16°44'51" East; thence Northwesterly 119.71 feet along the arc of said curve through a central angle of 39°11'40" (chord bears North 53°39'19" West 117.39 feet); thence North 34°03'29" West 29.90 feet to a point on a 75.00 foot radius curve to the left, the center of which bears South 55°56'31" West; thence Westerly 116.37 feet along the arc of said curve through a central angle of 88°53'57" (chord bears North 78°30'27" West 105.04 feet); thence South 57°02'34" West 200.87 feet to a point on a 225.00 foot radius curve to the left, the center of which bears South 32°57'26" East; thence Southwesterly 67.00 feet along the arc of said curve through a central angle of 17°03'41" (chord bears South 48°30'44" West 66.75 feet); thence South 39°58'53" West 116.77 feet to a point on a 150.00 foot radius curve to the right, the center of which bears North 50°01'07" West; thence Westerly 237.88 feet along the arc of said curve through a central angle of 90°51'52" (chord bears South 85°24'49" West 213.73 feet); thence North 49°09'15" West 35.10 feet to a point on a 15.00 foot radius curve to the left, the center of which bears South 40°50'45" West; thence Westerly 22.20 feet along the arc of said curve through a central angle of 84°47'03" (chord bears South 88°27'13" West 20.23 feet); thence North 43°56'49" West 50.01 feet to a point on a 375.00 foot radius non-tangent curve to the left, the center of which bears North 43°56'49" West; thence Northeasterly 59.54 feet along the arc of said curve through a central angle of 09°05'51" (chord bears North 41°30'16" East 59.48 feet); thence North 36°57'21" East 95.87 feet to a point on a 87.00 foot radius curve to the left, the center of which bears North 53°02'39" West; thence Northeasterly 31.85 feet along the arc of said curve through a central angle of 20°58'33" (chord bears North 26°28'04" East 31.67 feet); thence North 15°58'48" East 34.77 feet to a point on a 133.00 foot radius curve to the right, the center of which bears South 74°01'12" East; thence Northerly 23.12 feet along the arc of said curve through a central angle of 09°57'40" (chord bears North 20°57'38" East 23.09 feet) to a point on a 357.00 foot radius reverse curve to the left, the center of which bears North 64°03'32" West; thence Northerly 154.59 feet along the arc of said curve through a central angle of 24°48'39" (chord bears North 13°32'09" East 153.39 feet); thence North 00°56'51" East 79.63 feet to a point on a 100.00 foot radius curve to the left, the center of which bears North 89°03'09" West; thence Northerly 4.98 feet along the arc of said curve through a central angle of 02°51'03" (chord bears North 00°28'41" West 4.98 feet); thence North 01°54'12" West 53.81 feet to the Point of Beginning.

PARCEL 1A:

Perpetual non-exclusive and continuous easements and rights-of-way for (a) Primary Access Road; (b) Secondary Access Road; (c) Temporary Construction Access Roads and (d) West Loop Access Road, and Utility Easements all as more specifically defined in that certain Access and Utility Easement Agreement recorded July 7, 2020 as Entry No. 1136110 in Book 2581 at Page 1150 of official records of Summit County, State of Utah.

Tax Id No.: CT-446-448-1