

Agreement Page 1 of 10

Gary Christensen Washington County Recorder
 01/28/2025 02:55:22 PM Fee \$40.00 By
 COTTONWOOD TITLE INSURANCE AGENCY,
 INC.

WHEN RECORDED RETURN TO:

CW The Isle, LLC
 610 N 800 W
 Centerville, UT 84014

Affecting Parcel No(s): W-ICC-1-1-CC to and including W-ICC-1-3-CC; W-ICC-1-61-CC to and including W-ICC-1-77-CC; W-ICC-1-84-CC to and including W-ICC-1-91-CC; W-ICC-1-AMENITY-A-CC; W-ICC-1-OPEN-A-CC; W-ICC-1-OPEN-B-CC; W-ICC-1-COMMON-CC; W-ICC-2-4-CC to and including W-ICC-2-39-CC; W-ICC-2-OPEN-A-CC; W-ICC-2-COMMON-CC; W-ICC-2-COMMON-B-CC; W-ICC-3-40-CC to and including W-ICC-3-60-CC; W-ICC-3-78-CC to and including W-ICC-3-83-CC; W-ICC-3-OPEN-A-CC; W-ICC-3-COMMON-CC; W-ICC-3-COMMON-C-CC

JOINT USE, COST ALLOCATION, AND EASEMENT AGREEMENT

This JOINT USE, COST ALLOCATION, AND EASEMENT AGREEMENT (the “**Agreement**”) is entered into by Cottonwood Community Association, Inc., a Utah nonprofit corporation (the “**Association**”) on behalf of owners in the Isle Benefit Area and behalf of owners in the Club Benefit Area (collectively and with the Association, the “**Parties**” and individually each a “**Party**”) and shall be effective as of the date it is recorded in the Washington County Recorder’s Office.

RECITALS

A. On September 21, 2022, Original Cole West, LLC (FKA Cole West Home, LLC), a Utah limited liability company (the “**Declarant**”) caused the Master Declaration of Covenants, Conditions, and Restrictions for Cottonwood Community Association to be recorded in the office of the Washington County Recorder as Document No. 20220043764 (the “**Master Declaration**”) to govern the affairs of the Association and its respective owners.

B. On January 10, 2025, the Declarant caused the Supplemental Declaration of Covenants, Conditions, and Restrictions for Cottonwood Community Association to be recorded in the office of the Washington County Recorder as Document No. 20250001157 (the “**Isle Declaration**”) to annex the project known as the Isle into the Association.

C. On November 6, 2024, the Declarant caused the plats for the Island at Coral Canyon Phases 2-3 to be recorded in the office of the Washington County Recorder as Document Nos. 20240035446 and 20240035447; and on December 18, 2024, the Declarant caused the plat for the Island at Coral Canyon Phase 1 to be recorded in the office of the Washington County Recorder as Document No. 20240040062 (collectively, the “**Isle Plats**”),

D. The Declarant will cause a supplemental declaration (the “**Club Declaration**”) and two plats (the “**Club Plats**”) to be recorded in the office of the Washington County Recorder for a project known as the Club to be annexed into the Association.

E. According to the Master Declaration and the Isle Declaration, the Association will own and be responsible for the amenities in the areas depicted on the Isle Plats (the “**Amenities**”).

F. The Association, on behalf of owners in the Isle Benefit Area and behalf of owners in the Club Benefit Area, desires to grant access to and use right in the Amenities based on the terms and conditions contained herein.

G. The Association desires to enter into this Agreement to define the rights and obligations of the Parties for the shared use, maintenance, repair and replacement of the Amenities and the allocation and collection of costs incurred for such purposes.

H. The Association desires to grant easement rights for the use of the Amenities and related land and facilities to the Club Benefit Area, on behalf of its owners, and such rights shall be binding on the successors and assigns of each Lot or parcel.

I. CW The Island, LLC, DBA Isle at Coral Canyon is the owner of the Isle Benefit Area and consents to the terms of this Agreement and its recording.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants of the Parties contained in this Agreement, the receipt and adequacy of which are hereby acknowledged, the Parties agree and are bound as follows:

1. Definitions. The capitalized terms in this Agreement shall have the meanings set forth in this Section or as otherwise indicated throughout this Agreement. Any definitions not included in this Agreement shall have the meaning assigned to them in the Master Declaration, the Isle Declaration, or the Club Declaration.

(a) “**Allocable Share**” shall mean the interest of the Owner of a Lot which shall be applicable for the purposes of the payment of Common Expenses, and for other purposes indicated in this Agreement. Each Lot shall have an equal Allocable Share. The Allocable Share shall not be altered without the express written consent of the Declarant during the Declarant Control Period, or following the Declarant Control Period, at least sixty-seven percent (67%) of the total Allocable Shares of the Isle Benefit Area and the Club Benefit Area as expressed in a recorded amendment to this Agreement. It is contemplated that upon final platting of all areas of the Isle Benefit Area and the Club Benefit Area, there will be sixty (60) single-family lots, and ninety-one (91) townhome units. Accordingly, each Lot will have one (1) whole Allocable Share, and each Owner (single-family Owner and townhome unit Owner) will be charged an equal, proportional share.

(b) “**Amenities**” means all open space areas, and Improvements, located within the Isle Plats, including, but not limited to: pools, waterslide(s), clubhouses, gym, playground(s), fire pits, pickleball courts, volleyball courts, cooking station(s), tables, chairs, raised decks, and related amenities.

(c) “**Common Expenses**” means: (i) reasonable costs, expenses, fees, and other amounts (including appropriate reasonable reserves) paid or incurred by the Association in connection with the operation, management, maintenance, repair, and replacement of the Amenities and the performance of the Association’s rights and duties under Sections 3 and 4 or any other provision of this Agreement; (ii) any culinary or secondary water or other utility fees for the Amenities; (iii) trash removal services for the Amenities; (iv) managerial, clerical, and overhead costs, expenses, fees, and other amounts for the performance of the duties

contemplated herein for the Amenities; and (v) Common Expenses due but not recoverable (after reasonable effort) from a responsible Lot Owner, together with all interest on, and costs and attorney fees incurred in connection with, such unpaid Common Expenses.

(d) **“Common Expense Share”** means, with respect to each Party, the product obtained by multiplying the total Common Expenses for the relevant period by the Allocable Share applicable to such Lot.

(e) **“Lot”** means any of the separately identified single-family lots or townhome units identified on and located within the Isle Benefit Area and the Club Benefit Area, collectively.

(f) **“Owner”** means the fee owner of each Lot, single family lots and townhome units, within the Isle Benefit Area and the Club Benefit Area, collectively. If any Lot has more than one Owner, the rights and liability of each such Owner under this Agreement shall be joint and several.

2. Grant of Easement. Subject to the rights, restrictions, and collection of the required payments set forth in this Agreement, each Owner within the Isle Benefit Area and the Club Benefit Area, collectively, and their successors, are hereby granted a nonexclusive easement over and across the Amenities areas and parcels, or any reasonable portion of the Association’s real property necessary to access the Amenities, for the use and enjoyment of each Lot Owner and their successors and assigns. This easement is granted as a benefit and right appurtenant to ownership of a Lot within the Isle Plats and the Club Plats, collectively, and shall not be separated therefrom.

3. Association’s Rights and Duties. The Association shall timely perform or cause to be performed the duties set forth in this Section for which the Association shall be reimbursed in accordance with this Agreement. All costs, expenses, fees, and other amounts incurred or payable by the Association in connection with the duties set forth in this Section are part of the Common Expenses payable by the Owners under Section 4 of this Agreement. The Association shall have no obligation to perform, and no liability for failure to perform, any obligation set forth in this Agreement if the funds to pay for such obligation are not timely received by the Association pursuant to Section 4.

(a) **Maintenance.** The Association shall be responsible for the management, maintenance, repair, and replacement of the Amenities and shall keep the same in a reasonably clean, orderly, and usable condition and in a good state of maintenance and repair.

(b) **Insurance.** The Association may maintain general liability insurance, casualty, or other insurance for the operation of the Amenities in the Association’s sole discretion. If insurance is obtained, then the costs of such policy shall be a Common Expense.

(c) **Assessment to Specific Owner.** If the need for maintenance, repair, or replacement of the Amenities is caused by the willful or negligent acts of an Owner or its members, occupants, guests, tenants, or invitees, the Association may cause such repairs to be made and the cost of such maintenance or repair work shall be added to and become a charge to the Owner in addition to its Common Expense Share.

(d) **Rules.** The Association may adopt reasonable rules for the regulation and operation of the Amenities. If rules are adopted, they shall be consistently and uniformly enforced. Each Party to this Agreement shall be obligated to ensure that the rules promulgated in accordance

with this Section 3 are communicated to their permitted users, occupants, and guests. Each Owner or Party shall be required to take enforcement action against their permitted users, occupants, and guests as directed by the Association, including the imposition of fines. The Association's determination as to whether a particular activity being conducted or to be conducted violates or will violate the rules shall be conclusive. The Association shall have the right and authority to restrict access to the Amenities and facilities governed by this Agreement for any person or Owner who has violated the rules, or who has not paid their fines or Common Expense Share. All fines collected for violations of the rules shall be remitted to the Association. The Association may take enforcement action against individual persons who may not be Owners and shall assess all costs incurred to the applicable Party or Owner.

4. Common Expenses.

(a) **Collection.** The Association is expressly authorized by each Party to incur or allocate all costs, expenses, fees, and other amounts included within the definition of "Common Expenses", and each Party or subsequent Owner shall contribute such Owner's Common Expense Share in the manner described in this Agreement. The Association shall invoice each Owner within the Isle Benefit Area and the Club Benefit Area as part of their monthly assessment to the Association based on the Association's reasonable annual estimate of the Common Expense Share.

(b) **Certain Obligations and Rights.** The amounts due by an Owner attributable to a Common Expense under this Agreement shall be treated as an assessment for purposes of the Master Declaration, including the rights of the Association for nonpayment and the obligation of Owners to pay the same. All records and accounts maintained by the Association which relate to the Common Expenses shall be open to examination by any Owner on at least ten (10) days' prior written notice to the Association. The obligations of each Owner for the payment or reimbursement of Common Expenses, and for all other provisions of this Agreement are the personal obligations of such Owner and may be enforced by the Association. No Owner may avoid or diminish the personal nature of such obligations by abandonment of such Owner's Lot or by waiver of any of the services provided for in this Agreement. Suit to recover a money judgment for any amount due may be maintained by the Association. All remedies set forth in this Agreement are cumulative and are in addition to any remedies otherwise available at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation of this Agreement and to compel by decree specific performance, it being agreed that the remedy at law for any breach may be inadequate.

(c) **Temporary Suspension of Common Expense Obligation.** The Owners of Lots shall be exempt from paying their applicable Common Expense Share until the completion and receipt of a certificate of occupancy of a residence on a Lot.

5. Enforcement. The restrictions, covenants, and obligations in this Agreement are for the benefit of each Owner and they shall inure to and pass with every Lot and shall run with the land and shall apply to and bind the respective successors in interest. Each Owner by acceptance of a deed to a Lot, whether it shall be so expressed in such deed, is deemed to have accepted all the restrictions, covenants, and obligations in this Agreement and agrees to contribute the Owner's proportional share of the Common Expenses. Each Owner hereby agrees that such Common Expense costs shall be a charge on the land and shall be a continuing lien upon the Lot of any Owner who has failed to contribute its proportional share of the Common Expense costs.

The Association shall be entitled to record a lien against a delinquent Owner's Lot if such Owner fails to pay its Common Expense Share, and may also restrict an Owner's use of the Amenities during any time that such Owner's Common Expense Share remains past due and outstanding. The Association shall be entitled to pursue its lien rights to the fullest extent permitted by law, which lien shall include all interest, late fees, attorney fees, and other costs of collection. This lien right against all Lots within the Project shall arise and be perfected as of the date of the recording of this Agreement. Each Owner's Common Expense Share shall also be the in personam obligation of the person who was the Owner of such Lot at the time when the Common Expense occurred. The Association shall also have the right to pursue a legal action for a money judgement to personally recover from delinquent Lot Owners to the fullest extent permitted by law.

6. Indemnification. Each Owner shall indemnify, defend, and hold harmless the Association and each other Owner from and against all losses, damages, claims, causes of action, demands, obligations, suits, controversies, costs, expenses (including, without limitation, litigation expenses and attorneys' fees, whether incurred with or without the filing of suit, on appeal or otherwise), liabilities, judgments and liens, of whatever kind or character, which are caused by such Owner's negligent or willful acts or omissions, or through the use of the Amenities by the indemnifying Owner, or any person leasing or occupying the Lot owned by such indemnifying Owner, or by any agent, employee, contractor, invitee, or licensee of the indemnifying Owner.

7. Restriction on Use. No Owner or their permitted users shall place any obstruction on the Amenities parcels whatsoever without the written permission of the Association.

8. Covenants to Run with Land. This Agreement shall constitute a covenant running with the land and shall be binding on and shall inure to the benefit of the Association, each Owner in the Isle Benefit Area and the Club Benefit Area, any other party holding any interest in any Lot, any party holding an interest in the Amenities, and their respective successors and assigns. This Agreement shall be binding on each Lot, and all interests in each Lot shall be subject to this Agreement. By any way coming to have any interest in or occupying any Lot, the person so coming to have such interest or occupying agrees to be bound by this Agreement; provided, however, that no such person shall have in personam liability under this Agreement for any acts committed prior to the time such person became an Owner.

9. Joint and Several Liability of Owner and Future Owners. The Owner and any future Owners of a Lot are jointly and severally liable for all Common Expenses accruing related to that Lot prior to and during the time that an Owner is an Owner. An Owner is not liable for any Common Expenses accruing after the person has lawfully transferred the Lot to another Owner. The recording of a deed to a person that has not agreed to take ownership of the Lot shall not be considered a legal conveyance of title. The obligation in this Section is separate and distinct from any lien rights associated with the Lot.

10. No Merger. The easements, covenants, restrictions, and other provisions contained in this Agreement shall remain in full force and effect despite the fact that one or more Lots may be owned by the same person(s) or entity(ies) from time to time, it being the intention of this Agreement to create a common scheme for the management of the Amenities which will not be terminated by the doctrine of merger or otherwise, unless this Agreement is terminated in accordance with its terms.

11. Notices. Any notice required or permitted to be given to any Owner according to the provisions of this Agreement shall be deemed to have been properly furnished if personally delivered in writing, emailed, or if mailed, postage prepaid, to the address provided to the Association by such Owner. If no email or mailing address is provided, then notice shall be effective if delivery is made to the latest email or mailing address for such Person appearing in the records of the Washington County Recorder at the time notice is sent.

12. Attorney Fees. If any action is brought because of a default under, or to enforce or interpret this Agreement, in addition to the relief to which such party is entitled, the party prevailing in such action shall be entitled to recover from the unsuccessful party reasonable attorney fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

13. Waiver. Failure of any Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or waiver of such provision itself.

14. Amendment. This Agreement may be amended or terminated only by the express written consent of the Declarant during the Declarant Control Period, or following the Declarant Control Period, at least sixty-seven percent (67%) of the total Allocable Shares of the Isle Benefit Area and the Club Benefit Area as expressed in a recorded amendment to this Agreement. Any amendment(s) shall be effective as of the recording date. The term of this Agreement will begin on the date it is recorded in the office of the Washington County Recorder and shall continue in full force and effect in perpetuity, or until amended or terminated pursuant to the terms set forth herein.

15. No Public Dedication. The provisions of this Agreement are not intended to and do not constitute a dedication for public use of any portion of the Amenities or the easements created hereby.

16. Non-Use. No obligation arising out of this Agreement or right granted under this Agreement shall lapse because of non-use by a Party or its members.

17. Waiver. Failure of a Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or waiver of such provision itself.

18. Governing Law. This Agreement shall be construed pursuant to the laws of the State of Utah.

19. Recording. This Agreement shall be recorded in the official records of Washington County, Utah.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Cottonwood Community Association, Inc., a Utah nonprofit corporation, consents to the terms, restrictions and obligations of this Agreement on behalf of the owners of the Isle Benefit Area.

DATED as of the 17 day of January, 2025.

Cottonwood Community Association, Inc.,
a Utah nonprofit corporation

By: Original Cole West, LLC (FKA Cole West Home, LLC), a Utah limited liability company

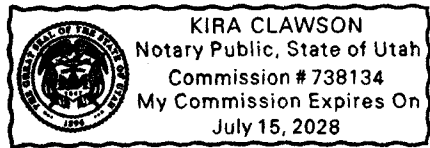
Its: Declarant

By: [Signature]
Name: Hollan Hunsaker
Its: CEO

STATE OF UTAH)
 §
COUNTY OF DAVIS)

On the 27th day of January, 2025, personally appeared before me Hollan Hunsaker who by me being duly sworn, did say that she/he is the CEO of Original Cole West, LLC (FKA Cole West Home, LLC), a Utah limited liability company, the declarant of Cottonwood Community Association, Inc., a Utah nonprofit corporation, and that the foregoing instrument is signed on behalf of said nonprofit corporation and executed with all necessary authority.

[Signature]
(Notary Public)



(Seal)

IN WITNESS WHEREOF, Cottonwood Community Association, Inc., a Utah nonprofit corporation, consents to the terms, restrictions and obligations of this Agreement on behalf of the owners of the Club Benefit Area.

DATED as of the 27th day of January, 2025.

Cottonwood Community Association, Inc.,
a Utah nonprofit corporation

By: Original Cole West, LLC (FKA Cole West Home, LLC), a Utah limited liability company

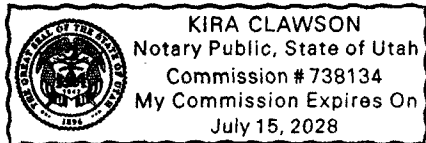
Its: Declarant

By: [Signature]
Name: Holtan Hunsaker
Its: CFO

STATE OF UTAH)
 §
COUNTY OF DAVIS)

On the 27th day of January, 2025, personally appeared before me Holtan Hunsaker who by me being duly sworn, did say that she/he is the CFO of Original Cole West, LLC (FKA Cole West Home, LLC), a Utah limited liability company, the declarant of Cottonwood Community Association, Inc., a Utah nonprofit corporation, and that the foregoing instrument is signed on behalf of said nonprofit corporation and executed with all necessary authority.

[Signature]
(Notary Public)



(Seal)

EXHIBIT A
SUBJECT PROPERTY
(Legal Description)

PHASE 1:

All of Lots 1-3, 61-77, 84-91, and all common area, open space, and limited common area, according to the official **ISLAND AT CORAL CANYON PHASE 1** Plat on file in the office of the Washington County Recorder.

Collectively, Parcel Numbers: W-ICC-1-1-CC to and including W-ICC-1-3-CC; W-ICC-1-61-CC to and including W-ICC-1-77-CC; W-ICC-1-84-CC to and including W-ICC-1-91-CC; W-ICC-1-AMENITY-A-CC; W-ICC-1-OPEN-A-CC; W-ICC-1-OPEN-B-CC; W-ICC-1-COMMON-CC.

PHASE 2:

All of Lots 4-39, and all common area, open space, and limited common area, according to the official **ISLAND AT CORAL CANYON PHASE 2** Plat on file in the office of the Washington County Recorder.

Collectively, Parcel Numbers: W-ICC-2-4-CC to and including W-ICC-2-39-CC; W-ICC-2-OPEN-A-CC; W-ICC-2-COMMON-CC; W-ICC-2-COMMON-B-CC.

PHASE 3:

All of Lots 40-60 and 78-83, and all common area, open space, and limited common area, according to the official **ISLAND AT CORAL CANYON PHASE 3** Plat on file in the office of the Washington County Recorder.

Collectively, Parcel Numbers: W-ICC-3-40-CC to and including W-ICC-3-60-CC; W-ICC-3-78-CC to and including W-ICC-3-83-CC; W-ICC-3-OPEN-A-CC; W-ICC-3-COMMON-CC; W-ICC-3-COMMON-C-CC.