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12/20/2016 5:00:00 PM \$160.00
Book - 10513 Pg - 2277-2282
Gary W. Ott
Recorder, Salt Lake County, UT
JONES WALDO HOLBROOK MCDONOUGH
BY: eCASH, DEPUTY - EF 6 P.

WHEN RECORDED, RETURN TO:

VP Daybreak Operations LLC
c/o Varde Partners, Inc.
901 Marquette Avenue South
Suite 3300
Minneapolis, MN 55402
Attn: Legal Department

**ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS UNDER
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR DAYBREAK VILLAGE**

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS UNDER AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DAYBREAK VILLAGE (this "**Assignment**") is entered into as of December 7, 2016, by and between VP DAYBREAK HOLDINGS LLC, a Delaware limited liability company ("**Assignor**"), and VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company ("**Assignee**").

RECITALS

- A. On July 18, 2016, pursuant to that certain Purchase and Sale Agreement and Escrow Instructions, dated as of March 3, 2106, by and between Kennecott Land Company, a Delaware corporation (and successor to OM Enterprises Company, a Utah Company) ("**KLC**") and Assignor (the "**Purchase Agreement**"), KLC sold and conveyed to Assignor and Assignor purchased and acquired all of KLC's fee interest in and to certain real property in South Jordan, Utah, which is a portion of a master planned community commonly known as *Daybreak*.
- B. Pursuant to an assignment dated July 15, 2016, which was delivered in accordance with the Purchase Agreement and effective as of July 18, 2016 (the "**Effective Date**"), Assignor holds all rights of the Declarant under that certain Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Daybreak Village, recorded in the records of the Salt Lake County Recorder on December 30, 2005, as Entry No. 9598233, in Book 9237, at Page 5395, as amended and/or supplemented from time to time (the "**Declaration**").
- C. The Declaration encumbers the property described on Exhibit A attached hereto.
- D. By this Assignment, Assignor intends to assign all of its rights, interests and powers as the Declarant under the Declaration, and Assignee intends to accept and assume and perform all of the obligations of the Declarant under the Declaration, from and after the Effective Date.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee agree as follows:

1. **Effective Date.** Notwithstanding the date set forth in the preamble of this Assignment, the parties hereby agree that this Assignment shall be deemed to have become effective as of the Effective Date.
2. **Assignment.** Assignor hereby assigns, conveys, transfers and sets over to Assignee, as of the Effective Date, all the rights, interests and powers of Assignor as the Declarant under the Declaration.
3. **Assumption.** Assignee hereby assumes the obligations of the Declarant under the Declaration arising from and after the Effective Date.
4. **Incorporation; Counterparts; Successors.** The recitals set forth above are incorporated herein by this reference. This Assignment may be executed in one or more counterparts and delivered by electronic transmission, each of which is to be deemed original for all purposes, but all of which together shall constitute one and the same instrument. This Assignment shall be binding upon the parties hereto and their respective successors and assigns. This Assignment shall be governed by the laws of the State of Utah.
5. **Further Assurances.** From time to time following the Effective Date, and without any further consideration or other payment, Assignor shall execute and deliver such other instruments of conveyance, assignment, transfer and delivery and execute and deliver such other documents and take or cause to be taken such other actions as Assignee may reasonably request in order to consummate, complete and carry out the transactions contemplated by this Assignment.
6. **Indemnification.** Notwithstanding anything to the contrary herein and for the avoidance of doubt, Assignor shall retain its rights under the Purchase Agreement for indemnification for any losses or claims that it may bring against KLC and/or Kennecott Utah Copper, which joined the Purchase Agreement as a guarantor of certain obligations of KLC thereunder.


[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and Assignee have duly executed this Assignment as of the Effective Date.

ASSIGNOR:

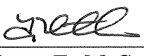
VP DAYBREAK HOLDINGS LLC,
a Delaware limited liability company

By: Värde Partners, Inc., its Manager

By: 
Brendan Bosman, Managing Director

ASSIGNEE:

VP DAYBREAK OPERATIONS LLC,
a Delaware limited liability company

By: 
Name: Ty McCutcheon
Title: Vice President

[Acknowledgments Follow]

STATE OF Minnesota)

ss.

COUNTY OF Hennepin)

The foregoing instrument was acknowledged before me this 5th day of December, 2016, by Brendan Bosman, Managing Director of Värde Partners, Inc., Manager of VP Daybreak Holdings LLC, a Delaware limited liability company.



Notary Public


My commission expires: 1/31/2021

STATE OF Utah)

ss.

COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 7th day of December, 2016, by Ty McCutcheon, Vice President of VP Daybreak Operations LLC, a Delaware limited liability company.



Notary Public

My commission expires: 11/22/2018

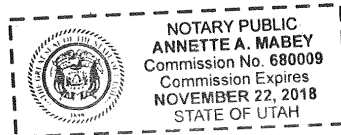


EXHIBIT A

Legal Description of Property Encumbered by Declaration

[Exhibit A to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Village, recorded December 30, 2005]

Lot C-101 of that certain map entitled "Amended Kennecott Daybreak Phase I Subdivision" Vacating Lots M-101, M-102, M-103, and M-105 and Amending Lots 321, C-102, O-101, O-102, O-104, O-108, O-109, O-110 recorded on June 18, 2004 as Entry No. 9095385, in Book 2004P, at Page 164 of the Official Records of Salt Lake County.

Tax Parcel # 27-19-381-001

[Exhibit A to Supplement to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Village recorded April 28, 2008]

All of the real property described on that certain map entitled "KENNECOTT DAYBREAK VILLAGE CENTER IA AMENDING PARCEL A AND B OF THE KENNECOTT PHASE II SUBDIVISION" recorded on April 25, 2008, as Entry No. 10410248, in Book 9599, at Page 956 of the Official Records of Salt Lake County.

Part of Tax Parcel No. 27-19-154-001-0000 and 27-19-153-001-0000

[Exhibit A to Supplement to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Village recorded August 5, 2009]

Real property in the City of South Jordan, County of Salt Lake, State of Utah, described as follows:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 2 WEST SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING BEING NORTH 89°58'42" WEST -2677.868 FEET BETWEEN THE SOUTHEAST CORNER AND THE SOUTH QUARTER CORNER OF SAID SECTION 24) AND RUNNING NORTH 89°58'42" WEST ALONG THE SOUTH LINE OF SECTION 24 FOR 1169.665 FEET; THENCE NORTH 00°01'18" EAST PERPENDICULAR TO SAID SECTION LINE FOR 2433.686 FEET TO THE POINT OF BEGINNING; THENCE NORTH 36°32'54" WEST FOR 98.922 FEET; THENCE NORTH 40°21'43" WEST FOR 75.177 FEET; THENCE NORTH 36°32'54" WEST FOR 384.067 FEET; THENCE NORTH 53°27'06" EAST FOR 1089.500 FEET; THENCE SOUTH 36°32'54" EAST FOR 434.202 FEET; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 75.000 FEET, WITH A CENTRAL ANGLE OF 43°51'26" (CHORD BEARING AND DISTANCE OF SOUTH 14°37'12" EAST -56.018 FEET) FOR AN ARC DISTANCE OF 57409 FEET; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 75.000 FEET, WITH A CENTRAL ANGLE OF 12°45'10" (CHORD BEARING AND DISTANCE OF SOUTH 13°41'06" WEST -16.659 FEET) FOR AN ARC DISTANCE OF 16693 FEET; THENCE WITH A REVERSE CURVE TO THE LEFT HAVING A

RADIUS OF 235.640 FEET, WITH A CENTRAL ANGLE OF 13°56'01" (CHORD BEARING AND DISTANCE OF SOUTH 13°05'40" WEST - 57.164 FEET) FOR AN ARC DISTANCE OF 57.305 FEET; THENCE WITH A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 75.000 FEET, WITH A CENTRAL ANGLE OF 47°19'26" (CHORD BEARING AND DISTANCE OF SOUTH 29°47'23" WEST - 60.201 FEET) FOR AN ARC DISTANCE OF 61.947 FEET; THENCE SOUTH 53°27'06" WEST FOR 952.076 FEET TO THE POINT OF BEGINNING.

APN: 26-24-400-009-0000 AND 27-19-100-006-0000

[Exhibit A to Supplement to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Village recorded December 11, 2009]

All of the real property described on that certain map entitled "Kennecott Daybreak VC1 Daycare Subdivision amending Lot V2 of the Kennecott Master Subdivision #1 Amended" recorded on October 6, 2009, as Entry No. 10811596, Book 2009P, at page 126 of the Official Records of Salt Lake County.

TAX PARCEL NOS. 27-19-158-003-0000 and 27-19-158-004-0000

[Exhibit A to Supplement to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Village recorded June 18, 2010]

All of the real property described on and subdivided by the "Kennecott Daybreak University Medical #1 Amending a portion of Lot T4 of the Kennecott Master Subdivision #1 Amended" recorded on December 17, 2009, as Entry No. 10861027, Book 2009P, at Page 182 of the Official Records of Salt Lake County, Utah.

TAX PARCEL NOS.: 26-24-405-001-0000, 26-24-405-002-0000,
26-24-405-003-0000, 26-24-405-005-0000,
26-24-405-004-0000

All of the real property described on and subdivided by the "Kennecott Daybreak 11400/MVC SE Commercial #1 Subdivision Amending a portion of Lot T4 of the Kennecott Master Subdivision #1 Amended" recorded on December 30, 2009, as Entry No. 10869682, Book 2009P, at Page 194 of the Official Records of Salt Lake County, Utah.

TAX PARCEL NOS: 26-24-456-005-0000, 26-24-456-004-0000,
26-24-456-006-0000, 26-24-456-007-0000,
26-24-456-003-0000