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RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 7 P.

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Holland & Hart LLP
Attn: Adrienne J. Bell
222 South Main Street, Suite 2200
Salt Lake City, Utah 84101

Parcel No: 16-06-402-007-0000

130975-CAB

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

RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT (this "Restrictive Covenant") is entered into this 14th day of January, 2021 (the "Effective Date"), by ALPHA-AQUI355, LLC, a Utah limited liability company ("Buyer") in favor of the UPPER COLORADO RIVER COMMISSION, an interstate administrative water agency ("Seller"). Buyer and Seller are referred to herein individually as a "Party" and together as the "Parties."

WITNESSETH:

WHEREAS, subject to the terms and provisions of that certain Real Estate Exchange Agreement, dated November 16, 2020 (as amended, the "Exchange Agreement"), Seller has agreed to convey good, marketable, fee simple title to that certain property (the "Property"), which Property is described on Exhibit A attached hereto and incorporated herein and is more particularly described as Parcel No. 16064020070000 in accordance with the Salt Lake County Property Assessor and constitutes approximately .22 acres; and

WHEREAS, Seller has conveyed title to the Property pursuant to the terms of that certain Special Warranty Deed, of even date herewith, and Seller and Buyer desire to further address certain obligations of the Parties upon the initial conveyance of the Property as are more particularly set forth in the Exchange Agreement; and

WHEREAS, in accordance with the Exchange Agreement, the Parties agreed to the terms of a restrictive covenant ("Transfer Restriction") to be recorded against the Property at Closing that prevents the transfer, assignment or encumbrance of the Property by Buyer under certain conditions and provides for the removal of the Transfer Restriction under certain conditions;

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

1. **Defined Terms.** Defined terms not otherwise defined by this Restrictive Covenant shall have the meaning ascribed to them in the Exchange Agreement.

2. **Recitals.** The above referenced recitals are true and correct and are incorporated as though fully set forth herein.

3. **Transfer Restriction.** Subject to the terms of Section 4 hereof, Buyer covenants and agrees that, commencing on the Effective Date of this Restrictive Covenant and continuing for a period of

twelve (12) months thereafter, unless otherwise terminated in accordance with the Exchange Agreement (the "Term"), Buyer shall in no way transfer, assign, or encumber (aside from this Restrictive Covenant) the Property without first obtaining Seller's prior written consent. Notwithstanding the foregoing, (a) any construction lien e.g., mechanic's, laborer's or materialman's lien recorded against the Property shall not violate this section or the terms of the Exchange Agreement so long as any such lien is timely released upon proper and timely payment for work rendered at the Property, and (b) any encumbrances such as leases, easements, licenses, and similar encumbrances occurring in the ordinary course of Buyer's business operations (but excluding monetary liens or encumbrances relating to the financing and/or grant of a security interest in the Property) shall not violate this section or the terms of the Exchange Agreement so long as any such encumbrance is subordinate to the lien of this Restrictive Covenant. .

4. **Exception to Restriction; Termination.** During the Term, Seller shall not withhold its consent to a request by Buyer to transfer, assign, or encumber the Property if, as a condition to any such transfer, Buyer agrees to deposit in an escrow account (separate from any other escrow accounts contemplated by the Exchange Agreement) with a pre-approved Escrow Agent as defined in the Exchange Agreement, an amount equal to the Liability Cap, which deposit shall remain with the Escrow Agent pursuant to the terms of a mutually acceptable escrow agreement for the remainder of the Term. Upon such deposit, this Restrictive Covenant and the Transfer Restriction shall terminate and be of no further force or effect. Upon such termination of the Transfer Restriction (or upon the expiration of the Term), Seller (or the Escrow Agent as previously authorized by the Seller) shall promptly execute and record an instrument acknowledging the termination of this Restrictive Covenant and the removal of the Transfer Restriction of record from title against the Property. Recording of such instrument shall be conclusively deemed an effective termination of this Restrictive Covenant and the Transfer Restriction.

5. **No Assumption of Seller's Liabilities.** Buyer is acquiring only the Property from Seller and is not the successor of Seller. Buyer does not assume or agree to pay, or indemnify Seller or any other person or entity for any liability, duty, obligation or expense of Seller or relating to the Property in any way, except as otherwise agreed in the Exchange Agreement.

6. **Recordation and Scope.** This Restrictive Covenant shall be recorded against the Property to provide record notice of the Transfer Restriction and shall not limit, expand, supplement or modify the Exchange Agreement. In the event of conflict between this Restrictive Covenant and the Exchange Agreement, the Exchange Agreement shall control.

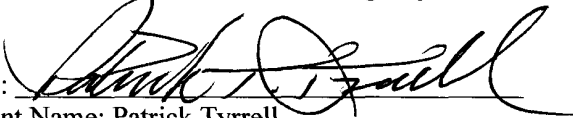
7. **Covenant Runs with the Land.** This Restrictive Covenant, including the Transfer Restriction, shall burden and run with the Property. This Restrictive Covenant and the Transfer Restriction shall be binding on all persons and entities owning or possessing the Property, all upon the terms, provisions and conditions set forth herein.

[Signatures on Following Pages]

IN WITNESS WHEREOF, Seller and Buyer have duly executed this instrument to be effective as of the Effective Date.

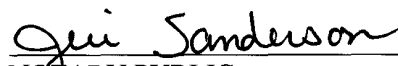
SELLER:

UPPER COLORADO RIVER COMMISSION,
an interstate administrative water agency

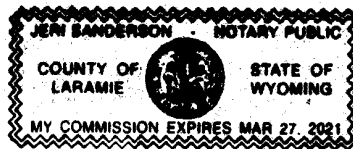
By: 
Print Name: Patrick Tyrrell
Title: Vice-Chair

STATE OF WYOMING)
 : ss
COUNTY OF Laramie)

This instrument was acknowledged before me on January 7, 2021, by Patrick Tyrrell as Vice-Chair of the UPPER COLORADO RIVER COMMISSION, an interstate administrative water agency.



NOTARY PUBLIC
My Commission Expires: 3/27/2021



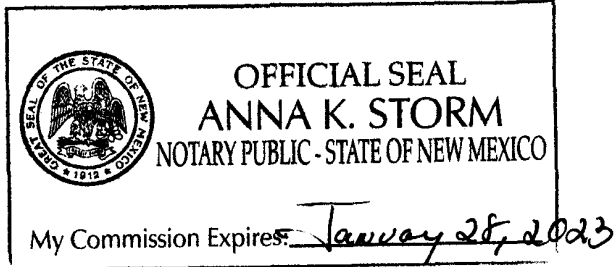
UPPER COLORADO RIVER COMMISSION,
an interstate administrative water agency

By: Amy I. Haas
Print Name: Amy I. Haas
Title: Executive Director and Secretary

STATE OF NEW MEXICO)
 : ss
COUNTY OF Santa Fe)

This instrument was acknowledged before me on January 7, 2021, by Amy I. Haas as Executive Director and Secretary of UPPER COLORADO RIVER COMMISSION, an interstate administrative water agency.

Anna K. Storm
NOTARY PUBLIC
My Commission Expires: January 28, 2023



BUYER:

ALPHA-AQUI355, LLC,
a Utah limited liability company

By: Wadsworth Alpha-aQui355, LLC,
a Utah limited liability company
Its: Manager

By: Wadsworth & Sons III, LLC,
a Utah limited liability company
Its: Manager

By: _____

Name: V. L. WADSWORTH

Its: EXEC. MGR.

By: DBCF21-AQUI355, LLC,
a Utah limited liability company
Its: Authorized Representative

By: DBCAPITAL FUND 21, LLC,
a Utah limited liability company
Its: Manager

By: Dusty Baker Urban Communities, LLC,
a Wyoming limited liability company
Its: Manager

By: _____

Name: DUSTY BAKER

Its: MANAGER

STATE OF UTAH)
)ss:
County of Salt Lake)

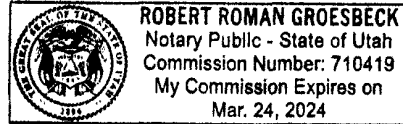
On this 13th day of JANUARY, 2021, before me, the undersigned Notary Public, personally appeared KIP L. WAGSWORTH, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:



Notary Public



STATE OF UTAH)
)ss:
County of Salt Lake)

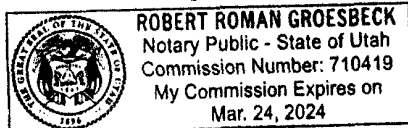
On this 13th day of JANUARY, 2021, before me, the undersigned Notary Public, personally appeared DUSTIN E. HOLT, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:



Notary Public



Signature Page to Restrictive Covenant

EXHIBIT A

LEGAL DESCRIPTION

That certain real property located in Salt Lake County, Utah, more particularly described as follows:

Beginning 6 rods South of the Northwest corner of Lot 4, Block 37, Plat "B", Salt Lake City Survey and running thence South along the West line of said lot, 3 1/2 rods; thence East 10 rods; thence North 3 1/2 rods; thence West 10 rods to the place of beginning.

Tax Parcel No. 16-06-402-007-0000

Exhibit A