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Recording Requested by
U.S. Bank National Association,
d/b/a Housing Capital Company

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ADAM GARDINER
REORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE CO
BY: LTP, DEPUTY - WI P.

And when recorded return to:
U.S. Bank National Association,
d/b/a Housing Capital Company
265 E. River Park Circle, Suite 460
Fresno, CA 93720
Attention: Loan Administration Manager
Loan No. 2459L, 2459B

AMENDMENT TO DEED OF TRUST

This Amendment to Deed of Trust (this "**Amendment**") is made as of November 7, 2017, by and between VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company ("**Trustor**"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association d/b/a Housing Capital Company ("**Beneficiary**").

Factual Background

A. Under that certain Loan Agreement dated as of December 19, 2016 (the "**Existing Term Loan Agreement**"), among Trustor and each of Daybreak Communities LLC, a Delaware limited liability company ("**Daybreak Communities**"), VP Daybreak Investments LLC, a Delaware limited liability company ("**Daybreak Investments**"), and VP Daybreak Soda Row LLC, a Delaware limited liability company ("**Daybreak Soda Row**") (Trustor, Daybreak Communities, Daybreak Investments and Daybreak Soda Row are sometimes referred to herein, individually and collectively, as "**Borrower**"), jointly and severally as Borrower, and Beneficiary, Beneficiary agreed to make a loan to Borrower (the "**Term Loan**") in the original principal amount of Thirty Million and No/100 Dollars (\$30,000,000.00).

B. The Term Loan is presently evidenced by that certain Promissory Note Secured by Deed of Trust dated as of December 19, 2016, made by Borrower payable to the order of Beneficiary in the stated principal amount of Thirty Million and No/100 Dollars (\$30,000,000.00) (the "**Existing Term Note**").

C. Under that certain Revolving Loan Agreement dated as of December 19, 2016 (the "**Existing Revolving Loan Agreement**"), between Borrower and Beneficiary, Beneficiary agreed to make a revolving loan to Borrower (the "**Revolving Loan**") in the maximum principal amount of Fifteen Million and No/100 Dollars (\$15,000,000.00).

D. The Revolving Loan is evidenced by that certain Revolving Promissory Note Secured by Deed of Trust dated as of December 19, 2016, made by Borrower payable to the order of

Beneficiary in the stated maximum principal amount of Fifteen Million and No/100 Dollars (\$15,000,000.00) (the "***Revolving Note***").

E. Borrower's obligations under the Term Loan and the Revolving Loan are secured by, among other things, that certain Construction Deed of Trust, with Assignment of Leases and Rents, Security Agreement and Fixture Filing executed by Trustor, as trustor, to First American Title Insurance Company, a Nebraska corporation, as trustee, for the benefit of Beneficiary, as beneficiary, dated as of December 19, 2016 and recorded on December 22, 2016 in the Official Records of Salt Lake County, Utah as Document No. 12440289 (as may be amended, modified, supplemented or restated from time to time, the "***Deed of Trust***"). The Deed of Trust encumbers certain real and personal property more particularly described on Exhibit A attached hereto.

F. Borrower and Beneficiary have agreed to modify the terms of the Term Loan pursuant to a Modification Agreement of even date herewith, between Borrower and Beneficiary (the "***Term Loan Modification Agreement***"), and to amend and restate the Existing Term Note pursuant to that certain Amended and Restated Promissory Note Secured by Deed of Trust of even date herewith, made by Borrower payable to Beneficiary in the stated principal amount of Thirty-One Million Four Hundred Eighty-One Thousand Four Hundred Fifty-Five and No/100 Dollars (\$31,481,455.00) (as the same may from time to time be further amended, supplemented, restated or otherwise modified, the "***Term Note***," and, together with the Revolving Note, individual and collectively, the "***Note***").

G. The Existing Term Loan Agreement, as modified by the Term Loan Modification Agreement, is sometimes referred to herein as the "***Term Loan Agreement***."

H. Borrower and Beneficiary have also agreed to modify the terms of the Revolving Loan pursuant to a Modification Agreement of even date herewith, between Borrower and Beneficiary (the "***Revolving Loan Modification Agreement***").

I. The Existing Revolving Loan Agreement, as modified by the Revolving Loan Modification Agreement, is sometimes referred to herein as the "***Revolving Loan Agreement***," and, together with the Term Loan Agreement, individually and collectively, the "***Loan Agreement***."

J. As a condition precedent to modifying (i) the Term Loan on the terms set forth in the Term Loan Note and the Term Loan Agreement, and (ii) the Revolving Loan on the terms set forth in Revolving Note and the Revolving Loan Agreement, Trustor and Beneficiary desire to amend the Deed of Trust to provide, among other things, that the obligations of Borrower secured thereunder shall include, without limitation, the obligations of Borrower under the Note and the Loan Agreement, in each case, as amended.

K. Capitalized terms used herein without definition have the meanings ascribed to them in the Loan Agreement.

Agreement

Therefore, the parties hereto agree as follows:

1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.

2. Obligations Secured. Section 2.1 of the Deed of Trust is hereby amended and restated in its entirety as follows:

“2.1 **Obligations Secured**. Trustor makes this grant and assignment for the purpose of securing the following obligations (“***Secured Obligations***”):

- (a) Payment to Beneficiary of all sums at any time owing under that certain Revolving Promissory Note Secured by Deed of Trust (as amended, restated or otherwise modified from time to time, the “***Revolving Note***”) dated as of December 19, 2016, in the maximum principal amount of FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00) executed by Trustor and each of Daybreak Communities LLC, a Delaware limited liability company (“***Daybreak Communities***”), VP Daybreak Investments LLC, a Delaware limited liability company (“***Daybreak Investments***”), and VP Daybreak Soda Row LLC, a Delaware limited liability company (“***Daybreak Soda Row***”) (Trustor, Daybreak Communities, Daybreak Investments and Daybreak Soda Row are sometimes referred to herein, individually and collectively, as “***Borrower***”), jointly and severally as Borrower, and payable to the order of Beneficiary as Lender, under which Beneficiary has agreed to make advances to Borrower, which advances will be of a revolving nature and may be made, repaid and remade from time to time, subject to the limitation that the total outstanding principal balance at any one time under said Revolving Note (not including interest thereon at a rate which will be adjusted from time to time pursuant to the terms of said Revolving Note, and any late charges, collection costs and other charges under said Revolving Note or advances hereunder) will not exceed the maximum principal amount stated above; and
- (b) Payment to Beneficiary of all sums at any time owing under that certain Amended and Restated Promissory Note Secured by Deed of Trust (as further amended, restated or otherwise modified from time to time, the “***Term Note***,” and, together with the Revolving Note, collectively, the “***Note***”) dated as of November 7, 2017, in the principal amount of THIRTY-ONE MILLION FOUR HUNDRED EIGHTY-ONE THOUSAND FOUR HUNDRED FIFTY-FIVE AND NO/100 DOLLARS (\$31,481,455.00), executed by Trustor and each of Daybreak Communities, Daybreak Investments and Daybreak Soda Row, jointly and severally as Borrower, and payable to the order of Beneficiary as Lender, under which Beneficiary has agreed to make a term loan to Borrower; and

- (c) Payment and performance of all obligations of Trustor under this Deed of Trust and under any and all future deeds of trust which state that they are future phase deeds of trust on or adjacent to the Subject Property; and
- (d) Payment and performance of all obligations of Borrower under that certain Revolving Loan Agreement dated as of December 19, 2016 by and among Borrower, and Beneficiary, as “Lender,” as modified by that certain Modification Agreement dated as of November 7, 2017 (as further amended, restated or otherwise modified from time to time, the “**Revolving Loan Agreement**”), and any and all other “Loan Documents” (as defined in the Revolving Loan Agreement); provided, for clarity, that this Deed of Trust does not secure the obligations of Borrower under that certain Hazardous Materials Indemnity Agreement dated as of December 19, 2016; and
- (e) Payment and performance of all obligations of Borrower under that certain Loan Agreement dated as of December 19, 2016 by and among Borrower, and Beneficiary, as “Lender,” as modified by that certain Modification Agreement dated as of November 7, 2017 (as further amended, restated or otherwise modified from time to time, the “**Term Loan Agreement**,” and, together with the Revolving Loan Agreement, individually and collectively, the “**Loan Agreement**”), and any and all other “Loan Documents” (as defined in the Term Loan Agreement); provided, for clarity, that this Deed of Trust does not secure the obligations of Borrower under that certain Hazardous Materials Indemnity Agreement dated as of December 19, 2016; and
- (f) Payment and performance of all obligations of Borrower under any application or reimbursement agreement executed by Borrower in connection with any letter of credit issued by Beneficiary pursuant to the Term Loan Agreement for the account of Borrower or its nominee, together with any and all extensions, renewals or modifications thereof, substitutions therefor or replacements thereof; and
- (g) Payment and performance of all future advances and other obligations that the then record owner of all or part of the Subject Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when such future advance or obligation is evidenced by a writing which recites that it is secured by this Deed of Trust; and
- (h) All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (i) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; or (ii) modifications, extensions or renewals at a different rate of interest whether or not in the case of a note, the modification, extension or renewal is evidenced by a new or additional promissory note.

As used herein, “**Loan Document**” means each document defined as a “Loan Document” in the Revolving Loan Agreement and/or the Term Loan Agreement.

Notwithstanding the amount outstanding under said Note at any particular time, this Deed of Trust secures the total amount of said Note and any future advances thereon. The unpaid balance of the revolving line of credit under the Revolving Note, or the term loan under the Term Note, may at certain times be zero dollars. A zero balance does not affect Beneficiary’s agreement to make advances to Borrower under said Revolving Note or Term Note, as applicable. Beneficiary’s interest under said Revolving Note, Term Note and any other Loan Document will remain in full force and effect notwithstanding a zero balance under said Revolving Note or Term Note.”

3. The Term Loan is amended on the terms and subject to the conditions of the Term Loan Agreement and the Term Note, which terms include, among other things, an increase in the maximum principal amount of the Loan to Thirty-One Million Four Hundred Eighty-One Thousand Four Hundred Fifty-Five and No/100 Dollars (\$31,481,455.00) and modified collateral release prices.

4. The Revolving Loan is amended on the terms and subject to the conditions of the Revolving Loan Agreement and the Revolving Note, which terms include, among other things modified collateral release prices.

5. The Deed of Trust is modified to secure payment and performance of the Term Loan and the Revolving Loan, each as amended and modified to date, in addition to all other “**Secured Obligations**” as therein described herein or therein. The foregoing notwithstanding, certain obligations continue to be excluded from the Secured Obligations, as provided herein and in the Deed of Trust. Except as specifically amended by this Amendment, the Deed of Trust remains unmodified and in full force and effect.

6. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7. This Amendment shall be governed by the laws of the State of Utah, without regard to the choice of law rules of that State.

[Signatures begin on following page.]

IN WITNESS WHEREOF, this Amendment to Deed of Trust is executed by the parties hereto as of the date first written above.

TRUSTOR:

VP DAYBREAK OPERATIONS LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

BENEFICIARY:

U.S. BANK NATIONAL ASSOCIATION,
d/b/a Housing Capital Company

By: Carl F. Swanson
Name: Carl F. Swanson
Title: SVP

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Fresno

On November 3, 2017 before me, Rhonda Harold, Notary Public,
(here insert name of the officer)

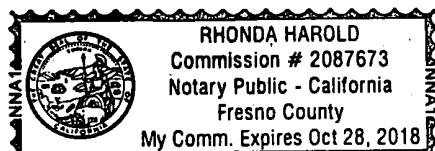
personally appeared Carl F. Swanson who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Rhonda Harold



(Seal)

IN WITNESS WHEREOF, this Amendment to Deed of Trust is executed by the parties hereto as of the date first written above.

TRUSTOR:

VP DAYBREAK OPERATIONS LLC,
a Delaware limited liability company

By: Joe
Name: Ty McCutcheon
Title: Vice President

BENEFICIARY:

U.S. BANK NATIONAL ASSOCIATION,
d/b/a Housing Capital Company

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF UTAH)
)
)SS.
County of Salt Lake)

On Nov 3, 2017, before me, the undersigned Notary Public, personally appeared Ty M. Cutchean, the Vice President of VP Daybreak, Operations, LLC, personally known to me (or 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 person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:


Notary Public

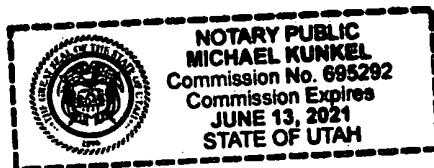


EXHIBIT A
(Property Description)

All of that certain real property located in Salt Lake County, State of Utah, being more particularly described as follows:

PARCEL 24:

A PORTION OF LOTS P-112 AND O-104 OF AMENDED KENNECOTT DAYBREAK PHASE 1 SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING NORTH 89°52'04" WEST - 2642.201 FEET BETWEEN THE SOUTHWEST CORNER AND THE SOUTH QUARTER CORNER OF SAID SECTION 19) AND RUNNING NORTH 89°52'04" WEST ALONG THE SOUTH LINE OF SAID SECTION 19 FOR 1223.592 FEET; THENCE NORTH 00°07'56" EAST PERPENDICULAR TO SAID SECTION LINE FOR 2838.228 FEET TO THE POINT OF BEGINNING; THENCE NORTH 36°32'54" WEST FOR 87.50 FEET; THENCE NORTH 53°27'06" EAST FOR 517.00 FEET; THENCE SOUTH 32°25'52" EAST FOR 197.57 FEET; THENCE WITH A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 7,439.00 FEET, WHOSE CENTER BEARS NORTH 17°06'09" WEST, WITH A CENTRAL ANGLE OF 02°23'37" (CHORD BEARING AND DISTANCE OF SOUTH 74°05'39" WEST - 310.77 FEET) FOR AN ARC LENGTH OF 310.79 FEET; THENCE SOUTH 53°27'06" WEST FOR 212.00 FEET TO THE POINT OF BEGINNING.

(For Informational Purposes Only - Tax Parcel No.: 27-19-183-005-0000)

PARCEL 44:

LOTS O-103, O-121 AND O-122, KENNECOTT DAYBREAK OQUIRRH LAKE PLAT, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

(For Informational Purposes Only - Tax Parcel No.: 27-18-151-004-0000, 27-18-381-002-002-0000 and 27-18-351-002-0000)

NAI-1503027331v4