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Recording Requested and  
after recording, please return to:

VP Daybreak Operations LLC  
Attention: Gary Langston  
11248 Kestrel Rise Road, Suite 201  
South Jordan, UT 84009

APN: 27-18-351-022

12903026  
12/13/2018 04:03 PM \$24.00  
Book - 10738 Pg - 4113-4120  
ADAM GARDINER  
RECORDER, SALT LAKE COUNTY, UTAH  
OLD REPUBLIC TITLE DRAPER/OREM  
898 NORTH 1200 WEST  
OREM UT 84057  
BY: PSP, DEPUTY - WI 8 P.

### PRIVATE WATER LATERAL EASEMENT AGREEMENT

THIS PRIVATE WATER LATERAL EASEMENT AGREEMENT (this "**Agreement**") is entered into this 10 day of DECEMBER, 2018.

The following Recitals are a material part of this Agreement:

A. VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company ("**Grantor**"), is the holder of legal title to Lot 158 (hereafter, "**Grantor's Property**"), of that certain plat map entitled "DAYBREAK LAKE ISLAND PLAT 1 AMENDING LOTS A-4 & A-6 OF THE KENNECOTT DAYBREAK OQUIRRH LAKE PLAT" recorded on January 5, 2018, as Entry No. 12693190, in Book 2018P, Page 7 of record and on file in the Official Records of Salt Lake County, Utah (the "**Plat**").

B. VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company ("**Grantee**"), is the holder of legal title to Lots 141, 142, 143, 150, 156 and 157 of the Plat (hereafter, "**Grantee's Property**").

C. Grantor desires to grant to Grantee an easement over Grantor's Property for the installation, maintenance and repair of a private water lateral together with certain rights and obligations of the parties in connection therewith, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Private Water Lateral Easement. Grantor hereby grants to Grantee a perpetual right-of-way and easement for a private water lateral (the "**Easement**") over, under, on and across that certain portion of Grantor's Property legally described in Exhibit A attached hereto, and depicted in Exhibit A-1 attached hereto (the "**Easement Area**").

2. Use and Purpose of the Easement. Grantee, its agents, independent contractors, and invitees, shall use the Easement and the Easement Area solely for the reasonable installation, operation, access to, maintenance, and repair of a private water lateral benefitting Grantee's Property.

Grantor shall be allowed to access and utilize the Easement Area so long as such use does not interfere with the use of the Easement. Grantor agrees not to build or convey to others permission to build any structures or improvements on, over, across, in, through or under the Easement Area that would interfere with the use of the Easement for its intended purpose.

3. Repair and Maintenance. Grantee shall maintain and repair the Easement at its sole cost and expense and according to the terms set forth in this Agreement. Following any repair or maintenance, Grantee shall return the Easement Area to the same condition it was in prior to such repair or maintenance. All maintenance and repairs shall be commenced promptly and completed within a reasonable period of time.

4. Indemnity. Each party shall defend, indemnify, and hold the other party and its respective successors, assigns, corporate parents, affiliates and subsidiaries, and their respective officers, directors, shareholders, representatives, contractors, agents and employees harmless from and against all damages, liabilities, actions, causes of action, suits, claims, demands, losses, cost and expenses (including without limitation, reasonable attorney's fees, disbursements and court costs) to the extent arising from or in connection with a breach of this Agreement by the indemnifying party or the gross negligence or willful misconduct of the indemnifying party, its agents, employees, representatives or contractors in exercising its rights under this Agreement.

5. Covenants Running with the Land. All provisions of this Agreement, including the benefits and burdens set forth herein, shall run with the land and are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. It is intended that the Easement granted hereby shall burden Grantor's Property and shall benefit Grantee's Property in accordance with the terms hereof.

6. Severability. If any clause, sentence, or other portion of the terms, conditions, covenants, and restrictions of this Agreement becomes illegal, null, or void for any reason, or is held by any court of competent jurisdiction to be so, the remaining portions will remain in full force and effect.

7. Recordation. This Agreement shall be recorded in the real property records of Salt Lake County, State of Utah.

8. Amendments. This Agreement may only be amended by a written document signed by each of the parties or their applicable successors or assigns.

9. Applicable Law. The Agreement shall be construed and interpreted under, and governed and enforced according to, the laws of the State of Utah without regard for that state's principles of conflict of law.


*[Signatures on Following Pages]*

BK 10738 PG 4115

**GRANTEE:**

VP DAYBREAK OPERATIONS LLC,  
a Delaware limited liability company

By: Daybreak Communities LLC,  
a Delaware limited liability company  
Its: Project Manager

By:   
Ty McCutcheon, President & CEO

STATE OF UTAH                                 )  
  :SS.  
COUNTY OF SALT LAKE                     )

On Dec 10, 2018, personally appeared before me, a Notary Public, Ty McCutcheon, the President and CEO of Daybreak Communities LLC, a Delaware limited liability company, the Project Manager of VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company.

  
NOTARY PUBLIC

[SEAL]

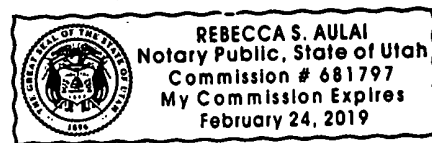


EXHIBIT "A"

LEGAL DESCRIPTION OF EASEMENT AREA  
(Daybreak Lake Island Plat 1 – Lot 158  
Private Water Lateral Easement)

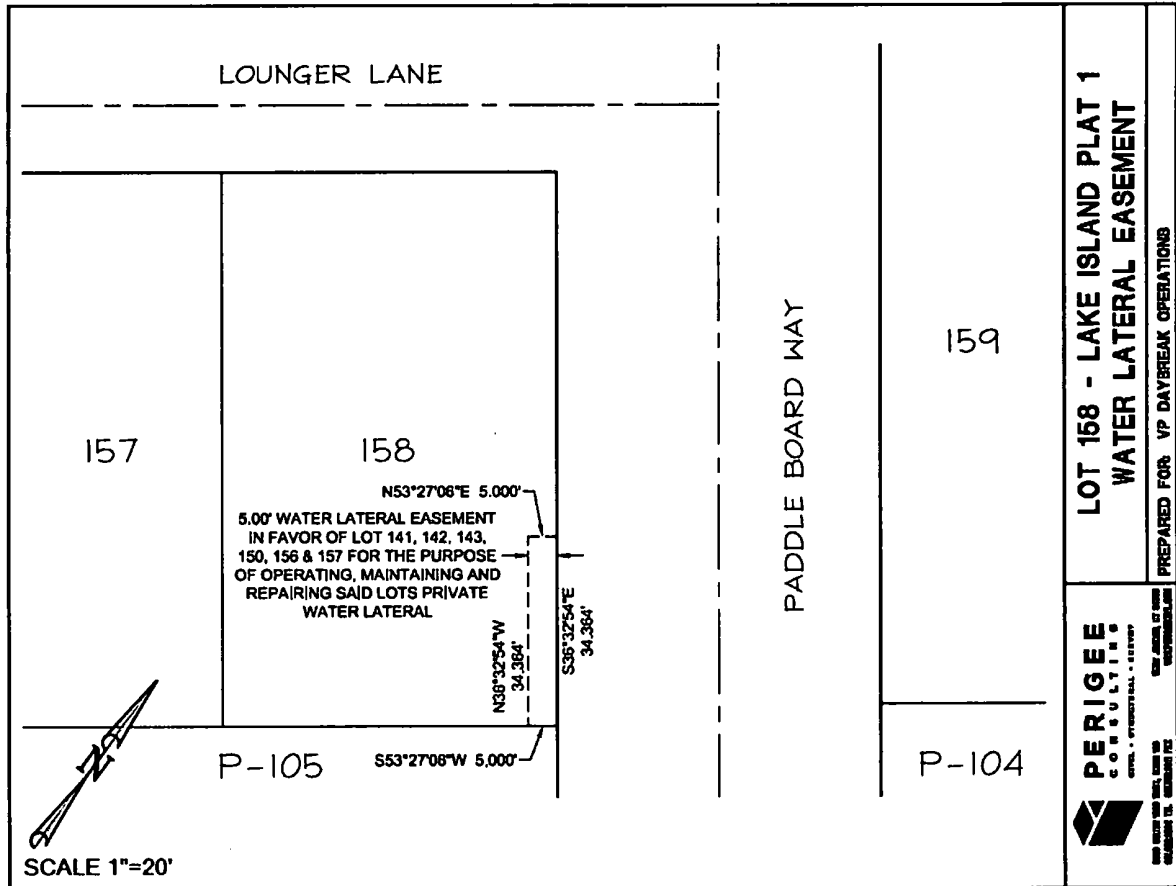
Five (5) foot wide private water lateral easement in favor of Lots 141, 142, 143, 150, 156 & 157 of the Daybreak Lake Island Plat 1 for the purpose of operating, maintaining and repairing said lots private water lateral, said easement being located in the Southwest Quarter of Section 18, Township 3 South, Range 1 West, Salt Lake Base & Meridian, U.S. Survey, said easement more particularly described as follows:

Beginning at the East Corner of Lot 158 of the Daybreak Lake Island Plat 1 Subdivision, said point lies North 89°57'12" East 510.061 feet along the Section Line and South 4834.448 feet from the Northwest Corner of Section 18, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence along said Lot 158 South 53°27'06" West 5.000 feet; thence North 36°32'54" West 34.364 feet; thence North 53°27'06" East 5.000 feet to the Northeasterly Line of said Lot 158; thence along said Northeasterly Line South 36°32'54" East 34.364 feet to the point of beginning.

Property contains 0.004 acres, 172 square feet.

# EXHIBIT "A-1"

## DEPICTION OF EASEMENT AREA (Daybreak Lake Island Plat 1 – Lot 158 Private Water Lateral Easement)



**LENDER'S CONSENT AND SUBORDINATION**

PRIVATE WATER LATERAL EASEMENT –PARCEL I.D. # 27-18-351-022  
DAYBREAK LAKE ISLAND PLAT 1  
(LOT 158)

THE UNDERSIGNED, THE BENEFICIARY UNDER THAT CERTAIN DEED OF TRUST, DATED DECEMBER 19, 2016, ENCUMBERING THE HEREIN DESCRIBED REAL PROPERTY (THE "DEED OF TRUST"), HEREBY EXPRESSLY CONSENTS TO AND JOINS IN THE EXECUTION AND RECORDING OF THAT CERTAIN PRIVATE WATER LATERAL EASEMENT, DATED AS OF DECEMBER 10, 2018, FROM VP DAYBREAK OPERATIONS LLC, A DELAWARE LIMITED LIABILITY COMPANY, TO VP DAYBREAK OPERATIONS LLC, A DELAWARE LIMITED LIABILITY COMPANY (THE "EASEMENT"), TO WHICH THIS LENDER'S CONSENT AND SUBORDINATION IS ATTACHED.

THE UNDERSIGNED LENDER HEREBY CONSENTS TO THE EASEMENT AND MAKES THE LIEN OF THE DEED OF TRUST SUBORDINATE THERETO. THIS LENDER'S CONSENT AND SUBORDINATION SHALL NOT OTHERWISE AFFECT THE PRIORITY OF MORTGAGES AND/OR LIENS AGAINST THE REAL PROPERTY DESCRIBED HEREIN, BUT SHALL SOLELY EVIDENCE THE LENDER'S INTENT TO SUBORDINATE ITS LIEN OF THE DEED OF TRUST TO THE EASEMENT. THE UNDERSIGNED REPRESENTS THAT HE OR SHE HAS FULL POWER AND AUTHORITY TO EXECUTE THIS LENDER'S CONSENT AND SUBORDINATION ON BEHALF OF THE LENDER.

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

By: Carl F. Swanson  
Name: CARL F. SWANSON  
Title: SEP

[SIGNATURE MUST BE NOTARIZED]  
[Notary acknowledgement on following page]

## 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 December 11, 2018, before me, **Lori Beckman, a Notary Public**, 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



[SEAL]

