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RASHELLE HOBBS
Recorder, Salt Lake County, UT
OLD REPUBLIC TITLE DRAPER/OREM
BY: eCASH, DEPUTY - EF 9 P.

RECORDING REQUESTED BY:
WHEN RECORDED MAIL TO:

Daybreak Communities LLC
11248 Kestrel Rise Road, Suite 201
South Jordan, UT 84009
Attention: Scott R. Kaufmann

2048884HM Times: 26-23-201-002; 26-24-1000019 26-13-395-001; 26-24-135-001;
Above Space for Recorder's Use 26-24-301-001; 24-376-016; 26-24-400-025; 26-24-400-024

PARTIAL ASSIGNMENT AND ASSUMPTION OF MASTER DEVELOPMENT AGREEMENT

THIS PARTIAL ASSIGNMENT AND ASSUMPTION OF MASTER DEVELOPMENT AGREEMENT ("Agreement") is made as of September 15, 2020, by and between **VP DAYBREAK INVESTCO 8 LLC**, a Utah limited liability company ("Assignor"), and **VP DAYBREAK DEVCO LLC**, a Delaware limited liability company ("Assignee"); individually, a "Party", and collectively, the "Parties".

RECITALS

- A.** VP Daybreak Investco 8 LLC, a Utah limited liability company ("Seller"), has entered into that certain Purchase and Sale Agreement with Assignee dated as of September 4, 2020 ("**Purchase Agreement**") regarding the purchase and sale of certain real property located in the City of South Jordan, County of Salt Lake, State of Utah, as more particularly described in **Exhibit A** attached hereto and incorporated herein ("**Property**"). The Property is within a planned development known as the "Kennecott Master Subdivision #1 Project" ("**Project**").
- B.** The Property and the Project are subject to that certain Master Development Agreement for the Kennecott Master Subdivision #1 Project dated March 18, 2003, by and between OM Enterprises Company, a Utah corporation ("**OME**"), and South Jordan City, a Utah municipal corporation ("**City**"), which was recorded on March 26, 2003 in the Salt Lake County Recorder's Office as Instrument No. 8581557 (as amended, supplemented and assigned from time to time, collectively, the "**MDA**").
- C.** Assignor is the successor in interest to OME's rights and obligations as "Master Developer" under the MDA with respect to the Property.
- D.** In connection with the conveyance of the Property by Seller to Assignee, Assignor desires to assign certain rights and to delegate certain of its obligations under the MDA, to the extent they relate to the Property, to Assignee, and Assignee desires to accept such assignment and delegation.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as set forth below.

1. ASSIGNMENT OF MDA. Pursuant to **Section 11** of the MDA, Assignor (as "Master Developer" thereunder) hereby assigns to Assignee (as "Developer" thereunder) all of its rights under the MDA with respect to the Property including, without limitation, (a) all rights to develop the Property in the manner set forth in the MDA; and (b) all impact fee credits and/or reimbursements relative to the Property and accruing to the owner thereof under the MDA after the date hereof, if any ("**Assignment**"), subject, however, to the following:

1.1 As set forth in Section 11(b)(2) of the MDA, Assignee shall not in each case without the prior written consent of Assignor, which may be granted or withheld in Assignor's sole and absolute discretion:

- (i) submit any design guidelines to the City with respect to the Property, and/or propose any amendments, modifications or other alterations to any design guidelines previously submitted by Assignor to the City with respect to the Property;
- (ii) process any preliminary or final subdivision plats or site plans for the Property, and/or propose any amendments, modifications or other alterations of any approved final subdivision plats and/or site plans procured by Assignor for the Property; or
- (iii) propose any amendments, modifications or other alterations to the MDA.

1.2 Assignee acknowledges that the City has agreed (pursuant to Section 11(b)(2) of the MDA) not to accept or process any of the foregoing matters from Assignee unless the matter has been previously approved by Assignor.

2. **DELEGATION AND ASSUMPTION.** Assignor hereby delegates to Assignee all of its obligations under the MDA to the extent such obligations relate to the Property and Assignee hereby accepts such delegation. Assignee hereby assumes, agrees to be bound by, and agrees to perform all such obligations under the MDA as the same specifically relate to the Property, including, without limitation, the indemnification obligation of Assignor with respect to the Property set forth in Section 8(c) of the MDA.

3. **RETAINED RIGHTS.** Assignor retains all rights under the MDA to modify, amend or terminate the MDA with respect to all other areas within the Project excluding the Property; provided, however, that Assignor shall not modify or alter the MDA in a manner which would materially interfere with Assignee's rights under the MDA with respect to the Property without Assignee's prior written consent, which shall not be unreasonably withheld or delayed. Assignee acknowledges and agrees that all matters regarding the Project (excluding the Property) and the development thereof shall be determined by Assignor in its sole and absolute discretion and Assignee shall have no interest or right to participate therein.

4. **COOPERATION.** The Parties hereto agree to cooperate with each other in carrying out the purpose and intent of this Agreement, including cooperating to obtain the consent of the City Council to the delegation of duties under the MDA described above.

6. **GOVERNING LAW.** This Agreement shall be governed by and construed under the laws of the State of Utah without regard to choice of law rules.

7. **SUCCESSORS AND ASSIGNS.** Each and all of the covenants and conditions of this Agreement will inure to the benefit of and be binding upon the successors in interest of Assignor and the successors, heirs, representatives and assigns of Assignee. As used in this Section, "successors" means successors to the Parties' interest in the Property, successors to all or substantially all of the Parties' assets, and successors by merger or consolidation.

8. **ATTORNEYS' FEES.** If any action, arbitration, judicial reference or other proceeding is instituted between Assignor and Assignee in connection with this Agreement, the losing Party shall pay to

the prevailing Party a reasonable sum for attorneys' and experts' fees and costs actually incurred (based on such attorneys normal and customary hourly rates for services actually rendered) in bringing or defending such action or proceeding and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action or proceeding and shall be paid whether or not such action or proceeding is prosecuted to final judgment.

9. SEVERABILITY. If any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement is held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement will not be affected thereby and will remain in force and effect to the fullest extent permissible by law.

10. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement, and all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties, oral or written, are hereby superseded and merged herein. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless it is in writing and signed by the Party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

11. COUNTERPARTS. This Agreement may be executed in counterparts, each of which, when taken together, will constitute a fully executed original.


[Signatures on Next Page]

[Partial Assignment and Assumption of MDA – Assignor's Signature Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ASSIGNOR:

VP DAYBREAK INVESTCO 8 LLC,
a Utah limited liability company

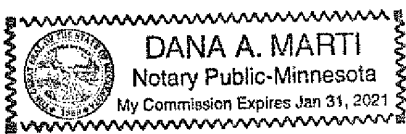
By 
Name: Brendan Bosman
Title: President

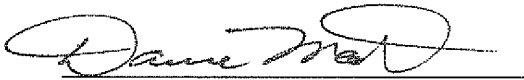
ACKNOWLEDGMENT

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

On September 14, 2020, personally appeared before me, a Notary Public, Brendan Bosman, the President of VP DAYBREAK INVESTCO 8 LLC, a Utah 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 INVESTCO 8 LLC, a Utah limited liability company.

WITNESS my hand and official Seal.




Notary Public in and for said State
My commission expires: 1/31/2021

[SEAL]

[Signatures Continue on Next Page]

**EXHIBIT A
TO PARTIAL ASSIGNMENT AND ASSUMPTION OF MASTER DEVELOPMENT
AGREEMENT**

Legal Description

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

Parcel 1: (TPN - 33 - West Parcel G - 26-23-201-002)

Beginning at a point on the Easterly Line of Lot Z107 of the VP Daybreak Operations-Investments Plat 1 subdivision, said point lies South 89°56'03" East 8727.582 feet along the Daybreak Baseline South (Being South 89°56'03" East 21225.293 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 5052.917 feet from the Southwest Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence South 57°33'06" West 184.480 feet to a point on a 5068.000 foot radius tangent curve to the left, (radius bears South 32°26'54" East, Chord: South 56°05'44" West 257.596 feet); thence along the arc of said curve 257.624 feet through a central angle of 02°54'45"; thence South 54°38'21" West 211.172 feet; thence North 33°33'29" West 148.267 feet to a point on a 468.000 foot radius tangent curve to the right, (radius bears North 56°26'31" East, Chord: North 16°46'44" West 270.205 feet); thence along the arc of said curve 274.107 feet through a central angle of 33°33'29"; thence North 211.933 feet to the North Line of said Lot Z107; thence along said Lot Z107 the following (5) courses: 1) North 89°58'54" East 850.314 feet to a point on a 6295.000 foot radius non tangent curve to the left, (radius bears North 64°15'10" East, Chord: South 26°15'14" East 111.356 feet); 2) along the arc of said curve 111.357 feet through a central angle of 01°00'49"; 3) South 57°34'03" West 40.377 feet to a point on a 2679.000 foot radius non tangent curve to the right, (radius bears North 32°26'54" West, Chord: South 59°38'38" West 195.607 feet); 4) along the arc of said curve 195.650 feet through a central angle of 04°11'04"; 5) South 28°15'49" East 10.450 feet to the point of beginning.

Parcel 2: (TPN 37a - East Parcel B - 26-24-101-001)

Beginning at a point on the Westerly Line of Lot T3 of the Kennecott Master Subdivision #1 Amended, said point lies North 89°56'03" West 10506.588 feet along the Daybreak Baseline South (Being South 89°56'03" East 21225.293 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 4088.717 feet from the Southeast Corner of Section 19, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence along said Lot T3 North 37°29'42" West 221.418 feet to the West Line of the Northwest Quarter of said Section 24; thence along said West Line North 00°00'12" East 90.770 feet; thence North 33°40'19" West 135.151 feet; thence North 53°27'06" East 218.655 feet; thence North 31°27'06" East 880.569 feet; thence North 56°36'58" East 119.219 feet; thence North 53°27'06" East 64.457 feet to a Right-of-Way Quitclaim Deed recorded as Entry No. 10429973 in Book 9607 at Page 4745 in the Office of the Salt Lake County Recorder; thence along said Right-of-Way Quitclaim Deed South 36°32'54" East 594.572 feet; thence South 53°27'06" West 487.905 feet; thence South 31°27'06" West 421.776 feet; thence South 53°27'06" West 396.814 feet to the point of beginning.

Parcel 3: (TPN 37c - East Parcel A - 26-13-355-001)

Beginning at a point that lies North 89°56'03" West 10738.496 feet along the Daybreak Baseline South (Being South 89°56'03" East 21225.293 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 4500.702 feet from the Southeast Corner of

Section 19, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence North 33°40'19" West 942.252 feet to a Northerly Line of Lot T3 of the Kennecott Master Subdivision #1 Amended; thence along said Lot T3 the following (2) courses: 1) North 89°58'54" East 619.610 feet; 2) North 00°02'52" East 867.985 feet to the Southerly right-of-way line of South Jordan Parkway; thence along said Southerly right-of-way line North 53°27'06" East 154.478 feet to a Right-of-Way Quitclaim Deed recorded as Entry No. 10429973 in Book 9607 at Page 4745 in the Office of the Salt Lake County Recorder and a point on a 1263.500 foot radius non tangent curve to the left, (radius bears North 55°06'21" East, Chord: South 35°43'17" East 36.477 feet); thence along said Right-of-Way Quitclaim Deed the following (2) courses: 1) along the arc of said curve 36.478 feet through a central angle of 01°39'15"; 2) South 36°32'54" East 909.355 feet; thence South 53°27'06" West 63.352 feet; thence South 56°36'58" West 127.043 feet; thence South 31°27'06" West 881.722 feet; thence South 53°27'06" West 208.870 feet to the point of beginning.

Also Less and excepting therefrom the following:

Beginning North 00°02'52" East 129.27 feet and South 89°57'07" East 506.13 feet from the Southwest Corner of Section 13, Township 3 South, Range 2 West, Salt Lake Base and Meridian, and running thence North 53°27'06" East 52.000 feet; thence South 36°32'54" East 27.000 feet; thence South 53°27'06" West 52.000 feet; thence North 36°32'54" West 27.000 feet to the point of beginning.

Parcel 4: (TPN 37d - East Parcel D - 26-24-155-001)

Beginning at a Westerly Corner of the Daybreak Lake Avenue East subdivision, said point also being on the Westerly Line of Lot T3 of the Kennecott Master Subdivision #1 Amended, said point lies North 89°56'03" West 9881.986 feet along the Daybreak Baseline South (Being South 89°56'03" East 21225.293 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 3275.287 feet from the Southeast Corner of Section 19, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence along said Lot T3 North 37°29'42" West 568.077 feet; thence North 53°27'06" East 1268.217 feet to a Right-of-Way Quitclaim Deed recorded as Entry No. 10429973 in Book 9607 at Page 4745 in the Office of the Salt Lake County Recorder; thence along said Right-of-Way Quitclaim Deed South 36°32'54" East 568.000 feet to a Northerly Corner of said Daybreak Lake Avenue East; thence along said Daybreak Lake Avenue East South 53°27'06" West 1258.834 feet to the point of beginning.

Parcel 5: (TPN CC - 26-24-301-004)

Beginning at the Southeast corner of Lot T6 of the Amended Lots B2, B3, Os2, T4, V4, V7 & Wtc2 Kennecott Master Subdivision #1, according to the official plat thereof. Said point lies South 89°58'44" East 303.020 feet along the section line (basis of bearings is South 89°58'44" East between the Southwest corner and the South quarter corner of Section 24, Township 3 South, Range 2 West, Salt Lake Base and Meridian) and North 2401.347 feet from the said Southwest corner of Section 24 and running thence along the Easterly line of said lot T6 the following (2) courses: 1) North 36°48'17" West 2304.212 feet to a point on a 6295.000 foot radius tangent curve to the right, (radius bears North 53°11'43" East); 2) along the arc of said curve 830.001 feet through a central angle of 07°33'16" to the Westerly line of Mountain View Corridor; thence along said Westerly line the following (10) courses: 1) South 36°32'59" East 838.941 feet; 2) South 45°16'29" East 560.320 feet; 3) South 37°08'56" East 1129.970 feet; 4) South 00°00'12" West 25.310 feet; 5) South 40°29'39" East 161.440 feet; 6) South 09°09'20" West 13.910 feet; 7) South 37°09'00" East 109.880 feet; 8) South 81°17'28" East 26.030 feet; 9) South 40°29'39" East 253.450 feet; 10) South 33°43'21" East 150.414 feet; thence South 89°56'12" West 190.385 feet to the point of beginning.

LESS AND EXCEPTING therefrom all that portion contained in that certain plat entitled "Daybreak Lake Avenue from Mountain View Corridor to 6000 West Subdivision Amending Lots V7, T6 and WTC2 of the Kennecott Master Subdivision #1 Amended" recorded June 23, 2017 as Entry No. 12561724 in Book 2017P of Plats at Page 154.

ALSO LESS AND EXCEPTING therefrom all that portion contained in that certain plat entitled "Daybreak West Villages Roadway Dedication Plat in Lieu of Condemnation Amending lots Z101, Z105, Z106 & Z107 of the VP Daybreak Operations-Investments Plat 1 and Lots OS1, T5, V5 WTC1 & WTC2 of the Kennecott Master Subdivision #1 Amended" recorded August 28, 2019 as Entry No. 13061700 in Book 2019P of Plats at Page 239.

ALSO LESS AND EXCEPTING the following:

Beginning at a point on the Northerly Line of the Daybreak Lake Avenue from Mountain View Corridor to 6000 West Subdivision, said point also being the Southeasterly Corner of Lot Z107 of the VP Daybreak Operations-Investments Plat 1 subdivision, said point lies South 89°56'03" East 10618.504 feet along the Daybreak Baseline South (Being South 89°56'03" East 21225.293 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 2761.081 feet from the Southwest Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence along said Lot Z107 North 36°48'17" West 1623.603 feet; thence North 58°42'58" East 85.588 feet; thence South 45°16'29" East 327.488 feet; thence South 37°08'56" East 1129.970 feet; thence South 00°00'12" West 25.310 feet; thence South 40°29'39" East 159.810 feet to a point on the said Northerly Line of Daybreak Lake Avenue from Mountain View Corridor to 6000 West Subdivision and a point on a 949.000 foot radius non tangent curve to the right, (radius bears North 33°15'17" West, Chord: South 60°52'16" West 136.558 feet); thence along said Northerly Line and the arc of said curve 136.676 feet through a central angle of 08°15'06" to the point of beginning.

ALSO LESS AND EXCEPTING the following:

Beginning at a point on the Easterly Line of Lot Z107 of the VP Daybreak Operations-Investments Plat 1 subdivision, said point lies South 89°56'03" East 9606.090 feet along the Daybreak Baseline South (Being South 89°56'03" East 21225.293 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 4112.995 feet from the Southwest Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence along said Lot Z107 the following (2) courses: 1) North 36°48'17" West 167.098 feet to a point on a 6295.000 foot radius tangent curve to the right, (radius bears North 53°11'43" East, Chord: North 33°01'39" West 829.387 feet); 2) along the arc of said curve 829.988 feet through a central angle of 07°33'16"; thence South 36°32'59" East 838.941 feet; thence South 45°16'29" East 164.815 feet; thence South 58°42'58" West 75.530 feet to the point of beginning.

Parcel 6: (TPN FF - 26-24-376-016)

Lot C-101, DAYBREAK VILLAGE 7A PLAT 2 SUBDIVISION Amending Lots B3 And B3B of the Kennecott Master Subdivision #1 Amended and Amending Daybreak Parkway Right-of-Way Dedication Plat (East Frontage Road to 11800 South, according to the official plat thereof recorded September 4, 2018 as Entry No. 12842356 in Book 2018P of Plats at Page 306, in the office the Salt Lake County Recorder, Utah.

Parcel 7: (TPN HH & II 26-24-400-023 and 26-24-400-024)

Excluded Parcel B of Kennecott Daybreak Plat 3E Subdivision Amending Lot T4 of the Kennecott Master Subdivision #1 Amended and also Amending Lot O-103 of the Kennecott Daybreak Plat 4 Subdivision, according to the official plat thereof recorded November 10, 2010 as Entry No. 2010 as Entry No. 11072222 in Book 2010P of Plats at Page 176 in the Salt Lake County Recorder's Office, being more particularly described as follows:

A parcel of land located in the Southeast quarter of Section 24, Township 3 South, Range 2 West, Salt Lake Base and Meridian and being more particularly described as follows:

Commencing at the South quarter corner of said Section 24; thence South 89°58'42" East along the South line of said Southeast quarter, a distance of 587.479 feet; thence leaving said line North 00°01'18" East a distance of 1164.329 feet to a point on the Northerly boundary of the Kennecott Daybreak Plat 3C subdivision recorded in Book 2008P at Page 291 in the Office of the Salt Lake County Recorder said point also being the point of beginning; thence along the Northerly boundary of said Kennecott Daybreak Plat 3C subdivision the following six (6) courses; 1. Thence South 53°27'06" West, a distance of 113.33 feet to a point on a 369.000 foot radius curve to the right, the center of which bears North 36°32'54" West; 2. Thence Southwesterly along said curve to the right having a central angle of 32°00'37" (chord bearing and distance of South 69°27'24" West - 203.484 feet) for a distance of 206.155 feet; 3. Thence South 85°27'43" West, a distance of 38.032 feet to a point on a 429.140 foot radius non-tangent curve to the left, the center of which bears South 87°14'14" West; 4. Thence Northeasterly along said curve to the left having a central angle of 29°55'44" (chord bearing and distance of North 17°43'38" West - 221.625 feet) for a distance of 224.165 feet; 5. Thence North 32°41'30" West, for a distance of 13.607 feet; 6. Thence North 37°11'45" West, for a distance of 40.656 feet to a point on the Southerly boundary of the Kennecott Daybreak View Parkway Subdivision recorded in Book 2008P at Page 229 in the Office of the Salt Lake County Recorder; thence North 54°53'01" East, along the Southerly boundary of said Kennecott Daybreak View Parkway Subdivision for a distance of 269.30 feet; thence South 36°32'54" East for a distance of 333.54 feet to the point of beginning.