

162775-CPI

RECORDING REQUESTED BY:
VP DAYBREAK DEVCO LLC

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09/30/2022 09:02 AM By: CSelman Fees: \$40.00
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: COTTONWOOD TITLE INSURANCE AGENCY, INC.
1996 EAST 6400 SOUTH SUITE 120SALT LAKE CITY, UT 84121

AND WHEN RECORDED RETURN TO:

VP Daybreak Devo LLC
9350 South 150 East, Suite 140
Sandy, Utah 84070-2721

Attention: Brad Holmes

Tax ID: 26-22-179-015, 26-22-179-014, 26-22-179-013, 26-22-179-012, 26-22-179-011, 26-22-179-010

Space Above Line for Recorder's Use

MEMORANDUM OF REPURCHASE OPTION AND ANTI-SPECULATION RIGHT

THIS MEMORANDUM OF REPURCHASE OPTION AND ANTI-SPECULATION RIGHT (this "Memorandum") is made as of 9/29/22 by HOLMES HOMES, Inc., a Utah corporation ("Builder") for the benefit of VP DAYBREAK DEVCO LLC, a Delaware limited liability company ("Seller"):

RECITALS:

A. Seller has sold to Builder the real property more particularly described on Exhibit A attached hereto (the "Parcel") pursuant to an unrecorded PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS dated as of December 11, 2019, by and between Seller and Builder (as amended to date, the "Builder Agreement"). The Parcel is part of the property commonly known as Daybreak (the "Project"). Initially capitalized terms used in this Memorandum without definition are defined in the Builder Agreement.

B. Seller is master-planning the Project as a coordinated development with a carefully selected mix of product types and densities, each of which contributes to the overall attractiveness and value of the development. Development for different purposes, or patchwork development, or holding and reselling the Parcel for speculative purposes, would materially and adversely affect the orderly development and value of Seller's master-planned community.

C. Accordingly, Seller desires to control the sale of parcels to selected developers having the knowledge, expertise, good reputation, financial capability and willingness to develop in accordance with Seller's master plan, and in an expeditious manner.

D. As a material inducement to Seller to entering into the Builder Agreement, without which Seller would not enter into the Builder Agreement, Builder represented and warranted to Seller that Builder is acquiring the Parcel to construct Builder's Project on the Parcel for sale to residential homebuyers, and not to speculate in appreciation in the value of the Parcel.

AGREEMENT

For and in consideration of the mutual covenants, agreements and conditions set forth in the unrecorded Builder Agreement, Builder hereby agrees for the benefit of Seller as follows:

1. Repurchase Option and Anti-Speculation Right. Pursuant to the Builder Agreement, Builder granted to Seller a repurchase option (the “**Repurchase Option**”) to purchase the Parcel in the event that certain construction milestones were not met, all upon the terms and conditions set forth in the Builder Agreement. Pursuant to the Builder Agreement, Builder also granted to Seller the right of first refusal to purchase the Parcel (the “**Anti-Speculation Right**”) in the event Builder proposed to sell, exchange or otherwise transfer any portion of the Parcel, except as otherwise permitted under the Builder Agreement, all upon the terms and conditions set forth in the Builder Agreement.
2. Term. The Repurchase Option and Anti-Speculation Right expire on the earlier of: (i) completion of construction of Builder’s Project, as evidenced by issuance of a certificate of occupancy for the last Residence in Builder’s Project; and (ii) the second anniversary of Builder’s acquisition of the Parcel. In addition, this Memorandum, the Repurchase Option and Anti-Speculation Right shall terminate automatically with respect to each individual Lot described on Exhibit A attached hereto when such Lot is sold to a residential homebuyer who intends to occupy the Residence on such Lot as the homebuyer’s residence.
3. Price and Terms. The price and other terms and conditions of the Repurchase Option and Anti-Speculation Right are set forth in the Builder Agreement. In the event of any conflict between the terms of this Memorandum and the terms of the Builder Agreement, the Builder Agreement shall prevail. In no event shall the terms of this Memorandum be deemed to modify, amend, limit or otherwise affect the terms and conditions of the Builder Agreement
4. Successors and Assigns. The Repurchase Option and Anti-Speculation Right are covenants running with the land and are binding upon Builder and its successors and assigns and inures to the benefit of Seller and its successors and assigns.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Builder has caused its duly authorized representatives to execute this Agreement as of the date first written above.

“BUILDER”

HOLMES HOMES, INC.

a Utah corporation

By: 
Name: DARON SMITH
Its: TREASURER

ACKNOWLEDGMENT

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

On 9/29, 2022, personally appeared before me, a Notary Public,
Dawn Smith, the Treasurer of HOLMES
HOMES, INC. personally known or proved to me to be the person whose name is subscribed to the
above instrument who acknowledged to me that he/she executed the above instrument on behalf of
HOLMES HOMES, INC.

WITNESS my hand and official Seal.



[Signature]
Notary Public in and for said State
My commission expires: 2/23/25

[SEAL]

Exhibit A

LEGAL DESCRIPTION

Lots 166, 167, 168, 169, 170, and 171 of that plat map entitled "DAYBREAK VILLAGE 12A PLAT 1 AMENDING LOT V5 OF THE KENNECOTT MASTER SUBDIVISION #1 AMENDED AND LOT Z101 OF THE VP DAYBREAK OPERATIONS-INVESTMENTS PLAT 1" recorded on September 7, 2021, as Entry No. 13765628, Book 2021P, Page 223 of the Official Records of Salt Lake County, Utah.