

AFTER RECORDING, RETURN TO:

c/o LHMRE, LLC
9350 South 150 East, Suite 140
Sandy, Utah 84070
Attention: Aida Neimarlija

Assessor Parcel No.: See Exhibit "A"

14368671 B: 11562 P: 4649 Total Pages: 12
04/09/2025 10:51 AM By: mpalmer Fees: \$40.00
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: COTTONWOOD TITLE INSURANCE AGENCY, INC.
1996 EAST 6400 SOUTH SUITE 120 SALT LAKE CITY, UT 84121

**FIRST AMENDMENT TO ACCESS AND
PARKING EASEMENT AGREEMENT**

THIS FIRST AMENDMENT TO ACCESS AND PARKING EASEMENT AGREEMENT ("**First Amendment**") is entered into and made effective as of the 8th day of April, 2025, by and between VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company, with its successors and assigns ("**Grantor**") and DTDB 5, LLC, a Utah limited liability company ("**DTDB 5 Grantee**").

RECITALS

WHEREAS, Grantor and DTDB 5 Grantee are parties to that certain Access and Parking Easement Agreement executed on June 24, 2024, and recorded with the Salt Lake County Recorder's Office ("**Recording Office**") on June 25, 2024, as Entry No. 14256367, Book 11500, Page 897 ("**Original Agreement**"), whereby Grantor granted certain easements across a portion of the real property more particularly described on Exhibit "A" attached hereto and incorporated herein (the "**Grantor Property**") in favor of DTDB 5 Grantee and for the benefit of that certain real property more particularly described on Exhibit "B" attached hereto and incorporated herein (the "**DTDB 5 Property**").

WHEREAS, Section 5.3 of the Original Agreement provides that the Owners (defined in the Original Agreement as the "record fee simple owner of the Grantor Property, the DTDB 5 Property, and their successors or assigns") may amend the Original Agreement by written instrument duly executed and acknowledged by the Owners and recorded in the Recording Office.

WHEREAS, Grantor and DTDB 5 Grantee desire to amend and clarify the grant of the access easement set forth in the Original Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and DTDB 5 Grantee hereby agree as follows:

1. Recitals Incorporated. The above recitals are an integral part of the agreement and understanding of Grantor and DTDB 5 Grantee and are incorporated into this First Amendment by reference.

CTI-178040-DMF

2. Defined Terms. Any capitalized term used but not defined in this First Amendment shall have the meaning given that term in the Original Agreement.

3. Specific Amendments. Effective as of the date of this First Amendment, the terms of the Original Agreement are amended as follows:

- a. Grant of Easement for Access. Section 2.1 is hereby amended and restated in its entirety as follows:

“2.1 Grant of Easement for Access. Grantor hereby grants to the Owner of the DTDB 5 Property, as grantee, for the benefit of the DTDB 5 Property, and as a burden upon the Grantor Property, a nonexclusive easement for use by the Permittees for ingress and egress by vehicular and pedestrian traffic upon, over, and across those portions of the Grantor Property more particularly depicted with a dashed-line boundary and hatching on Exhibit “E” attached hereto and incorporated herein by reference (the “**Access Easement**”). For the avoidance of doubt, the Access Easement includes, but is not limited to, all of the as-built portions of the roads, sidewalks, parking areas, and pathways depicted on Exhibit “E” hereto.”

- b. Grant of Easement for Parking. Section 2.2 of the Original Agreement is hereby amended and restated in its entirety as follows:

“2.2 Grant of Easement for Parking. Grantor hereby grants to the Owner of the DTDB 5 Property, as grantee, for the benefit of the DTDB 5 Property, and as a burden upon the Grantor Property, a nonexclusive easement for use by the Permittees for non-reserved, non-overnight, parking of passenger vehicles in fifty-nine (59) of the parking stalls located in the two hundred forty-nine thousand eight hundred square foot parking lot (approximately seven hundred sixty-eight (768) parking stalls) on the Grantor Property, in the parking area depicted with a dotted-line boundary on Exhibit “D” attached hereto and incorporated herein by reference (the “**Parking Easement**”). For the avoidance of doubt, the Parking Easement includes, but is not limited to, all of the as-built portions of the parking area depicted on Exhibit “D” hereto.”

- c. Future Development. Section 2.4 of the Original Agreement is hereby amended and restated in its entirety as follows:

“2.4 Future Development. Notwithstanding anything contained herein to the contrary (though subject to the following proviso and without diminishing any DTDB 5 Grantee rights herein), the Owner of the Grantor Property shall have the unfettered right to develop the Grantor Property in any manner and to relocate or reconfigure the location of the Access

Easement area or Parking Easement area to different locations on the Grantor Property in the sole and absolute discretion of the Owner of the Grantor Property; provided, however, that (x) the access and parking easements and other rights granted hereunder to the Owner of the DTDB 5 Property, including but not limited to the aforementioned parking ratio (i.e., the grant of a parking easement to fifty-nine (59) of the of the parking stalls located in the two hundred forty-nine thousand eight hundred square foot parking lot (approximately seven hundred sixty-eight (768) parking stalls) located on the Grantor Property), shall not be reduced or otherwise materially adversely affected; (y) the rights granted hereunder to the Owner of the Grantor Property shall not negatively impact the office and/or commercial retail use of the DTDB 5 Property; and (z) the Owner of the DTDB 5 Property shall have the right to approve in advance, such approval not to be unreasonably withheld, any development of a parking structure (above-grade, below-grade, or otherwise) on the Grantor Property. During any period of construction on the Grantor Property, the Owner of the Grantor Property may fulfill its obligations hereunder by providing an alternate location(s) for some or all of the fifty-nine (59) parking stalls, provided such alternate parking is substantially similar to the parking facilities on the Grantor Property, is reasonably convenient to the DTDB 5 Property, and is otherwise acceptable to the Owner of the DTDB 5 Property in its commercially reasonable business judgment.”

- d. Maintenance and Repair of Parking Surface and Other Improvements on the Grantor Property. Section 2.5 of the Original Agreement is hereby amended and restated in its entirety as follows:

“2.5 Maintenance and Repair of Parking Surface and Other Improvements on the Grantor Property. The Owner of the Grantor Property shall maintain, or cause to be maintained the parking area, roads, and access improvements located on the Grantor Property at all times in good, operable, and clean condition and repair, including but not limited to, promptly clearing all snow and debris as needed. In the event of a casualty to the Grantor Property resulting in the damage or destruction of all or any material portion of the parking area or access improvements located on the Grantor Property, the Owner of the Grantor Property shall promptly repair and replace such damaged or destroyed parking area or access improvements such that the Owner of the Grantee Property may continue exercise its rights under the Access Easement and Parking Easement as set forth in this Agreement. During any period of construction or repair on the Grantor Property due to such damage or destruction, the Owner of the Grantor Property shall provide alternate parking substantially similar to the parking contemplated by Section 2.2 hereof that is reasonably convenient to the DTDB 5 Property.”

- e. Restoration of Access Area and Parking Area. Section 4.2 of the Original Agreement is hereby amended and restated in its entirety as follows:

“4.2 Restoration of Access Area and Parking Area. In the event any portion of the parking area or access area of the Grantor Property are so condemned or transferred, then the remaining portion of such areas, as the case may be, shall be restored by the Owner of the Grantor Property, as near as reasonably practicable to at least the condition thereof immediately prior to such condemnation or transfer. In such event, the Owners shall work together in good faith to relocate the Access Easement and Parking Easement to those portions of the Grantor Property that are not so condemned so as to preserve Grantee’s use of the Access Easement and Parking Easement in their fullest extent; provided that such relocation shall meet the requirements set forth in Subsections 2.4(x), (y) and (z) of this Agreement.”

- f. Exhibit “C”. Exhibit “C” to the Original Agreement is hereby amended and restated in its entirety by Exhibit “C” attached hereto and incorporated herein by reference.
- g. Exhibit “D”. Exhibit “D” to the Original Agreement is hereby amended and restated in its entirety by Exhibit “D” attached hereto and incorporated herein by reference.
- h. Exhibit “E”. The Original Agreement is hereby amended to add Exhibit “E” hereto as Exhibit “E” thereto.
- i. Governing Law. The following is hereby added as Section 5.14 to the Original Agreement:

“5.14 Governing Law. This Agreement shall be interpreted, applied, and enforced in accordance with the laws of the State of Utah.”

4. Effect of First Amendment. The terms and provisions of this First Amendment are added to, and made a part of the Original Agreement for all purposes. To the extent that any terms or provisions of this First Amendment modify or conflict with any provisions of the Original Agreement, the terms of this First Amendment shall control. Except as expressly modified by this First Amendment, all the terms and conditions of the Original Agreement shall remain in full force and effect. The Original Agreement, as amended by this First Amendment, shall not be further amended or modified except as provided in Section 5.3 of the Original Agreement, as amended. All of the terms, conditions, and covenants of the Original Agreement, as amended, shall be binding upon and inure to the benefit of the parties hereto, and their permitted successors and assigns, to the extent that any such transfer of interest may be allowed under the terms of the Original Agreement. Each party hereby represents and warrants to the other that the person or entity signing this First Amendment on behalf of such party is duly authorized to execute and

deliver this First Amendment and to legally bind the party on whose behalf this First Amendment is signed to all of the terms, covenants and conditions contained in this First Amendment. If any action is brought because of any breach of or to enforce or interpret any of the provisions of this First Amendment, the prevailing party in such action shall be entitled to recover from the other party those attorneys' fees and other charges recoverable under the applicable provisions of the First Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF each of the parties hereto have executed this First Amendment under seal of the date first above written.

GRANTOR:

VP DAYBREAK OPERATIONS LLC,
a Delaware limited liability company

By: LHMRE, LLC
Its: Operating Manager

By: 
Name: Brad Holmes
Title: President

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

On April 8, 2025, personally appeared before me, a Notary Public, Brad Holmes, the President of LHMRE, LLC, the operating 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.

My Commission expires:

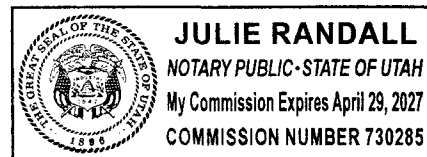
April 29, 2027


Notary Public

Residing at:

Sandy, Utah

[Signatures Continue on Following Page]



DTDB 5, LLC,
a Utah limited liability company

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

April 29, 2027




Exhibit "A"

Legal Description of the Grantor Property

The following real property located in Salt Lake County, Utah and described as:

LOT 1, DAYBREAK VILLAGE 7A PLAT 3 SUB AMD

(A portion of Parcel #26-13-352-005-0000)

Beginning at a point that lies South 89°55'30" East 1499.605 feet along the Daybreak Baseline Southeast (Basis of bearings is South 89°55'30" East 10641.888' between Southwest Corner of Section 24, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 4580.423 feet from the Southwest Corner of Section 24, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence North 36°32'55" West 535.000 feet; thence North 53°27'06" East 517.004 feet; thence South 36°32'55" East 535.000 feet; thence South 53°27'06" West 517.004 feet to the point of beginning.

Parcel contains 6.350 acres.

Exhibit "B"

Legal Description of the DTDB 5 Property

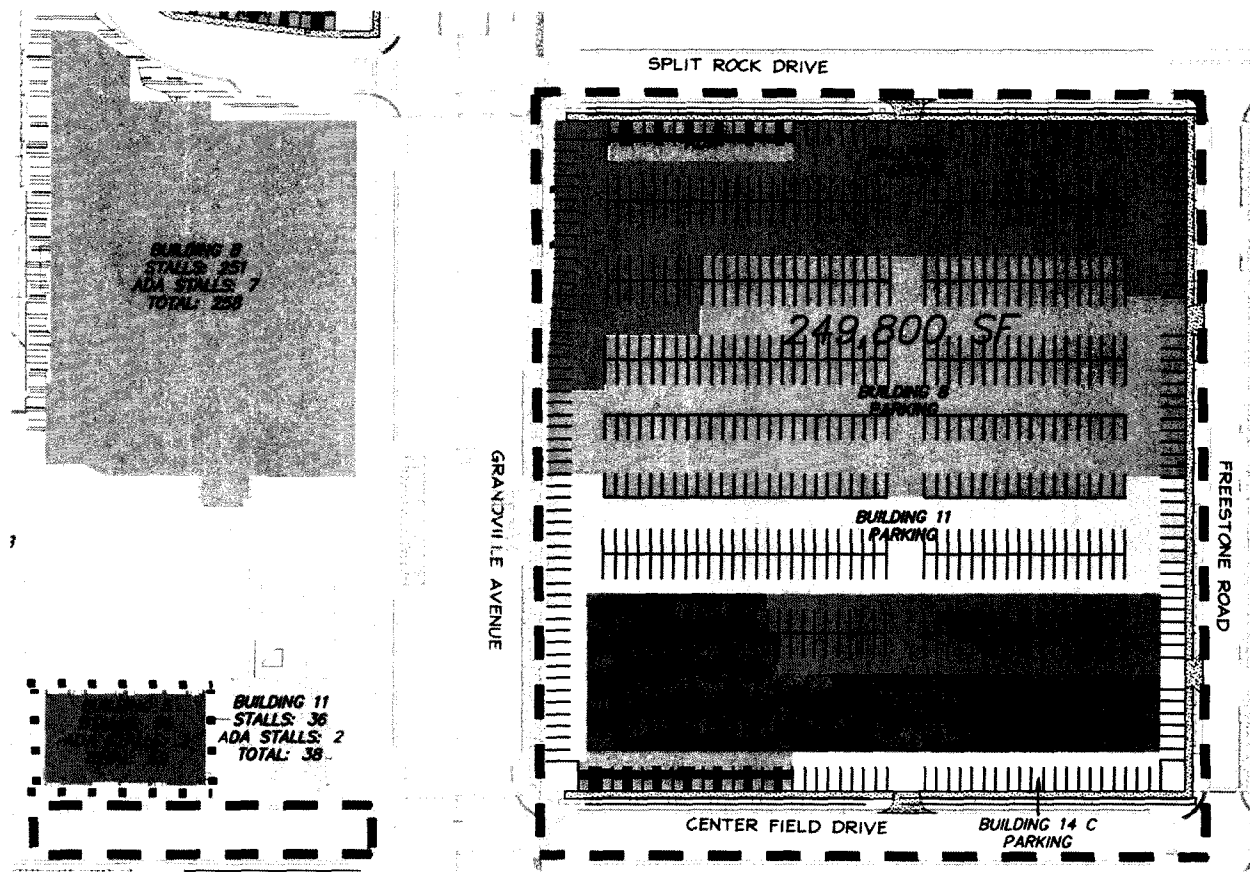
The following real property located in Salt Lake County, Utah and described as:

LOT C-110 OF DAYBREAK URBAN CENTER PLAT 1 AMENDING LOT T3 OF THE
KENNECOTT MASTER SUBDIVISION #1 AMENDED AND PRIVATE RIGHTS-OF-WAY OF
THE EAST TOWN CENTER ROADWAY DEICATION PLAT IN LIEU OF CONDEMNATION,
ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT
LAKE COUNTY RECORDER'S OFFICE.

Preliminary Assessor Parcel No: 26-24-101-020-0000

EXHIBIT "C"

Site Plan



Grantor Property is depicted with a dashed-line boundary



DTDB 5 Property is depicted with dotted-line boundary



EXHIBIT "D"

Parking Easement Area

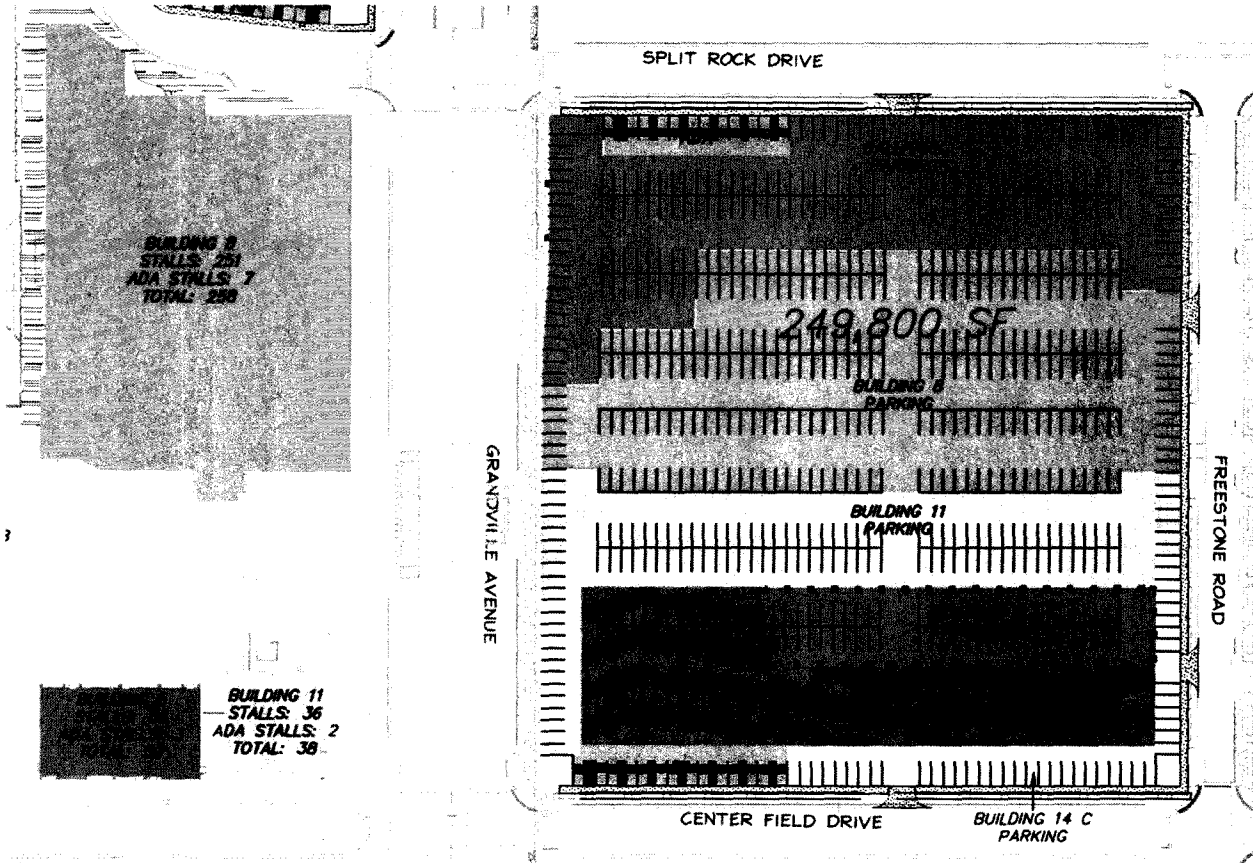


EXHIBIT "E"

Access Easement Area

