

AFTER RECORDING MAIL TO:

Larry H. Miller Real Estate
9350 South 150 East, Suite 140
Sandy, Utah 84070
Attn: Aida Neimarlija

APN: 10-043-0042 and 10-043-0046
170969-LMM

**PARTIAL ASSIGNMENT AND ASSUMPTION OF AGREEMENT
FOR DEVELOPMENT OF LAND**

This **PARTIAL ASSIGNMENT AND ASSUMPTION OF AGREEMENT FOR DEVELOPMENT OF LAND** (this "Assignment") is entered into as of Nov. 10, 2023 (the "Effective Date"), by and between **MAURICE R. BARNES & ELLEN N. BARNES FAMILY LIMITED PARTNERSHIP** ("Assignor") whose address is 4042 South Splendor Way, Salt Lake City, Utah 84124, and **DISCOVERY DEVELOPMENT, LLC**, a Utah limited liability company ("Assignee"), whose address is c/o Larry H. Miller Real Estate, 9350 South 150 East, Suite 140, Sandy, Utah 84070. Assignor and Assignee are referred to in this Assignment collectively as the "**Parties**".

RECITALS

A. Assignor and Assignee are parties to that certain Real Estate Purchase Contract, dated April 19, 2021 (as amended from time to time, the "**REPC**"), wherein Assignee will buy from Assignor, and Assignor will sell to Assignee, certain real property located in Layton City, Davis County, Utah, as more particularly described on **Exhibit A** attached hereto and incorporated herein (the "**Property**"). The Property is within the Subject Area (as defined in the ADL), also known as "Trailside West PRUD" (the "**Project**").

B. To facilitate the planned development of the Property and the Project, Assignor entered into that certain AGREEMENT FOR DEVELOPMENT OF LAND BETWEEN LAYTON CITY AND MAURICE R BARNES & ELLEN N BARNES FAMILY LIMITED PARTNERSHIP dated as of October 7, 2021, by and between Assignor, as owner, and **LAYTON CITY**, a municipal corporation ("**City**"), as city, and recorded on November 30, 2021 as Entry No. 3438799 in the Davis County Recorder's Office (together with any subsequent amendments or modifications, the "**ADL**"). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the ADL.

C. In connection with the conveyance of the Property by Assignor to Assignee, in accordance with the REPC, Assignor desires to further assign certain rights, privileges, and obligations under the ADL, to the extent they relate to the Property, to Assignee, and Assignee desires to accept such assignment and delegation, as more particularly set forth therein and herein.

D. Under the ADL, City's consent is needed for any assignment of the same to successors and assigns of Assignor.

AGREEMENT

NOW THEREFORE, FOR THE SUM OF TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Assignment of ADL. Pursuant to Section 7.1 of the ADL, Assignor (as "Owner" thereunder) hereby assigns and transfers to Assignee all of its rights, titles and interests in and to the ADL, with respect to the Property.

2. Delegation and Assumption. Assignor hereby delegates to Assignee all of its obligations under the ADL, to the extent such obligations relate specifically to the Property, and Assignee hereby accepts such delegation. Assignee hereby also assumes, agrees to be bound by, and agrees to perform all such obligations under the ADL as the same specifically related to the Property.

3. Retained Rights. Assignor retains all rights under the ADL with respect to all other areas within the Project, excluding the Property; provided, however, that Assignor shall not modify or alter the ADL in a manner which would materially interfere with Assignee's rights under the ADL or otherwise with respect to the Property or Project without Assignee's prior written consent.

4. Representations and Warranties. Assignor represents and warrants to Assignee that (i) the transfer of the Property by Assignor to Assignee is permitted under the ADL, (ii) the partial assignment of rights under the ADL described in this Assignment is permitted under the ADL or has been otherwise approved by City, and (iii) the ADL is in full force and effect and no breach or default exists under the ADL and no event has occurred and no condition exists, that after notice or lapse of time or both, would constitute a breach or default under the ADL.

5. Indemnification. Assignor shall indemnify, defend and hold harmless Assignee from and against all claims, liabilities, losses, damages, costs and expenses (including, without limitation, attorneys' fees) caused by the failure of Assignor to pay or perform in a timely manner any obligation required to be paid or performed by the Assignor prior to the date of this Assignment.

6. General Provisions. A modification of or amendment to any provision contained in this Assignment shall be effective only if the modification or amendment is in writing and signed by both Parties. This Assignment shall inure to the benefit of, and be binding on, the Parties and their respective successors and assigns. This Assignment shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. If any phrase, clause, sentence, paragraph, section, article or other portion of this Assignment is held by any court of competent jurisdiction to be illegal, null or void, or against public policy, the remaining portions of this Assignment will not be affected thereby and will remain in full force and effect to the fullest extent permissible by law. This Assignment may be executed in any number of duplicate originals or counterparts, each of which when so executed shall constitute in the aggregate but one and the same document.

[Signature Pages Follow]

The Parties have executed this Assignment as of the Effective Date.

ASSIGNOR:

MAURICE R. BARNES AND ELLEN N. BARNES
FAMILY LIMITED PARTNERSHIP, also known as
the BARNES FAMILY PARTNERSHIP, a Utah
limited partnership

By: D. N. Barnes
Name: DAVID N. BARNES
Its: GENERAL PARTNER

STATE OF UTAH)
) : ss
COUNTY OF SALT LAKE)

On this 6 day of Nov., 2023, before me LARA MOUNTFORD, a notary public,
personally appeared DAVID N. BARNES, proved on the basis of satisfactory evidence to
be the person whose name is subscribed to in this document, and acknowledged the same.

(Notary Seal)

Lara Mountford
Notary Signature



[Signatures Continue on Following Pages]

ACKNOWLEDGMENT AND CONSENT BY LAYTON CITY

City hereby acknowledges, agrees, and otherwise consents to (a) the conveyance of the Property to Assignee in accordance with the REPC, and (b) the foregoing Assignment and the assignment and transfer to Assignee of all Assignor's right, title and interest in and to the ADL as to the Property in accordance with Section 7.1 of the ADL. City hereby certifies to Assignee and agrees that:

1. The ADL is in full force and effect and no breach or default exists under the ADL and no event has occurred and no condition exists, that after notice or lapse of time or both, would constitute a breach or default under the ADL.
2. No change, amendment or modification shall be made to the ADL without the prior written approval of Assignee and City.
3. City will notify Assignee in writing in the event of any breach or default under the ADL.

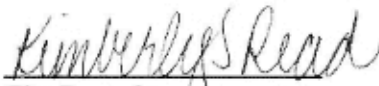
CITY:

Layton City,
a municipal corporation of the State of Utah

By: 
Name: Alex R. Jensen
Its: City manager



ATTEST:


City Recorder

APPROVED AS TO FORM:

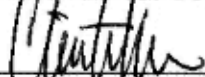

City Attorney

EXHIBIT A

PARCEL 1:

Beginning at a point 289.37 feet South 89°50'40" West along the section line and North 00°03'50" West 1004.92 feet to a point 350.0 feet South 00°03'50" East of the Southwesterly line of the Oregon Short Line Railroad right of way and North 49°35' West 568.61 feet parallel to said right of way and North 00°03'50" West 350.0 feet to the Southwesterly line of the Oregon Short Line Railroad right of way and North 49°31' West 772.64 feet, more or less, along said right of way along a line 50.0 feet perpendicularly distant Southwesterly from the centerline thereof and Northwesterly 596.21 feet along the arc of a 5779.60 foot radius curve to the right (long chord bears North 46°32'45" West 595.75 feet) along said railroad to the North line of the Southwest quarter section and South 89°44'10" West 217.12 feet, more or less, along the North line of the quarter section from the Southeast corner of

the Southwest quarter of Section 18, Township 4 North, Range 1 West, Salt Lake Base and Meridian; and running thence along an Easterly line of property conveyed in Special Warranty Deed recorded April 29, 2022 as Entry No. 3474020 in Book 7999 at Page 2131, South 00°15'49" East 30.17 feet; thence South 34°32'22" East 216.61 feet; thence South 44°24'38" West 21.34 feet; thence South 45°43'18" East 90.07 feet; thence 23.26 feet along the arc of a 55.00 foot radius curve to the left (long chord bears South 17°47'45" West 23.09 feet); thence 10.14 feet along the arc of a 15.00 foot radius curve to the right (long chord bears South 25°02'42" West 9.95 feet); thence South 44°24'38" West 113.57 feet; thence 23.86 feet along the curve of a 15.00 foot radius curve to the right (long chord bears South 89°58'42" West 21.42 feet); thence 29.59 feet along the arc of a 171.00 foot radius curve to the right (long chord bears North 39°29'47" West 29.55 feet); thence North 34°32'21" West 366.15 feet; thence Northwesterly 43.33 feet along the arc of a 229.00 foot radius curve to the left (long chord bears North 39°51'35" West 43.27 feet); thence Northwesterly 47.17 feet along the arc of a 70.50 foot radius curve to the right (long chord bears North 29°32'43" West 46.30 feet) to the North line of said quarter section; thence North 89°44'10" East 216.67 feet, more or less, along said section line to the point of beginning. (Rotation to NAD83 00°20'42" clockwise)

PARCEL 2:

A parcel of land, situate in the Southwest Quarter of Section 18, Township 4 North, Range 1 West, Salt Lake Base and Meridian, said parcel also located in Layton City, Davis County, Utah. Being more particularly described as follows:

Beginning at a point on the westerly line of the parcel described in Entry No. 3512331 (Book 8160, Page 627), said point being South 89°50'40" West 287.98 feet along the Section Line (NAD83 Bearing being North 89°48'38" West between the South Quarter Corner and the Southwest Quarter Corner per the Davis County Township Reference Plat) and North 00°09'20" West 866.80 feet from the Southeast corner of the Southwest quarter of Section 18, Township 4 North, Range 1 West, Salt Lake Base and Meridian and running thence along the perimeter of that parcel described in Entry No. 3474020 (Book 7999, Page 2131) the following eight (8) courses and distances: 1) South 89°56'10" West 51.74 feet; 2) South 73°08'27" West 37.90 feet; 3) North 16°51'33" West 50.50 feet; 4) South 73°08'31" West 138.50 feet to the future right-of-way line of Copper Sky Drive (per the Trailside West

PRUD – Phase 1 Subdivision Plat) 5) North 16°51'33" West 100.51 feet; 6) northwesterly 86.88 feet along the arc of a 279.00-foot radius tangent curve to the left (center bears South 73°08'27" West and the long chord bears North 25°46'46" West 86.53 feet with a central angle of 17°50'27"); thence North 34°42'00" West 383.98 feet; thence North 55°18'04" East 106.54 feet to the westerly line of the aforementioned parcel (Entry No 3512331); thence along said westerly parcel the following four (4) courses and distances: 1) South 00°03'50" East 40.65 feet; 2) South 49°33'49" East 79.53 feet; 3) South 48°41'38" East 495.56 feet; 4) South 00°03'50" East 128.22 feet to the Point of Beginning.