

When recorded, please return to:

City of West Jordan  
Attn. City Clerk Melanie Briggs  
8000 South Redwood Rd  
West Jordan, UT 84088

12575902  
7/14/2017 12:37:00 PM \$27.00  
Book - 10577 Pg - 9344-9351  
Gary W. Ott  
Recorder, Salt Lake County, UT  
TITLE ONE  
BY: eCASH, DEPUTY - EF 8 P.

## PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT

This Partial Assignment and Assumption of Development Agreement (the "Agreement") is made and entered into this 12<sup>th</sup> day of July, 2017, by and between **Gardner Village LC**, a Utah limited liability company ("GVLC"), **The Station at Gardner Mill, L.L.C.**, a Utah limited liability company ("SGM"), **Magna Properties, LLC**, a Utah limited liability company ("MPLLC"), and **West Jordan City**, a body politic and corporate of the State of Utah ("City").

### RECITALS

A. GVLC was previously the owner of the following described real property, located in the Salt Lake County, Utah:

Parcel A, The Station at Gardner Mill Subdivision, within the Southwest Quarter of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Salt Lake County, Utah, pursuant to the plat recorded on February 11, 2016, as Entry No. 12220788, in Book 2016P, at Page 32.

Tax Parcel No. 21-26-351-027.

Hereinafter referred to as "Parcel A."

B. GVLC was previously the owner of the following described real property, located in the Salt Lake County, Utah:

Lot 2, The Station at Gardner Mill Subdivision, within the Southwest Quarter of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Salt Lake County, Utah, pursuant to the plat recorded on February 11, 2016, as Entry No. 12220788, in Book 2016P, at Page 32.

Tax Parcel No. 21-26-351-024.

Hereinafter referred to as "Lot 2."

C. Lot 2 and Parcel A are subject to the terms and conditions of that certain Development Agreement between GVLC and West Jordan City (the "Development

Agreement”), which was recorded on February 11, 2016, as Entry No. 12220789, in Book 10402, at Page 3784.

D. GVLC conveyed Lot 2 to MPLLC by that certain Special Warranty Deed dated March 15, 2016, and recorded in the official records of the Salt Lake County recorder on March 23, 2016, as Entry No. 12245567, in Book 10414, beginning at Page 112.

E. SGM acquired Lot 2 from MPLLC by the certain Warranty Deed dated February 28, 2017, and recorded in the offices of the Salt Lake County Recorder, on March 3, 2017, as Entry No. 12487756, in Book 10534, at Page 8214.

F. SGM intends to develop a multi-family residential apartment project upon real property owned by SGM, which real property includes Lot 2 (the “Project”).

G. By this Agreement, GVLC, MPLLC and SGM wish to document SGM’s agreement to assume and perform the “Developer’s” obligations under the Development Agreement, insofar as they pertain to Lot 2, to obtain West Jordan City’s agreement to the assumption, and to modify the Development Agreement as it relates to Lot 2, upon the following terms and conditions.

#### TERMS AND CONDITIONS

1. Assignment and Assumption. Subject to the City’s consent as required in the Development Agreement, which shall be indicated by its signature to this Agreement, GVLC hereby assigns to SGM, and SGM hereby accepts the assignment of the Development Agreement, including the rights, duties, and obligations thereunder, insofar as the Development Agreement applies to Lot 2 (as described above). SGM hereby agrees to be subject to all of the conditions and restrictions arising under the Development Agreement insofar as they pertain to Lot 2.

2. Indemnification. SGM hereby agrees to indemnify GVLC from and against any claims, demands and liabilities that may be made or arise against GVLC pertaining to the Development Agreement obligations that are assumed by SGM hereunder, pertaining to Lot 2.

3. Further Assurances. SGM and GVLC agree to execute such further agreements and instruments, and to take such further actions, as may be reasonably necessary or appropriate to effect the terms hereof, and/or to secure the City’s approval of this Agreement.

4. City Acknowledgement. City acknowledges the following:

- (a) The terms of the Development Agreement applicable to Lot 2, as contained in Sections 2.1.1, 2.1.2, 2.1.3, 2.3 and Section 2.4.1, to the extent they have application to Lot 2, are included within the approved site

plan for SGM's Project.

- (b) The requirements of Section 2.1.4 of the Development Agreement which require the documentation and allocation of shared obligations, if any, between the Owners of Lot 2 and Parcel A, have been addressed and satisfied by that certain Cross-Easement Agreement by and between GVLC and M PLLC, recorded on March 23, 2016, in the Salt Lake County Recorder's Offices as Entry No. 12245569, in Book 10414, at Page 118.

5. Consent to Transfer and Amendment to Development Agreement. Pursuant to Section 5.1 of the Development Agreement, City consents and agrees to this Agreement and the Assignment of development rights and obligations with respect to Lot 2, to SGM by GVLC.

6. Additional Consents and Approvals. City acknowledges and agrees as follows:

- (a) SGM members consist of Station at Gardner Mill Partners, LLC, a Utah limited liability company ("SGMP") as a Class A member, and FAST Gardner Mill, LLC, a Colorado limited liability company ("FAST"), as a preferred member. and that pursuant to the terms and conditions of admission and other agreements between SGMP and FAST, SGMP will pledge its membership interest in SGM to FAST to guarantee SGMP's performance and obligations to construct the Project according to the terms and conditions of that certain Amended and Restated Operating Agreement of SGM, and that should FAST be required to foreclose the interest of SGMP, City consents to FAST's acquisition of SGMP's membership interest and resulting control of SGM.
- (b) As permitted by Section 5.1.2 of the Development Agreement, SGM shall execute and deliver to ZB, N.A., doing business as Zions First National Bank, as Agent for the Lenders and their respective successors and assigns, and its successors and assigns (collectively the "Lender"), various loan documents necessary to obtain a development loan, such loan to be secured by a trust deed covering Lot 2 and the remaining real property of the Project, as collateral, and in the event that Lender is obligated to or elects to foreclose its interest or take a deed in lieu of foreclosure in Lot 2 and such other real property, City consents and agrees that Lender, any third party purchasers at a trustee's or sheriff's sale, or any successor to Lender shall be deemed an approved Owner of Lot 2, subject to the obligations of the Development Agreement, as modified herein, as applicable to Lot 2.
- (c) Except for the indemnity obligations of Section 2.1.5, which survive termination of the Development Agreement, the obligations contained in

the Development Agreement applicable to Lot 2, as amended herein, shall be deemed satisfied and the Development Agreement shall terminate as of the date that certificates of occupancy for improvements developed upon Lot 2 are obtained.

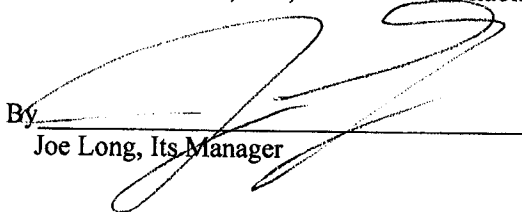
6. Future Transfer Requires City's Consent. Except as specified in Section 5 (b) above, SGM acknowledges that any future transfer of Lot 2 or purported assignment by SGM of any of SGM's obligations or rights under the Development Agreement at any time prior to receipt of Certificates of Occupancy for Lot 2, as assigned and assumed hereunder, requires a new and separate consent by West Jordan City.

7. City Council Approval. West Jordan City hereby consents to this Partial Assignment and Assumption of Development Agreement, including the amendments to the Development Agreement as they are applicable to Lot 2, and to the transfer of Lot 2 to SGM in connection therewith. The City's consent is subject to approval by the City Council, and should the City Council decline to approve, the City's Consent and the modification of the Development Agreement shall be null and void.

[Signatures and acknowledgments on pages following.]

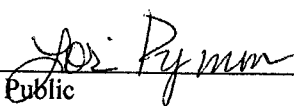
[Signature and acknowledgment by Gardner Village LC]

**VILLAGE**  
GARDNER ~~LLC~~, LC., a Utah limited liability company

By   
Joe Long, Its Manager

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

The foregoing instrument was acknowledged before me this 7 day of ~~June~~ <sup>July</sup> 2017, by Joe Long, as the Manager of Gardner Village, LC, a Utah limited liability company.


  
Notary Public



[Signature and acknowledgment by The Station at Gardner Mill, L.L.C.]

**THE STATION AT GARDNER MILL, L.L.C.**, a Utah limited liability company

By its Manager, Station at Gardner Mill Partners, LLC, a Utah limited liability company

By   
Paul Colosimo, Its Manager

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

The foregoing instrument was acknowledged before me this 7 day of ~~June~~<sup>July</sup> 2017, by Paul Colosimo, as the Manager of Station at Gardner Mill Partners, LLC, a Utah limited liability company, as Manager of The Station at Gardner Mill, L.L.C., a Utah limited liability company, also known as Gardner Village, L.C.

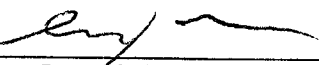
  
Notary Public



[Signature and acknowledgment by Magna Properties, LLC.]

**MAGNA PROPERTIES, LLC**, a Utah limited liability company

By   
Paul Colosimo, Member

By   
Larry Colosimo, Member

STATE OF UTAH            )  
  ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 7 day of ~~June~~<sup>July</sup> 2017, by Paul Colosimo and Larry Colosimo, as the Members of Magna Properties, LLC, a Utah limited liability company.

  
Notary Public



