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RASHELLE HOBBS
Recorder, Salt Lake County, UT
OLD REPUBLIC TITLE DRAPER/OREM
BY: eCASH, DEPUTY - EF 10 P.

**RECORDING REQUESTED BY
AND AFTER RECORDING RETURN TO:**

VP Daybreak Operations LLC
Attention: Gary Langston
11248 Kestrel Rise Road, Suite 201
South Jordan, UT 84009

APNs: 26-22-378-001, 26-22-377-001, 26-22-328-001, 26-22-326-001, 26-22-256-001, 26-22-254-001, 26-22-252-001, 26-22-251-001, 26-22-226-003, 26-22-226-002, 26-22-402-001, and 26-22-255-001

TERMINATION AND VACATION OF EASEMENT

THIS TERMINATION AND VACATION OF EASEMENT (this "**Termination**") is entered into this 26 day of OCTOBER, 2020, by and between VP DAYBREAK INVESTCO 2, a Utah limited liability company, VP DAYBREAK INVESTCO 3, a Utah limited liability company, VP DAYBREAK INVESTCO 4, a Utah limited liability company, VP DAYBREAK INVESTCO 5, a Utah limited liability company, and VP DAYBREAK DEVCO LLC, a Delaware limited liability company (collectively, "**Daybreak**"), as successors-in-interest to VP DAYBREAK INVESTMENTS LLC, a Delaware limited liability company ("**VP Daybreak Investments**"), and BOARD OF EDUCATION OF JORDAN SCHOOL DISTRICT, a body corporate and politic of the State of Utah ("**JSD**"), as successor-in-interest to THE LAST HOLDOUT, LLC, a Utah limited liability company ("**The Last Hold Out**"); individually a "**Party**"; and collectively, the "**Parties**".

RECITALS:

A. KENNECOTT UTAH COPPPER CORPORATION, a Delaware corporation, as predecessor-in-interest to OM ENTERPRISES COMPANY, a Utah corporation, as predecessor-in-interest to VP Daybreak Investments, and MARGARET S. BASTIAN, individually and as Trustee of the Sheltered Trust under Will of Elmer P. Bastian, deceased, MARY E. BASTIAN, EMILY B. MARKHAM and DAVID S. BASTIAN, as predecessors-in-interest to The Last Holdout, entered into that certain Easement Agreement dated as of August 18, 2000, recorded on August 21, 2000, in the Official Records of Salt Lake County, State of Utah (the "**Official Records**"), as Instrument No. 7701767, in Book 8382, Page 1514 (the "**Original Easement Agreement**"), as amended by that certain Amendment to Easement Agreement dated as of August 12, 2002, recorded on August 22, 2002, in the Official Records as Entry No. 8329277, in Book 8638, Page 3717 (the "**First Amendment**"), as further amended by that certain Second Amendment to Easement Agreement dated as of July 2, 2010, recorded on August 20, 2010, in the Official Records as Entry No. 11014719, in Book 9850, Page 8557 (the "**Second Amendment**"), and as further amended by that certain Third Amendment to Easement Agreement dated as of April 23, 2019, recorded on April 25, 2019, in the Official Records as

Entry No. 12974637, in Book 10773, Page 5637 (the “**Third Amendment**”, and together with the Original Easement Agreement, the First Amendment and the Second Amendment, collectively, the “**Easement Agreement**”).

B. The Easement Agreement granted nonexclusive access easements over and across the Kennecott East Parcel and the Kennecott West Parcel (as those terms are defined in the Easement Agreement).

C. The Parties desire to terminate and release of record the Easement Agreement on terms and conditions more particularly set forth below.

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

1. Recitals/Defined Terms. The foregoing Recitals are hereby incorporated herein in their entirety. Capitalized terms used herein and not defined herein shall have the meaning ascribed to such terms in the Easement Agreement.

2. Termination of Easement Agreement. The Easement Agreement is hereby terminated and shall be of no further force or effect. Upon recording of this Termination with the Salt Lake County Recorder, the Easement Agreement shall be deemed released of record from title to the Relocated East Parcel and the West Easement, which area of land is more particularly described on Exhibit A attached hereto and incorporated herein.

3. Miscellaneous.

3.1 Governing Law. This Termination is governed by Utah law. Should any action be brought to enforce or interpret the terms of this Termination, such action shall be brought in a state or federal court located in Salt Lake County.

3.2 Counterparts and Recording. This Termination may be executed in counterparts and, when assembled with the signature page of each Party, shall be considered one agreement and may be recorded.

3.3 Covenants to Run with Land. Each Party hereby declares its express intent that the covenants set forth herein shall be covenants running with the land and shall pass to and be binding upon such Party’s successors in title including any purchaser, grantee, encumbrancer, or lessee of any portion of the applicable Party’s property and any other person or entity having any right, title, or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of such Party and any purchaser, grantee, encumbrancer, or lessee of any portion of such Party’s property and any other person or entity having any right, title or interest therein.

3.4 Legal Fees. In the event a Party commences a legal proceeding to enforce any of the terms of this Termination, the prevailing Party in such action shall have the right to recover reasonable attorneys’ fees and costs from the other Party to be fixed by the court in the

same action. The term "legal proceedings" as used above shall be deemed to include appeals from a lower court judgment and it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters.

3.5 Further Assurances. Each Party agrees to take all actions and do all things, and to execute, with acknowledgment or affidavit if required, any and all documents and writings, that may be necessary or proper to achieve the purposes and objectives of this Termination.

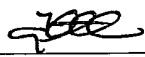
3.6 Amendment. The Parties agree that the provisions of this Termination may be modified or amended, in whole or in part, or terminated, only by the written consent of each Party, evidenced by a document that has been executed and acknowledged by both Parties and recorded with the Salt Lake County Recorder.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Termination as of the day and year first above written by their duly authorized signatories.

VP DAYBREAK DEVCO LLC,
a Delaware limited liability company

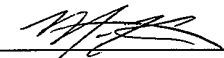
By: Daybreak Communities LLC,
a Delaware limited liability company
Its: Project Manager

By: 
Ty McCutcheon, President & CEO

ACKNOWLEDGMENT

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

On October 26, 2020, personally appeared before me, a Notary Public, Ty McCutcheon, the President and CEO of Daybreak Communities LLC, a Delaware limited liability company, the Project Manager of VP DAYBREAK DEVCO 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 DEVCO LLC, a Delaware limited liability company.



NOTARY PUBLIC

[SEAL]



VP DAYBREAK INVESTCO 5 LLC,
a Utah limited liability company

By: Daybreak Communities LLC,
a Delaware limited liability company
Its: Project Manager

By: 
Ty McCutcheon, President & CEO

ACKNOWLEDGMENT

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

On October 26, 2020, personally appeared before me, a Notary Public, Ty McCutcheon, the President and CEO of Daybreak Communities LLC, a Delaware limited liability company, the Project Manager of VP DAYBREAK INVESTCO 5 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 5 LLC, a Utah limited liability company.


NOTARY PUBLIC

[SEAL]



EXHIBIT "A"

LEGAL DESCRIPTION OF EASEMENT TO BE TERMINATED

EAST EASEMENT:

A sixty (60) foot wide access easement, located in Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, said easement extending thirty (30) feet on each side of and lying parallel and adjacent to a line of reference and projection thereof, more particularly described as follows:

Beginning at a point on the South Line of the VP Daybreak Operations Parcel No. 26-22-401-002, said point lies North 89°49'44" West 700.507 feet along the Section Line and North 40.000 feet from the South Quarter Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence North 24°04'06" East 480.728 feet; thence North 19°30'02" East 535.746 feet; thence North 17°02'51" East 582.231 feet; thence North 15°55'45" East 537.048 feet; thence North 29°14'04" East 235.037 feet; thence North 42°06'38" East 279.448 feet; thence North 22°03'55" East 338.197 feet; thence North 28°00'02" East 421.121 feet; thence North 24°02'25" East 447.002 feet; thence North 17°08'53" East 291.163 feet; thence North 30°00'17" East 1662.324 feet to the South Line of an existing West Easement as described in Entry No. 7701767 recorded in the Office of the Salt Lake County Recorder and the point of terminus.

AND

WEST EASEMENT:

The Southernmost 120 feet of Section 15, Township 3 South, Range 2 West, Salt Lake Base and Meridian.