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Mary Ann Trussell, Summit County Utah Recorder

01/31/2018 11:42:07 AM Fee \$24.00

By Coalition Title Agency, Inc.

Electronically Recorded

**WHEN RECORDED RETURN TO:**

Wade R. Budge

SNELL & WILMER L.L.P.

15 West South Temple, Suite 1200

Salt Lake City, UT 84101

Affecting Tax Serial Nos.

PART OF TAX SERIAL NO. S-98, AND

TAX SERIAL NOS. PCA-S-98-BB AND PCA-S-98-SD-6

**DECLARATION OF DEVELOPMENT COVENANTS**

**[Marsac Horseshoe]**

This DECLARATION OF DEVELOPMENT COVENANTS (the “**Development Declaration**”) is made and entered into this 31 day of January, 2018, by and between **REDUS PARK CITY LLC**, a Delaware limited liability company (“**Redus**”), and **STORIED DEER VALLEY, LLC**, a Delaware limited liability company (“**Developer**”). Redus and Developer are sometimes referred to herein collectively as the “**Parties**”.

**RECITALS:**

A. Redus is the owner of certain real property in Summit County, Utah, more particularly described on Schedule 1, attached hereto and made a part hereof (the “**Property**”).

B. The Property constitutes a portion of the real property described in, and covered by, that certain Amended and Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, The 20-Acre Quinn’s Junction Parcel and Iron Mountain, dated as of March 2, 2007, and recorded with the Summit County Recorder on March 2, 2007 as Entry No. 00806100 in Book 1850, Page 1897 (the “**Development Agreement**”). Redus is the owner of additional undeveloped real property described in, and subject to, the Development Agreement. The term “**Project**” as used in this Development Declaration shall mean any project Redus pursues within the real property subject to the Development Agreement from time to time.

C. Redus intends to convey the Property to Developer, and the Parties have agreed to enter into this Development Declaration pursuant to which Developer will receive certain development rights and undertake certain obligations, with respect to the Property’s development.

**AGREEMENT:**

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

1. **Recitals.** The Parties hereby affirm the accuracy of the Recitals.
2. **Inducement to Redus.** Developer acknowledges that as an inducement for, and as a condition precedent to, the conveyance of the Property to Developer by Redus, the Property is to be held, conveyed, transferred, hypothecated, encumbered, leased, occupied, built upon or

otherwise used, improved, or developed, in whole or in part, subject to, and consistent with, the terms and conditions of this Development Declaration.

3. **Development Covenants.** Developer agrees and covenants, with respect to the Property, to the following:

a. **Development Requirements.** If and to the extent that Developer elects to develop the Property or any portion thereof, Developer shall, at Developer's sole cost and expense, develop and improve the Property in compliance with the Development Agreement, the Park City Land Management Code, existing development approvals, any future development approvals obtained by Developer, and the restrictions and covenants of record as to the Property, in each case to the extent applicable to the Property.

b. **No Opposition.** Developer shall not, at any time, oppose any development activities that Redus desires to take with respect to any Project, unless Developer, in good faith, determines that such activity violates the Development Agreement, as may be amended, and will materially and adversely affect the Property or Developer's development, operation, or use thereof.

c. **Soils Site.** Redus; Empire Residences, LLC, a Utah limited liability company; owners of lots within the area referred to as the "Northside Neighborhood" in the Development Agreement; and their respective affiliates, successors or assigns, shall have the right to deposit upon the Property excess soils materials from the development of lands owned by such entities or individuals and subject to the Development Agreement. Such soil deposits shall be in accordance with that certain Building Permit No. GR-16-13415 issued by the Park City Department of Building Safety. Developer alone shall be responsible for the removal of all excess soils from the Property for Developer's development and construction on the Property and Redus shall be under no obligation to designate or provide a location for the disposition of such materials.

4. **Developer's Rights.** Upon Redus's transfer of the Property to Developer, Developer shall succeed to Redus's rights as "Developer" under the Development Agreement to the extent that such rights relate to the Property.

5. **Right of Inspection.** Redus and its agents shall have the right, upon reasonable advance written notice and at any reasonable time or times, from and after the date hereof, to enter upon the Property or portions thereof for the purpose of determining whether the use of the Property is in compliance with the provisions of this Development Declaration. The fact that Redus or its agents, exercises or fails to exercise the foregoing inspection rights shall not, in any manner, be deemed to be a waiver by Redus of any of Developer's obligations under this Development Declaration.

6. **Enforcement Rights.** In the event Developer shall at any time be in default with respect to its obligations under this Development Declaration, Redus shall have the right to enforce the provisions of this Development Declaration against Developer by an action for specific performance, injunctive relief or other appropriate equitable remedy. A breach of this Development Declaration may also result in a claim for damages in a court of law, and the

existence of a claim for damages shall not limit Redus' ability to obtain equitable relief to enforce the provisions of this Development Declaration against owners of the Property.

7. **Indemnification.** Developer shall indemnify, defend, and hold harmless Redus, its affiliates, parent and subsidiary entities, successors, assigns, partners, managers, members, employees, officers, directors, trustees, shareholders, counsel, representatives, and agents (collectively, "**Redus' Related Parties**"), from and against any and all claims, demands, liabilities, obligations, damages, penalties, causes of action, costs and expenses, including attorneys' fees and expenses, imposed upon, incurred by or asserted against Redus or any of Redus' Related Parties, resulting from, arising from, or occasioned in whole or in part by any act or omission by Developer, its agents, contractors, employees, representatives, or invitees in connection with performing its obligations under paragraph 3 above from and after the Effective Date.

8. **Successors and Assigns.** This Development Declaration shall be binding upon the successors-in-title of Developer and shall inure to the benefit of the successors and assigns of Redus. Any assignment of Developer's rights or obligations under this Development Declaration shall be null and void and of no effect unless assigned with the Property. Redus shall be permitted to assign its interests hereunder.

9. **Covenant Running with Land.** The provisions of this Development Declaration shall run with the Property and shall be binding upon all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

10. **Effective Date.** This Development Declaration shall be effective as of the date it is recorded in the Office of the Recorder of Summit County, Utah ("**Effective Date**").

11. **Notices.** All notices, requests, demands or other communications required or permitted under this Development Declaration shall be delivered to the Parties at each party's respective addresses on file with the Utah Division of Corporations and Commercial Code, or other agency for the state in which the party is incorporated or organized.

12. **Waiver.** No waiver by Redus of any breach by Developer of any term or provision of this Development Declaration shall be construed to be or constitute a waiver of any succeeding breach of the same or any other term or provision of this Development Declaration. No term or provision of this Development Declaration shall be deemed to have been waived by Redus unless such waiver shall be set forth in writing.

13. **Severability.** If any term or provision of this Development Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Development Declaration, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Development Declaration shall be valid and shall be enforced to the fullest extent permitted by law.

14. **Amendment.** This Development Declaration may only be amended, restated, revoked or terminated in whole or in part by an instrument in writing executed and

acknowledged by the Parties (or their respective successors or assigns) and recorded in the office of the County Recorder, Summit County, Utah.

15. **Acquisition by Redus.** Notwithstanding any provision contained herein to the contrary, in the event Redus, or its successor or assign, shall acquire or reacquire title to any portion of the Property, then, effective upon such acquisition or reacquisition the provisions of this Development Declaration shall be null and void as to the portion of the Property so acquired or reacquired (but not as to any other portion thereof).

16. **Time of the Essence.** Time is of the essence of this Development Declaration.

*[Remainder of Page Intentionally Blank]*

IN WITNESS WHEREOF, this instrument has been executed by the Parties as of the day and year first above written.

**REDUS:**

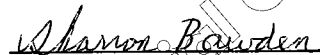
**REDUS PARK CITY LLC,**  
a Delaware limited liability company

By: REDUS Properties, Inc.,  
a Delaware corporation  
Its: Manager

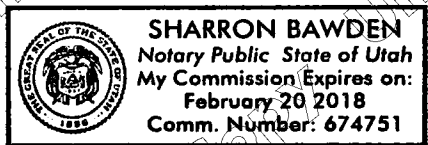
By:   
David Ash, Senior Vice President

STATE OF UTAH                    )  
  ) ss  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of January, 2018 by David Ash as the Senior Vice President of REDUS PROPERTIES, INC., a Delaware corporation, as manager of REDUS PARK CITY LLC, a Delaware limited liability company.

  
Notary Public

Residing at: Salt Lake County, UT  
My Commissions Expires: 2/20/2018



**DEVELOPER:**

STORIED DEER VALLEY, LLC, a Delaware limited liability company

By: SDBP Utah I, LLC, a Delaware limited liability company, its sole Member

By: SDBP Manager, LLC, a Delaware limited liability company, its Manager

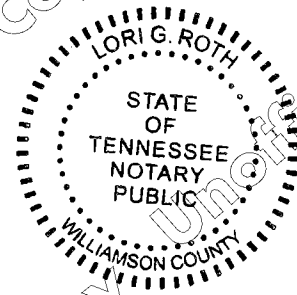
By: Storied Development LLC, a Delaware limited liability company, its sole Member

By: Mark Enderle  
Mark Enderle, Managing Member

STATE OF Tennessee )  
: ss.  
COUNTY OF Williamson )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of January, 2018 by Mark Enderle, as the Managing Member of Storied Development LLC, a Delaware limited liability company, the Sole Member of SDBP Manager, LLC, a Delaware limited liability company, the Manager of SDBP Utah I, LLC, a Delaware limited liability company, the Sole Member of STORIED DEER VALLEY, LLC, a Delaware limited liability company, for and on behalf of said company.

Lori G. Roth  
Notary Public



SIGNATURE PAGE TO DECLARATION OF DEVELOPMENT COVENANTS [Marsac Horseshoe]

**SCHEDULE 1**  
**Legal Description of the Property**

**Marsac Horseshoe Parcel:**

Lot 1, Village at Empire Pass North Subdivision, according to the official plat recorded January 23, 2018, as Entry No. 1085414 in the Summit County Recorder's Office.

(Part of Tax Serial No. S-98, and Tax Serial Nos. PCA-S-98-BB and PCA-S-98-SD-6)