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RASHELLE HOBBS
Recorder, Salt Lake County, UT
OLD REPUBLIC TITLE DRAPER/OREM
BY: eCASH, DEPUTY - EF 6 P.

RECORDING REQUESTED BY:
WHEN RECORDED MAIL TO:

Daybreak Communities LLC
11248 Kestrel Rise Road, Suite 201
South Jordan, UT 84009
Attention: Scott R. Kaufmann

(File No. 2050741HM)
(Tax Parcel No. 26-22-103-001)

Above Space for Recorder's Use

**PARTIAL ASSIGNMENT AND ASSUMPTION
OF MASTER DEVELOPMENT AGREEMENT**

THIS PARTIAL ASSIGNMENT AND ASSUMPTION OF MASTER DEVELOPMENT AGREEMENT (“**Agreement**”) is made as of November 12, 2020, by and between **VP DAYBREAK INVESTCO 6 LLC**, a Utah limited liability company (“**Assignor**”), and **VP DAYBREAK DEVCO LLC**, a Delaware limited liability company (“**Assignee**”); individually, a “**Party**”, and collectively, the “**Parties**”.

RECITALS

A. VP Daybreak Investco 6 LLC, a Utah limited liability company (“**Seller**”), has entered into that certain Purchase and Sale Agreement with Assignee dated as of November 5, 2020 (“**Purchase Agreement**”) regarding the purchase and sale of certain real property located in the City of South Jordan, County of Salt Lake, State of Utah, as more particularly described in **Exhibit A** attached hereto and incorporated herein (“**Property**”). The Property is within a planned development known as the “**Kennecott Master Subdivision #1 Project**” (“**Project**”).

B. The Property and the Project are subject to that certain Master Development Agreement for the Kennecott Master Subdivision #1 Project dated March 18, 2003, by and between OM Enterprises Company, a Utah corporation (“**OME**”), and South Jordan City, a Utah municipal corporation (“**City**”), which was recorded on March 26, 2003 in the Salt Lake County Recorder’s Office as Instrument No. 8581557 (as amended, supplemented and assigned from time to time, collectively, the “**MDA**”).

C. Assignor is the successor in interest to OME’s rights and obligations as “**Master Developer**” under the MDA with respect to the Property.

D. In connection with the conveyance of the Property by Seller to Assignee, Assignor desires to assign certain rights and to delegate certain of its obligations under the MDA, to the extent they relate to the Property, to Assignee, and Assignee desires to accept such assignment and delegation.

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

1. ASSIGNMENT OF MDA. Pursuant to Section 11 of the MDA, Assignor (as “Master Developer” thereunder) hereby assigns to Assignee (as “Developer” thereunder) all of its rights under the MDA with respect to the Property including, without limitation, (a) all rights to develop the Property in the manner set forth in the MDA; and (b) all impact fee credits and/or reimbursements relative to the Property and accruing to the owner thereof under the MDA after the date hereof, if any (“Assignment”), subject, however, to the following:

1.1 As set forth in Section 11(b)(2) of the MDA, Assignee shall not in each case without the prior written consent of Assignor, which may be granted or withheld in Assignor’s sole and absolute discretion:

(i) submit any design guidelines to the City with respect to the Property, and/or propose any amendments, modifications or other alterations to any design guidelines previously submitted by Assignor to the City with respect to the Property;

(ii) process any preliminary or final subdivision plats or site plans for the Property, and/or propose any amendments, modifications or other alterations of any approved final subdivision plats and/or site plans procured by Assignor for the Property; or

(iii) propose any amendments, modifications or other alterations to the MDA.

1.2 Assignee acknowledges that the City has agreed (pursuant to Section 11(b)(2) of the MDA) not to accept or process any of the foregoing matters from Assignee unless the matter has been previously approved by Assignor.

2. DELEGATION AND ASSUMPTION. Assignor hereby delegates to Assignee all of its obligations under the MDA to the extent such obligations relate to the Property and Assignee hereby accepts such delegation. Assignee hereby assumes, agrees to be bound by, and agrees to perform all such obligations under the MDA as the same specifically relate to the Property, including, without limitation, the indemnification obligation of Assignor with respect to the Property set forth in Section 8(c) of the MDA.

3. RETAINED RIGHTS. Assignor retains all rights under the MDA to modify, amend or terminate the MDA with respect to all other areas within the Project excluding the Property; provided, however, that Assignor shall not modify or alter the MDA in a manner which would materially interfere with Assignee’s rights under the MDA with respect to the Property without Assignee’s prior written consent, which shall not be unreasonably withheld or delayed. Assignee acknowledges and agrees that all matters regarding the Project (excluding the Property) and the development thereof shall be determined by Assignor in its sole and absolute discretion and Assignee shall have no interest or right to participate therein.

4. COOPERATION. The Parties hereto agree to cooperate with each other in carrying out the purpose and intent of this Agreement, including cooperating to obtain the consent of the City Council to the delegation of duties under the MDA described above.

6. GOVERNING LAW. This Agreement shall be governed by and construed under the laws of the State of Utah without regard to choice of law rules.

7. SUCCESSORS AND ASSIGNS. Each and all of the covenants and conditions of this Agreement will inure to the benefit of and be binding upon the successors in interest of Assignor and the successors, heirs, representatives and assigns of Assignee. As used in this Section, "successors" means successors to the Parties' interest in the Property, successors to all or substantially all of the Parties' assets, and successors by merger or consolidation.

8. ATTORNEYS' FEES. If any action, arbitration, judicial reference or other proceeding is instituted between Assignor and Assignee in connection with this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' and experts' fees and costs actually incurred (based on such attorneys normal and customary hourly rates for services actually rendered) in bringing or defending such action or proceeding and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action or proceeding and shall be paid whether or not such action or proceeding is prosecuted to final judgment.

9. SEVERABILITY. If any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement is held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement will not be affected thereby and will remain in force and effect to the fullest extent permissible by law.

10. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement, and all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties, oral or written, are hereby superseded and merged herein. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless it is in writing and signed by the Party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

11. COUNTERPARTS. This Agreement may be executed in counterparts, each of which, when taken together, will constitute a fully executed original.

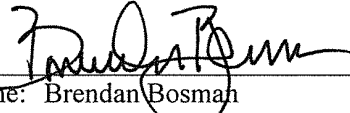
[Signatures on Next Page]

[Investco 6 to Devco Partial Assignment and Assumption of MDA – Assignor's Signature Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ASSIGNOR:

VP DAYBREAK INVESTCO 6 LLC,
a Utah limited liability company

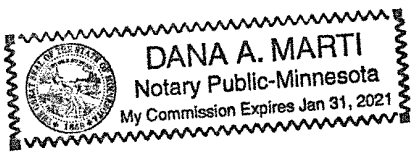
By 
Name: Brendan Bosman
Title: President

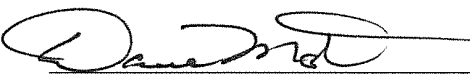
ACKNOWLEDGMENT

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

On November 5th, 2020, personally appeared before me, a Notary Public, Brendan Bosman, the President of VP DAYBREAK INVESTCO 6 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 6 LLC, a Utah limited liability company.

WITNESS my hand and official Seal.




Notary Public in and for said State

My commission expires: 1 / 31 / 2021

[SEAL]

[Signatures Continue on Next Page]

**EXHIBIT A
TO PARTIAL ASSIGNMENT OF MASTER DEVELOPMENT AGREEMENT**

Legal Description

Parcel 1:

Beginning at a point on the West Line of Lot V5 of the of the Kennecott Master Subdivision Amended #1, said point lies South 89°56'03" East 4.457 feet along the Daybreak Baseline South (Being South 89°56'03" East 21225.293 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 19, T3S, R1W) and North 3648.171 feet from the Southwest Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence along said Lot V5 North 00°03'55" East 1155.893 feet; thence East 477.695 feet to a point on a 1935.000 foot radius non tangent curve to the right, (radius bears South, Chord: South 83°43'22" East 423.135 feet); thence along the arc of said curve 423.982 feet through a central angle of 12°33'15" to a point of compound curvature with a 705.000 foot radius tangent curve to the right, (radius bears South 12°33'15" West, Chord: South 71°24'42" East 148.219 feet); thence along the arc of said curve 148.493 feet through a central angle of 12°04'05"; thence South 65°22'40" East 514.324 feet to a point on a 705.000 foot radius tangent curve to the right, (radius bears South 24°37'20" West, Chord: South 59°20'37" East 148.219 feet); thence along the arc of said curve 148.493 feet through a central angle of 12°04'05" to a point of compound curvature with a 1935.000 foot radius tangent curve to the right, (radius bears South 36°41'26" West, Chord: South 51°39'17" East 111.754 feet); thence along the arc of said curve 111.769 feet through a central angle of 03°18'34"; thence South 50°00'00" East 943.608 feet; thence South 30°00'00" West 505.965 feet; thence North 60°00'00" West 651.135 feet to a point on a 230.000 foot radius tangent curve to the left, (radius bears South 30°00'00" West, Chord: North 76°02'00" West 127.049 feet); thence along the arc of said curve 128.723 feet through a central angle of 32°03'59"; thence South 87°56'01" West 195.178 feet to a point on a 170.000 foot radius tangent curve to the right, (radius bears North 02°03'59" West, Chord: South 89°10'41" West 7.384 feet); thence along the arc of said curve 7.384 feet through a central angle of 02°29'19"; thence North 89°34'40" West 270.515 feet to a point on a 170.000 foot radius tangent curve to the right, (radius bears North 00°25'20" East, Chord: North 87°44'32" West 10.889 feet); thence along the arc of said curve 10.891 feet through a central angle of 03°40'14"; thence North 85°54'25" West 414.411 feet to a point on a 230.000 foot radius tangent curve to the left, (radius bears South 04°05'35" West, Chord: South 77°41'44" West 129.856 feet); thence along the arc of said curve 131.646 feet through a central angle of 32°47'41" to a point of reverse curvature with a 170.000 foot radius tangent curve to the right, (radius bears North 28°42'06" West, Chord: South 75°38'57" West 84.272 feet); thence along the arc of said curve 85.160 feet through a central angle of 28°42'06"; thence West 212.444 feet; thence North 9.000 feet; thence West 187.338 feet to the point of beginning.

TPN - 26-22-103-001