

CT/A # 149054-WHF

When Recorded, Return to:

Brad Flynt
Holland & Hart LLP
645 South Cache Street, Suite 100
PO Box 68
Jackson, Wyoming 83001

Affecting Parcel Nos. See Exhibit 1

Ent 512320 Bk 1389 Pg 1660 - 1669
MARCY M. MURRAY, Recorder
WASATCH COUNTY CORPORATION
2021 Dec 17 09:56AM Fee: \$40.00 TC
For: Cottonwood Title Insurance Agency, In
ELECTRONICALLY RECORDED

Space above for Recorder's use

**PARTIAL ASSIGNMENT AND ASSUMPTION
OF DEVELOPMENT COVENANTS**

Date as of December 16, 2021

between

BENLOCH RANCH LAND COMPANY, LLC

and

R&D BENLOCH RANCH, LLC

**PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT COVENANTS
[Benloch Ranch — Phase 2]**

This PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT COVENANTS (this “**Assignment Agreement**”) are made and entered into this 16 day of December, 2021, by and between **AJ FIRESIDE PARK CITY LLC**, a Delaware limited liability company (“**Master Developer**”), **BENLOCH RANCH LAND COMPANY, LLC**, a Utah limited liability company (“**BRLC**”), **R&D BENLOCH RANCH, LLC**, a Utah limited liability company (“**R&D**”). Master Developer BRLC and R&D are sometimes referred to collectively as the “**Parties**.”

RECITALS:

A. On or about the date hereof, BRLC is conveying to R&D certain real property in Wasatch County, Utah (“**County**”), which is commonly referred to as Phase 2 of the Benloch Ranch development and is more particularly described on **Exhibit 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 Benloch Ranch Development Agreement between Master Developer, as developer, and the County, dated as of June 4, 2020, and recorded with the Wasatch County Recorder on June 12, 2020 as Entry No. 479211 in Book 1296, Page 1159 (the “**Development Agreement**”). Master Developer is the owner of additional undeveloped real property described in, and subject to, the Development Agreement.

C. Pursuant to those certain Development Covenants by and between Master Developer and BRLC dated July 2, 2020 and recorded in with the Wasatch County Recorder on July 6, 2020 as Entry No. 480404 in Book 1300, Page 568 (the “**Development Covenants**”), the Property was subjected to certain development covenants on the terms and conditions contained therein.

D. In connection with BRLC’s conveyance of the Property to R&D, the Parties will confirm certain development rights and obligations with respect to the Property’s development, and R&D will make certain covenants and undertake certain obligations with respect to the Property’s development, all as set forth herein.

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. R&D acknowledges that the Property is to be subject to, and developed consistent with, the terms and conditions of the Covenants.

2. **Property Subject to Covenants.** The Property remains subject to the Covenants, and shall 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 the Covenants.

3. **Allocation of Entitlements.** Without representation or warranty whatsoever, BRLC hereby assigns to R&D the right to develop 96 Density Units for 96 Single Family Lots on the Property.

4. **Development Covenants.** By accepting title to the Property, R&D acknowledges that it has read the Covenants and agrees and covenants that it shall comply in all respects with the Covenants in all respects.

a. **Development Requirements.** R&D shall, at R&D's sole cost and expense, develop and improve the Property in compliance with the Development Agreement, the Covenants, the laws and ordinances of the applicable land use authority, existing development approvals, any future development approvals obtained by R&D, and the restrictions and covenants of record as to the Property, in each case to the extent applicable to the Property. R&D shall, at R&D's sole cost and expense, apply for and obtain all final plat approvals for the Property and construct the Improvements (defined later) required by the Development Agreement and applicable to the Property in accordance with the Covenants, the Development Agreement, and in the ordinary course of the development of the Property. In connection with such construction, and the performance of the Covenants, R&D shall not permit any lien to stand against any of Master Developer or BRLC's property for any work done or materials furnished in connection with construction of such Improvements and in the event any such lien arises, R&D must cause the same to be released of record (either by payment or posting of a statutory bond) within thirty (30) days following written demand from Master Developer or BRLC. "**Improvements**" means all horizontal development improvements located from time to time on the Property, including, without limitation, underground utilities, private streets, curbs, gutters, sidewalks, driveways, and walkways, but excluding vertical improvements (i.e., buildings).

b. **No Opposition; Cooperation.** R&D shall not, at any time, oppose any development activities that Master Developer desires to take with respect to the Project. R&D shall cooperate and execute necessary documents in order to facilitate the development of the Project, including, by way of example, and not limitation, executing plats or boundary agreements or other entitlements as proposed by Master Developer.

c. **Development Agreement.** R&D acknowledges and agrees that Master Developer solely retains and maintains all rights as "Developer" under the Development Agreement. Master Developer shall have the sole right as "Developer" under the Development Agreement to amend or modify the Development Agreement. Any modifications to the Development Agreement which have a material adverse effect on the Phase 2 Property shall require approval from R&D, which approval shall not be unreasonably withheld, delayed, or conditioned.

5. **Right of Inspection.** Master Developer 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 the Covenants. The fact that Master Developer or its agents, exercises or fails to exercise the foregoing inspection rights shall not, in any manner, be deemed to be a waiver by Master Developer of any of R&D's obligations under the Covenants.

6. **Enforcement Rights.** In the event that R&D shall at any time be in default with respect to its obligations under the Covenants, Master Developer shall have the right to enforce the provisions of the Covenants against R&D by an action for specific performance, injunctive relief or other appropriate equitable remedy, the Parties acknowledging that R&D's breach or potential breach of the provisions of the Covenants would constitute irreparable harm to Master Developer. Master Developer need not provide a bond in connection with obtaining equitable relief under this Section. A breach of the Covenants may also result in a claim for damages in a court of law, and the existence of a claim for damages shall not limit Master Developer's ability to obtain equitable relief to enforce the provisions of the Covenants against owners of the Property.

7. **Successors and Assigns.**

a. The terms and provisions of this Assignment Agreement and the Covenants shall apply to and be binding upon to the person(s) or entities that, at the time in question, hold any legal or equitable ownership interest in the Property, any portion thereof or interest therein, whether the same was obtained voluntarily or involuntarily through seizure and sale by legal process, the exercise of any power of sale in favor of any third party, the application of the United States bankruptcy laws or other similar laws or otherwise by operation of law, and the provisions of the Covenants shall be fully binding upon all such persons or entities, jointly and severally. Any assignment by R&D of the rights and obligations of "Developer" under the Covenants (as applicable to the Property) shall require the written approval of Master Developer, which approval shall not be unreasonably withheld, conditioned or delayed. Any assignment of R&D's rights or obligations under the Covenants without such approval shall be null and void and of no effect.

b. The term "**Master Developer**" as used in the Covenants shall mean and refer to Master Developer or its assigns who have been assigned the rights and interests hereunder. Any assignment of Master Developer's interests as the holder of the rights under the Covenants shall be executed in writing, recorded with the Wasatch County Recorder, with a copy delivered to R&D.

8. **Covenant Running with Land.** The provisions of the Covenants and this Assignment Agreement 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.

9. **Effective Date.** This Assignment Agreement shall be effective as of the date it is recorded in the Office of the Recorder of Wasatch County, Utah.

10. **Notices.** All notices, requests, demands or other communications required or permitted under the Covenants shall be delivered to a 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.

11. **Waiver.** No waiver by Master Developer of any breach by R&D of any term or provision of the Covenants shall be construed to be or constitute a waiver of any succeeding breach of the same or any other term or provision of the Covenants. No term or provision of the Covenants shall be deemed to have been waived by Master Developer unless such waiver shall be set forth in writing.

12. **Severability.** If any term or provision of the Assignment Agreement, Covenants or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the Covenants, 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 the Assignment Agreement and/or Covenants shall be valid and shall be enforced to the fullest extent permitted by law.

13. **Amendment.** The Covenants may be amended, restated, revoked or terminated in whole or in part by an instrument in writing executed and acknowledged by Master Developer (or those obtaining Master Developer's rights under the Covenants under a written assignment) and recorded in the office of the County Recorder, Wasatch County, Utah.

14. **Time of the Essence.** Time is of the essence of the Covenants.


15. **Defined Terms.** Capitalized terms used in this Assignment Agreement and not defined herein shall have the meanings given to such terms in the Covenants or Development Agreement.

[Remainder of Page Intentionally Blank]

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

MASTER DEVELOPER:

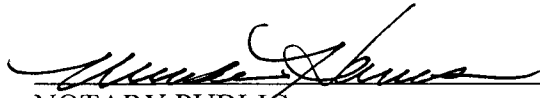
AJ FIRESIDE PARK CITY LLC,
a Delaware limited liability company

By: 
Name: Jamie Mackay
Title: President

STATE OF UTAH)
COUNTY OF SALT LAKE)

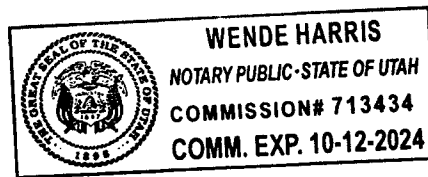
ss.

The foregoing instrument was acknowledged before me this 9 day of December, 2021, by Jamie Mackay as President of AJ FIRESIDE PARK CITY LLC, a Delaware limited liability company.


NOTARY PUBLIC
Residing at: Salt Lake City, Utah

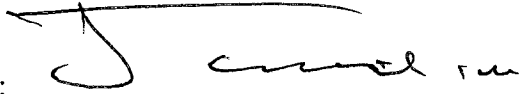
My Commission Expires:

10-12-2024



BRLC:

BENLOCH RANCH LAND COMPANY, LLC,
a Utah limited liability company

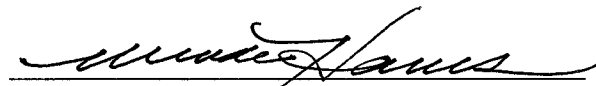
By: 
Name: Jamie Mackay
Title: President

STATE OF UTAH)

ss.

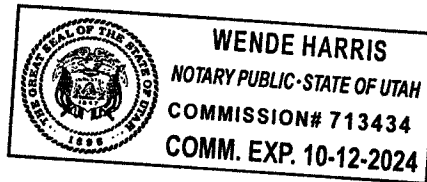
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 9 day of December, 2021, by Jamie Mackay as President of BENLOCH RANCH LAND COMPANY, LLC, a Utah limited liability company.


NOTARY PUBLIC
Residing at: Salt Lake City, Utah

My Commission Expires:

10-12-2024



R&D:

R&D BENLOCH RANCH, LLC,
a Utah limited liability company

By: *Jeremy Ricks*
Name: J & B Western States Development Group, Inc. - its Manager
Title: By: Jeremy Ricks, its President

STATE OF COLORADO)

ss.

COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 13th day of December,
2021, by Jeremy Ricks as Manager
_____ of R&D BENLOCH RANCH, LLC, a Utah limited liability company.

Susan Cofano
NOTARY PUBLIC
Residing at: 574 Cobble Drive, Montrose, CO 81403

My Commission Expires:

December 17, 2023

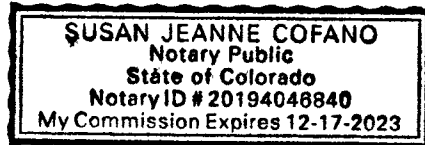


EXHIBIT 1
Legal Description of the Property

PART OF THE NORTH HALF OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 5 EAST, AND PART OF THE SOUTH HALF OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF S.R. 32, SAID POINT BEING N89°31'27"E 7546.18 FEET AND N00°28'33"W 332.51 FEET FROM A FOUND BRASS CAP MONUMENT AT THE SOUTHWEST CORNER OF SECTION 34, TOWNSHIP 2 SOUTH, RANGE 5 EAST (SAID SOUTHWEST CORNER OF SECTION 34, TOWNSHIP 2 SOUTH, RANGE 5 EAST BEING S89°31'27"W 16027.88 FEET FROM THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 5 EAST AND BEING THE BASIS OF BEARINGS FOR THIS PROJECT); THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF S.R. 32 THE FOLLOWING FIVE (5) COURSES: (1) N69°06'21"E 582.54 FEET; (2) N69°12'39"E 422.32 FEET; (3) S88°26'59"E 300.00 FEET; (4) N89°39'42"E 324.08 FEET; (5) N82°24'02"E 125.85 FEET; THENCE SOUTH 281.62 FEET; THENCE S16°33'38"W 196.36 FEET; THENCE S73°26'22"E 300.00 FEET; THENCE S16°33'38"W 60.00 FEET; THENCE SOUTH 859.71 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF BENLOCH RANCH ROAD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY THE FOLLOWING FIVE (5) COURSES: (1) N73°50'33"W 177.91 FEET; (2) ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 620.00 FEET, AN ARC LENGTH OF 377.39 FEET, A DELTA ANGLE OF 34°52'31", A CHORD BEARING OF S88°43'12"W, AND A CHORD LENGTH OF 371.59 FEET; (3) S71°16'56"W 805.33 FEET; (4) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 1205.00 FEET, AN ARC LENGTH OF 591.33 FEET, A DELTA ANGLE OF 28°07'00", A CHORD BEARING OF S85°20'26"W, AND A CHORD LENGTH OF 585.41 FEET; AND (5) N80°36'04"W 388.71 FEET TO THE EASTERLY RIGHT OF WAY LINE OF FIRESIDE DRIVE; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE THE FOLLOWING THIRTEEN (13) COURSES: (1) N09°23'56"E 13.88 FEET; (2) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 95.00 FEET, AN ARC LENGTH OF 76.64 FEET, A DELTA ANGLE OF 46°13'13", A CHORD BEARING OF N32°30'33"E, AND A CHORD LENGTH OF 74.57 FEET; (3) N55°37'09"E 115.57 FEET; (4) ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 190.00 FEET, AN ARC LENGTH OF 317.88 FEET, A DELTA ANGLE OF 95°51'29", A CHORD BEARING OF N07°41'25"E, AND A CHORD LENGTH OF 282.08 FEET; (5) N40°14'20"W 81.39 FEET; (6) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 120.00 FEET, AN ARC LENGTH OF 103.96 FEET, A DELTA ANGLE OF 49°38'16", A CHORD BEARING OF N15°25'12"W, AND A CHORD LENGTH OF 100.74 FEET; (7) N09°23'56"E 56.96 FEET; (8) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 170.00 FEET, AN ARC LENGTH OF 188.66 FEET, A DELTA ANGLE OF 63°35'09", A CHORD BEARING OF N41°11'31"E, AND A CHORD LENGTH OF 179.13 FEET; (9) N72°52'40"E 359.41 FEET; (10) ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 155.00 FEET, AN ARC LENGTH OF 422.46 FEET, A DELTA ANGLE OF 156°09'47", A CHORD BEARING OF N05°03'41"W, AND A CHORD LENGTH OF 303.32 FEET; (11) N83°08'34"W 80.15 FEET; (12) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 70.00 FEET, AN ARC LENGTH OF 71.15 FEET, A DELTA ANGLE OF

58°14'16", A CHORD BEARING OF N54°01'27"W, AND A CHORD LENGTH OF 68.13 FEET;
AND (13) N24°54'19"W 84.46 FEET TO THE POINT OF BEGINNING.

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