

RECORDING REQUESTED BY:
VP Daybreak Operations LLC

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1/15/2020 3:26:00 PM \$40.00
Book - 10885 Pg - 4141-4145
RASHELLE HOBBS
Recorder, Salt Lake County, UT
OLD REPUBLIC TITLE DRAPER/OREM
BY: eCASH, DEPUTY - EF 5 P.

AND WHEN RECORDED RETURN TO:

VP Daybreak Operations LLC
11248 Kestrel Rise Road, Suite 201
South Jordan City, Utah 84009
Attention: Ty McCutcheon

1939046JM

Tax ID 26-23-126-001, 26-23-127-001 †
26-23-201-001

Space Above Line for Recorder's Use

MEMORANDUM OF REPURCHASE OPTION AND ANTI-SPECULATION RIGHT

THIS MEMORANDUM OF REPURCHASE OPTION AND ANTI-SPECULATION RIGHT (this “Memorandum”) is made as of January 15th, 2020 by **AMH DEVELOPMENT, LLC**, a Delaware limited liability company (“**Builder**”), for the benefit of **VP DAYBREAK OPERATIONS LLC**, a Delaware limited liability company, and **VP DAYBREAK INVESTCO 1 LLC**, a Utah limited liability company (collectively, “**Seller**”):

RECITALS:

A. Seller has sold to Builder the real property more particularly described on Exhibit A attached hereto (the “**Parcel**”) pursuant to an unrecorded PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS dated as of September 9, 2019, by and between Seller and Builder (as amended and assigned, to date, the “**Builder Agreement**”). The Parcel is part of the property commonly known as Daybreak (the “**Project**”). Initially capitalized terms used in this Memorandum without definition are defined in the Builder Agreement.

B. Seller is master-planning the Project as a coordinated development with a carefully selected mix of product types and densities, each of which contributes to the overall attractiveness and value of the development. Development for different purposes, or patchwork development, or holding and reselling the Parcel for speculative purposes, would materially and adversely affect the orderly development and value of Seller’s master-planned community.

C. Accordingly, Seller desires to control the sale of parcels to selected developers having the knowledge, expertise, good reputation, financial capability and willingness to develop in accordance with Seller’s master plan, and in an expeditious manner.

D. As a material inducement to Seller to entering into the Builder Agreement, without which Seller would not enter into the Builder Agreement, Builder represented and warranted to Seller that Builder is acquiring the Parcel to construct Builder’s Project on the

Parcel for sale to residential homebuyers, and not to speculate in appreciation in the value of the Parcel.

AGREEMENT

For and in consideration of the mutual covenants, agreements and conditions set forth in the unrecorded Builder Agreement, Builder hereby agrees for the benefit of Seller as follows:

1. Repurchase Option and Anti-Speculation Right. Pursuant to the Builder Agreement, Builder granted to Seller a repurchase option (the “**Repurchase Option**”) to purchase the Parcel in the event that certain construction milestones were not met, all upon the terms and conditions set forth in the Builder Agreement. Pursuant to the Builder Agreement, Builder also granted to Seller the right of first refusal to purchase the Parcel (the “**Anti-Speculation Right**”) in the event Builder proposed to sell, exchange or otherwise transfer any portion of the Parcel, except as otherwise permitted under the Builder Agreement, all upon the terms and conditions set forth in the Builder Agreement.
2. Term. The Repurchase Option and Anti-Speculation Right expire on the earlier of: (i) completion of construction of Builder’s Project, as evidenced by issuance of a certificate of occupancy for the last Residence in Builder’s Project; and (ii) the second anniversary of Builder’s acquisition of the Parcel. In addition, this Memorandum, the Repurchase Option and Anti-Speculation Right shall terminate automatically with respect to each individual Lot described on Exhibit A attached hereto when such Lot is sold to a residential homebuyer who intends to occupy the Residence on such Lot as the homebuyer’s residence.
3. Price and Terms. The price and other terms and conditions of the Repurchase Option and Anti-Speculation Right are set forth in the Builder Agreement. In the event of any conflict between the terms of this Memorandum and the terms of the Builder Agreement, the Builder Agreement shall prevail. In no event shall the terms of this Memorandum be deemed to modify, amend, limit or otherwise affect the terms and conditions of the Builder Agreement.
4. Successors and Assigns. The Repurchase Option and Anti-Speculation Right are covenants running with the land and are binding upon Builder and its successors and assigns and inures to the benefit of Seller and its successors and assigns.

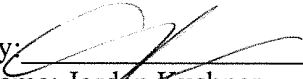
[SIGNATURES ON NEXT PAGE]

[AMH Development – Memorandum of Repurchase Option – Builder’s Signature Page]

IN WITNESS WHEREOF, Builder has caused its duly authorized representatives to execute this Agreement as of the date first written above.

BUILDER:

AMH DEVELOPMENT, LLC,
a Delaware limited liability company

By: 
Name: Jordan Kushner
Its: Vice President - Counsel

ACKNOWLEDGMENT

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

On _____, 2019, personally appeared before me, a Notary Public, _____, the _____ of **AMH Development, 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 **AMH Development, LLC**, a Delaware limited liability company.

WITNESS my hand and official Seal.

Notary Public in and for said State

My commission expires: _____

See attached

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

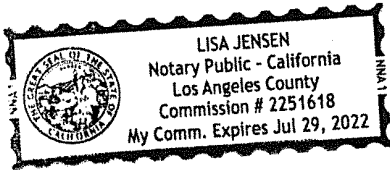
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Los Angeles }

On 1/6/2020, before me, Lisa Jensen, Notary Public,
personally appeared Jordan Kushner

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.



PLACE NOTARY SEAL ABOVE

WITNESS my hand and official seal.

SIGNATURE

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: Memorandum of Repurchase Option

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: NAME

Exhibit A

LEGAL DESCRIPTION

LEGAL DESCRIPTION OF VP DAYBREAK INVESTCO PROPERTY

Daybreak South Mixed Use Plat 1

Beginning at the North Quarter Corner of Section 23, Township 3 South, Range 2 West, Salt Lake Base and Meridian, said point being South 89°56'03" East 7936.067 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 5281.288 feet from the Southwest Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence North 89°58'54" East 25.862 feet along the North Line of the Northeast Quarter of said Section 23 to the West right-of-way line of Trocadero Avenue; thence along said West right-of-way line the following (3) courses: 1) South 211.912 feet to a point on a 532.000 foot radius tangent curve to the left, (radius bears East, Chord: South 16°46'44" East 307.157 feet); 2) along the arc of said curve 311.591 feet through a central angle of 33°33'29"; 3) South 33°33'29" East 150.281 feet to the Northerly right-of-way line of South Jordan Parkway; thence along said Northerly right-of-way line South 54°38'21" West 1002.300 feet to the Easterly right-of-way line of Kitty Hawk Road and a point on a 1170.000 foot radius non tangent curve to the right, (radius bears North 57°29'24" East, Chord: North 16°15'18" West 654.998 feet); thence along said Easterly right-of-way line the following (2) courses: 1) along the arc of said curve 663.868 feet through a central angle of 32°30'36"; 2) North 455.648 feet to the North right-of-way line of Copperhawk Drive; thence along said Copperhawk Drive West 11.500 feet to the West Line of Lot Z107 of the VP Daybreak Operations-Investments Plat 1; thence along said West Line North 126.510 feet to the North Line of the Northwest Quarter of said Section 23; thence along said North Line North 89°58'44" East 814.638 feet to the point of beginning.

Property contains **19.641 acres**.

LEGAL DESCRIPTION OF VP DAYBREAK OPERATIONS PROPERTY

Daybreak South Mixed Use Plat 1

Beginning at a point on the North Line of the Northwest Quarter of Section 23, Township 3 South, Range 2 West, Salt Lake Base and Meridian, said point also being the Northeast Corner of Lot Z106 of the VP Daybreak Operations-Investments Plat 1, said point lies South 89°58'44" West 814.638 feet along the Section Line from the North Quarter Corner of Section 23 of said Township and Range and running thence along said Lot Z106 South 126.510 feet to a Northerly Line of Daybreak Village 8 Plat 6 subdivision; thence along said Daybreak Village 8 Plat 6 subdivision the following (2) courses: 1) West 36.500 feet; 2) North 126.496 feet to said North Line of the Northwest Quarter of Section 23; thence along said North Line of the Northwest Quarter of Section 23 North 89°58'44" East 36.500 feet to the point of beginning.

Property contains **0.106 acres**, 4617 square feet.