

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Ventana – Parcel 1 of Parcel Map 20327)

This Assignment and Assumption Agreement (“**Assignment**”) is dated September ____, 2022 (“**Effective Date**”) and is entered into between HDO4, LLC, a New Mexico limited liability company (“**Assignor**”), and VENTANA 257, LLC, a California limited liability company (“**Assignee**”). This Assignment will become effective on the Effective Date.

The City of Fontana, a California municipal corporation (“**City**”), is a signatory to this Assignment solely for purposes of acknowledging and confirming the provisions of Section 2.

RECITALS

A. Assignor has agreed to convey to Assignee all of Assignor’s right, title, and interest in that parcel of vacant land commonly referred to as Parcel 1 of Parcel Map No. 20327 (the “**Land**”). The Land is more particularly described on the attached Exhibit A. The Land is a portion of the “Property” defined and described in the Disposition Agreement (defined below).

B. Assignor and City are parties to that certain “2020 Disposition Agreement (Ventana at Duncan Canyon)” (“**Disposition Agreement**”).

C. Concurrently with the conveyance of the Land to Assignee, (i) Assignor desires to sell, transfer, assign, and convey to Assignee all of Assignor’s rights, duties, benefits, and obligations arising under the Disposition Agreement relating to the Land that accrue on and after the Effective Date (“**Assigned Rights and Obligations**”), and (ii) Assignee desires to assume the Assigned Rights and Obligations.

D. Assignee is a single purpose entity formed and Controlled (as defined in the Disposition Agreement) by Assignor for the purpose of owning and developing the Land.

OPERATIVE PROVISIONS

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

1. Assignment and Assumption. As of the date of the conveyance of the Land to Assignee: (a) Assignor assigns, transfers, and conveys the entirety of the Assigned Rights and Obligations to Assignee; (b) Assignee accepts and assumes the entirety of the Assigned Rights and Obligations; (c) Assignor is unconditionally released and discharged from the entirety of the Assigned Rights and Obligations and Assignee is bound by the entirety of the Assigned Rights and Obligations and agrees to faithfully perform the assumed obligations for the benefit of City, subject to the terms and conditions of the Disposition Agreement; and (d) Assignee will indemnify, defend, and hold Assignor harmless from and against all cost, expense, damage, and other monetary and non-monetary claims or losses related to or arising in any way from all actual or alleged breaches of Assignee’s assumed obligations.

2. City's Consent to Conveyance and Assignment. City is executing this Assignment solely for the purpose of (a) indicating its consent and agreement that the conveyance of the Land and the assignment of the Assigned Rights and Obligations to Assignee are Permitted Transfers, as defined and provided in Section 1.1.51.4 and Section 8.2.2 of the Disposition Agreement, and (b) confirming that from and after the date hereof, the Land will not be subject to, nor will Assignee or its successors or assigns have any obligation to comply with, any obligations arising under the Disposition Agreement other than those obligations that specifically relate to the Land.

3. No Other Changes to Disposition Agreement. Except for the assignment by Assignor and assumption by Assignee of the Assigned Rights and Obligations, no term, condition, or obligation set forth in the Disposition Agreement is modified by this Assignment.

ASSIGNOR:

HDO4, LLC, a New Mexico limited liability company

By: _____
Richard Munkvold
Its: Chief Financial Officer
Dated: _____

ASSIGNEE:

VENTANA 257, LLC, a California limited liability company

By: _____
Name: _____
Its: _____
Dated: _____

Acknowledged and agreed for the limited purposes described in Section 2 of this Assignment.

CITY OF FONTANA, a California municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER, LLP

By: _____
City Attorney

EXHIBIT A

DESCRIPTION OF THE LAND

The land situated in the City of Fontana, the County of San Bernardino, State of California, and is described as follows:

Parcel 1, in the City of Fontana, County of San Bernardino, State of California, as shown on map filed in Book 258, Page(s) 37-48 of Parcel Maps, in the Office of the County Recorder of said County.

Assessor's Parcel Numbers(s): 0226-075-45