

Attn: Laura Tehrani, Esq.  
MDC Coast 21, LLC  
11995 El Camino Real  
San Diego, CA 92130

STATE OF SOUTH DAKOTA )  
 )  
COUNTY OF LAWRENCE )

## PARTIAL RELEASE OF EASEMENT

This Partial Release of Easement (this "**Partial Release**") is made and delivered as of \_\_\_\_\_, \_\_\_\_ by MDC COAST 21, LLC, a Delaware limited liability company ("**MDC**") and the CITY OF DEADWOOD, South Dakota, a city commission municipality ("**CITY**").

- A. MDC is the successor-in-interest to Excell Deadwood, LLC and now owns the real property described in Exhibit “A” attached to this Partial Release and incorporated herein by this reference (“**MDC Parcel**”).
- B. CITY owns the real property described in Exhibit “B” attached hereto and incorporated herein by this reference (“**CITY Parcel**,” together with the MDC Parcel, the “**Parcels**”)
- C. The MDC Parcel is contiguous with and immediately adjacent to the CITY Parcel.
- D. The plat recorded on May 1, 2013 as Document #2013-2126 in the Register of Deeds of Lawrence County, South Dakota (the “**Plat**”), attached hereto as Exhibit “C” and incorporated herein by reference, created: (i) a twenty-five (25) foot wide utility and vehicular and pedestrian access easement marked and shown as “25’ Wide Public Access & Utility Easement” on the Plat over the CITY Parcel in favor of the MDC Parcel (“**MDC Easement**”); and (ii) a thirty (30) foot wide utility and vehicular and pedestrian access easement marked and shown as “30’ Public Access and Utility Easement” on the Plat over the MDC Parcel in favor of the CITY Parcel, (“**City Easement**”).
- E. MDC and CITY now desire to execute and record this Partial Release to forever vacate,

relinquish, terminate, and release solely the vehicular access easements that are part of the MDC Easement and the CITY Easement from the CITY Parcel and MDC Parcel, respectively.

NOW, THEREFORE, WITNESSETH, THAT FOR AND IN CONSIDERATION of the mutual covenants of the parties hereto, the receipt and adequacy of which are hereby acknowledged by each party, the parties wish to enter into this Partial Release according to the terms and conditions set forth in this Partial Release.

1. **Recitals.** The parties agree that the above-mentioned Recitals are true and accurate and are hereby incorporated into this Partial Release by reference.
2. **Capitalized Terms.** All capitalized terms used herein, unless otherwise defined, shall have the same meaning as given in the Plat.
3. **Partial Release.** MDC and CITY hereby agree to forever vacate, relinquish terminate, and release solely the vehicular access easements from: (a) the MDC Easement and the CITY Parcel; and (b) the CITY Easement and the MDC Parcel.
4. **Remaining Easements.** MDC and CITY acknowledge and agree that, in addition to the vehicular easements terminated by this Partial Release, CITY Easement and the MDC Easement include a pedestrian access easement and a utility easement. MDC and CITY agree that this Partial Release shall not be deemed to vacate, terminate, or release such pedestrian access or utility easements from the MDC Easement and the CITY Easement and contained within the Plat, both of which shall remain in full force and effect.
5. **Recordation.** This Partial Release shall be recorded in the real property records of Lawrence County, South Dakota by the CITY, at the CITY's sole cost and expense, upon execution by all required parties. Any oral representations or modifications concerning this instrument shall be of no force or effect. This instrument contains the entire agreement between the parties relating to the partial release of the above-described easements.

[THE REMAINDER OF THIS PAGE WAS LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, MDC and CITY have executed this Partial Release to be effective as of the day and year first above written.

**MDC:**

**MDC COAST 21, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ACKNOWLEDGMENT**

*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 SAN DIEGO

On \_\_\_\_\_, 2021 before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public (Notary Seal)

**CITY:**

THE CITY OF DEADWOOD, SOUTH DAKOTA  
a city commission municipality

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

[INSERT NOTARY ACKNOWLEDGEMENT]

**EXHIBIT A**

**MDC Parcel**

Tract A of the Fish & Hunter Subdivision, City of Deadwood, Lawrence County, South Dakota, according to Plat, filed May 1, 2013 as Document No. 2013-2126.

Also with the address of 124 Sherman Street, Deadwood, South Dakota

**EXHIBIT B**

**CITY Parcel**

Tract B of the Fish & Hunter Subdivision, City of Deadwood, Lawrence County, South Dakota according to Plat, filed May 1, 2013 as Document No. 2013-2126

# EXHIBIT C

## Plat

**PLAT OF TRACTS A, B AND C OF THE FISH & HUNTER SUBDIVISION  
AND PUBLIC ACCESS AND UTILITY EASEMENTS,  
FORMERLY LOTS 9, 11, 13, 15, 17, 19, 21, 23 AND THE WESTERLY 28 FEET OF LOTS 25 AND 27 OF BLOCK 38 AND  
LOTS 10, 12, 14, 16, 18, 20, 22 AND 24 OF BLOCK 37, ORIGINAL TOWN OF DEADWOOD,  
LOCATED IN THE NW1/4 OF SECTION 26, T5N, R3E, B.H.M.,  
CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA.**

**OWNER/DEVELOPER**  
CITY OF DEADWOOD  
108 SHERMAN ST.  
DEADWOOD, SD 57732

**TRACT C**  
0.13 ACRES±

**TRACT B**  
0.22 ACRES±

**TRACT A**  
0.70 ACRES±

**LEGEND:**  
○ FOUND CORNER AS NOTED  
● SET CORNER AS NOTED

**NOTES:**  
1. TOTAL AREA PLATTED THIS PLAT: 1.05 ACRES±.  
TOTAL AREA LOTS THIS PLAT: 1.05 ACRES±.  
TOTAL AREA R-O-W THIS PLAT: 0.00 ACRES±.  
2. 5' DRAINAGE AND UTILITY EASEMENTS HEREBY GRANTED ALONG INSIDE OF ALL LOT LINES.  
3. BASIS OF BEARING IS DEADWOOD COORDINATE SYSTEM.  
4. EASEMENT LINE FOLLOWS FACE OF BUILDING.

**SURVEYOR'S CERTIFICATE**  
I, JOHN M. ARLETH, 24<sup>TH</sup> YEAR, SD, DEADWOOD, SD, DO HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR IN THE STATE OF SOUTH DAKOTA. THAT AT THE REQUEST OF THE OWNER AND UNDER MY SUPERVISION, I HAVE CAUSED TO BE SURVEYED AND PLATTED THE PROPERTY SHOWN AND DESCRIBED HEREON TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. THE PROPERTY WAS SURVEYED IN GENERAL CONFORMANCE WITH THE LAWS OF THE STATE OF SOUTH DAKOTA AND ACCEPTED METHODS AND PROCEDURES OF SURVEYING. DATED THIS 22<sup>ND</sup> DAY OF MARCH, 2013.  
JOHN M. ARLETH, R.L.S. 3977

**OWNER'S CERTIFICATE**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, THAT WE DO APPROVE THIS PLAT AS HEREON SHOWN AND THAT DEVELOPMENT OF THIS PROPERTY SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION, EROSION CONTROL AND SEDIMENT CONTROL REGULATIONS.  
OWNER: CITY OF DEADWOOD  
ADDRESS: 102 Sherman St., Deadwood, SD 57732

**ACKNOWLEDGMENT OF OWNER**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY CERTIFY THAT ON THIS 22<sup>ND</sup> DAY OF MARCH, 2013, BEFORE ME, A NOTARY PUBLIC, PERSONALLY APPEARED James Marshall, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHOSE CERTIFICATE.

**MY COMMISSION EXPIRES:** 2015 NOTARY PUBLIC: James Marshall

**CERTIFICATE OF COUNTY TREASURER**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY CERTIFY THAT James Marshall HAS PAID THE TAXES WHICH ARE LIEN ON THE HEREIN PLATTED PROPERTY HAVE BEEN PAID, DATED THIS 22<sup>ND</sup> DAY OF MARCH, 2013.  
LAWRENCE COUNTY TREASURER: James Marshall, Deputy

**APPROVAL OF HIGHWAY AUTHORITY**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY CERTIFY THAT THE LOCATION OF THE PROPOSED ACCESS ROADS ABUTTING THE COUNTY OR STATE HIGHWAY AS SHOWN HEREON, IS HEREBY APPROVED. ANY CHANGE IN THE PROPOSED ACCESS SHALL REQUIRE ADDITIONAL APPROVAL.  
HIGHWAY AUTHORITY: Jim Stages

**APPROVAL OF THE CITY OF DEADWOOD PLANNING COMMISSION**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY APPROVE THIS PLAT APPROVED BY THE CITY OF DEADWOOD PLANNING COMMISSION THIS 17<sup>TH</sup> DAY OF MARCH, 2013.  
CITY PLANNER: Jim Stages CHAIRMAN

**APPROVAL OF THE CITY OF DEADWOOD BOARD OF COMMISSIONERS**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY APPROVE THIS PLAT APPROVED BY THE CITY OF DEADWOOD BOARD OF COMMISSIONERS HAVING VIEWED THE WITHIN PLAT, DO HEREBY APPROVE THE SAME FOR RECORDING IN THE OFFICE OF THE CLERK OF DEEDS, LAWRENCE COUNTY, S.D. DATED THIS 17<sup>TH</sup> DAY OF MARCH, 2013.  
ATTEST: James Marshall FINANCE OFFICER James Marshall MAYOR

**OFFICE OF THE COUNTY DIRECTOR OF EQUALIZATION**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY CERTIFY THAT I HAVE RECEIVED A COPY OF THIS PLAT, DATED THIS 17<sup>TH</sup> DAY OF MARCH, 2013.  
LAWRENCE COUNTY DIRECTOR OF EQUALIZATION: James Marshall

**OFFICE OF THE REGISTER OF DEEDS**  
STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE, DO HEREBY CERTIFY THAT I HAVE FILED FOR RECORD THIS PLAT, DATED THIS 17<sup>TH</sup> DAY OF MARCH, 2013, AT 2:13 P.M., AND RECORDED IN DOC. #2013-2126 MAY 2013.  
LAWRENCE COUNTY REGISTER OF DEEDS: Sharon L. Loefer  
Fee \$60.00

	PREPARED BY: ARLETH & ASSOCIATES	24 CLIFF STREET DEADWOOD, SD 57732 605-578-1637	JOB NO. 8755	DATE: MARCH 26, 2013 REV: SCALE: 1"=30'	APPROVED: JMA DRAWN: FD DWG: 8755.dwg
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