

Loan No. 254-7637462-01-001

**WHEN RECORDED, RETURN TO:**

ZB, N.A., dba Zions First National Bank  
Enterprise Loan Operations – UT RDWG 1970  
PO Box 25007  
Salt Lake City, Utah 84125-0007

51.543.0001

74119.TF

**SUPPLEMENTAL TRUST DEED**

This Supplemental Trust Deed (the “Supplemental Trust Deed”) is made and entered into this 8 day of February, 2018 (the “Effective Date”), by and between Residences at Monte Vista, LLC, a Utah limited liability company (“Borrower”), and ZB, N.A., dba Zions First National Bank, whose address is One South Main Street, Suite 470, Salt Lake City, Utah 84133 (“Lender”).

RECITALS

A. Lender and Borrower entered into a Construction and Term Loan Agreement dated December 23, 2014 (the “Original Loan Agreement”), whereby Lender agreed to make a construction and term loan to Borrower in the original principal amount of Fourteen Million Six Hundred Seventy-Five Thousand Dollars (\$14,675,000.00) (the “Loan”), which Loan is further evidenced by, among other things, a Promissory Note dated December 23, 2014 executed by Trustor for the benefit of Lender, and which is in the original principal amount of Fourteen Million Six Hundred Seventy-Five Thousand Dollars (\$14,675,000.00) (the “Original Note”).

B. Trustor’s obligations under the Original Note are secured by the collateral described in the Construction and Term Loan Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated December 23, 2014 executed by Trustor, as “Trustor,” to Lender, as “Trustee”, for the benefit of Lender, as “Beneficiary”, and which was recorded in the office of the County Recorder of Utah County, State of Utah, on December 24, 2014, as Entry No. 93101:2014 (the “Trust Deed”). The Trust Deed encumbers real property located in Utah County, State of Utah, such real property being defined as the “Property” in the Trust Deed and more particularly described in Exhibit A attached to and incorporated into the Trust Deed, a copy of which description is attached hereto for ease of reference as Exhibit A.

C. In accordance with an Amended and Restated Loan Agreement, dated the Effective Date, entered into between Trustor and Lender (the “Loan Agreement”), which Loan Agreement amends and replaces in the entirety the Original Loan Agreement, Trustor is executing a Renewal

and Substitute Promissory Note dated the Effective Date, in the principal amount of Sixteen Million Seven Hundred Fifty Thousand Dollars (\$16,750,000.00) (the "Renewal Note"), which Renewal Note amends and replaces in the entirety the Original Note and increases the amount of the Loan.

The Loan Agreement, Renewal Note, Trust Deed, and all other documents defined as Loan Documents in the Loan Agreement, are hereinafter collectively referred to as the "Loan Documents".

D. Borrower and Lender now desire to amend and supplement the Trust Deed to increase the amount of the Loan secured by the Trust Deed and modify the obligations secured by the Trust Deed consistent with the Amended and Restated Loan Agreement and the Renewal Note.

### AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Borrower and Lender agree as follows:

1. **Reaffirmation of the Trust Deed.** Borrower and Lender agree and acknowledge that it was their intention at the time of the execution of the Trust Deed, that the Trust Deed encumber the Property as a first lien, and it continues to be their intention that the Trust Deed, as amended and supplemented by this Supplemental Trust Deed, continues, without interruption, to encumber the Property as a first lien.

2. **Amendment and Supplementation of Trust Deed.** The Trust Deed is hereby amended as follows:

a. The Trust Deed is hereby amended to include in the indebtedness secured by the Trust Deed the indebtedness incurred by Trustor pursuant to the Loan Agreement, the Renewal Note (which replaces the Original Note), and the other Loan Documents. Specifically, the second paragraph on Page 1 of the Trust Deed is hereby amended and restated in its entirety to read as follows:

"Beneficiary has made a loan to Trustor in the amount of Sixteen Million Seven Hundred Fifty Thousand Dollars (\$16,750,000.00) (the "Loan"). The Loan is evidenced by a Renewal and Substitute Promissory Note dated February 2, 2018 in the original principal amount of Sixteen Million Seven Hundred Fifty Thousand Dollars (\$16,750,000.00) (the "Note"). The Loan has been advanced under an Amended and Restated Loan Agreement between Trustor and Beneficiary dated February 2, 2018 (the "Loan Agreement")."

b. All references in the Trust Deed to the Interest Rate Hedging Transaction are hereby deleted. In connection therewith and not in limitation of the preceding sentence, Section 2.1.7 and Section 11.1.6 of the Trust Deed are each hereby deleted in their entirety.

c. Section 1.2.10 of the Trust Deed is hereby deleted in its entirety and replaced with the following:

“1.2.10 Intentionally Omitted.”

d. Section 2.1.2 of the Trust Deed is hereby deleted in its entirety and replaced with the following:

“2.1.2 Intentionally Omitted.”

e. Section 4.1 and Section 4.2 of the Trust Deed are hereby deleted in their entirety and replaced with the following:

“4.1 Intentionally Omitted.

4.2 Intentionally Omitted.”

f. The first sentence of Section 5.1 is hereby deleted in its entirety and replaced with the following:

“Trustor shall secure and maintain or cause to be maintained in force on the Trust Estate and in connection with the ownership and operation of the Improvements such insurance as may be required by the Loan Agreement.

g. The third and fourth paragraph of Section 8.10 “Due on Sale or Change of Control” shall be deleted in its entirety and replaced with the following:

The foregoing limitations in this Section 8.10 regarding conveyance and control (collectively a “transfer”) shall not apply to the following situations: (a) a transfer to which Beneficiary has given its prior written consent, (b) a transfer of Personalty (as defined in this Trust Deed) due to obsolescence or ordinary wear and tear or fire or casualty and which is promptly replaced by Trustor with Personalty of equal or greater value, (c) any transfer by Trustor leasing any portion of the Project to a tenant which is expressly permitted pursuant to (i) the Loan Agreement and/or (ii) the Assignment of Leases, provided, however, Beneficiary holds a security interest in the lease and a subordination and non-disturbance agreement is granted in favor of Beneficiary on a Beneficiary approved form (unless the same is waived or not required pursuant to the Loan Agreement or the Assignment of Leases), (d) where the transfer under applicable state or federal law governing Beneficiary and the Loan (pursuant to either statutory authority or judicial opinion) expressly prohibits the use, exercise or enforcement of said due-on-sale or change-of-control clause in the form set forth in this Section 8.10, or (e) any transfer of a direct or indirect interest in (i) Trustor, (ii) ICO Multifamily Holdings, LLC, a Utah limited liability company (“ICO”), the sole member of Trustor, or (iii) Guarantor, the sole member of ICO, so long as (A) prior written

notice of the transfer was given in writing to Beneficiary, (B) the transfer of the interest was made to one or more of the current members of ICO or Guarantor (i.e., to either the members of the Ivory Family as defined below or to Lodestar Capital, LP ("Lodestar") or a current member of Lodestar and (C) immediately after each such transfer and at all times thereafter: (1) Trustor, ICO and Guarantor are controlled by the members of the Ivory Family (being defined as one or more of the following persons or Trusts: Clark Ivory, Christine Ivory his wife, the CCI 2012 Irrevocable Trust, the Abby Elizabeth Ivory Trust, the Abby Elizabeth Ivory Second Trust, the Mary Kathryn Ivory Trust, the Mary Kathryn Ivory Second Trust, the Emily Beth Ivory Trust, the Emily Beth Ivory Second Trust, or the Faith Christine Ivory Trust, or the Faith Christine Ivory Second Trust (but said Trusts will not be the Manager or the controlling entity or entities at any time of Trustor, ICO or Guarantor or this right is automatically terminated); (2) one or more of James Seaberg or Clark Ivory or Christine Ivory his wife, remain the Manager of the Trustor and/or of ICO and/or of Guarantor; (3) James Seaberg and Lodestar own (either individually or collectively and either directly or indirectly) less than thirty percent (30%) of the aggregate equity interests in Trustor and/or ICO and Guarantor; and (4) Members of the Ivory Family own (either individually or collectively and either directly or indirectly) at least seventy percent (70%) or more of the aggregate equity interests in Trustor and/or ICO and Guarantor.

Notwithstanding the foregoing language of this Section 8.10, upon prior written notice to both Beneficiary and Trustor, a transfer of any interest in Trustor or ICO or Guarantor may be made without Beneficiary's consent so long as, after giving effect to such transfer, the transfer results in Clark Ivory or entities, in which Clark Ivory holds the majority ownership and control of all voting and other interests, result in Clark Ivory or said entities in which Clark Ivory holds majority ownership and control controlling the Trustor, ICO or Guarantor or any or all of the same.

h. For purposes Section 12.1, from and after the date hereof, notices to Lender as Beneficiary and Trustee shall be made to:

ZB, N.A., dba Zions First National Bank  
 Real Estate Banking Group  
 One South Main Street, Suite 470  
 Salt Lake City, Utah 84133  
 Attn: Real Estate Banking Group Manager

with a copy to:

Prince, Yeates and Geldzahler  
15 W. South Temple, Suite 1700  
Salt Lake City Utah, 84101  
Attn: Lynda Cook

3. **Security.** Borrower and Lender agree and acknowledge that the Original Note, as amended, restated and replaced by the Renewal Note, and all other indebtedness and obligations described in the Trust Deed, are secured by the Trust Deed, as amended and supplemented by this Supplemental Trust Deed.

4. **Survival of Obligations; Continuation of Terms of Loan Documents.** Lender and Borrower agree that the Trust Deed, together with all of Borrower's obligations thereunder, shall, except to the extent expressly modified by this Supplemental Trust Deed, remain in full force and effect and survive the execution of this Supplemental Trust Deed. Except as expressly modified by this Supplemental Trust Deed, all terms and conditions of the Loan Documents shall continue in full force and effect.

5. **Representations, Warranties, Covenants and Agreements.** As of the date of this Supplemental Trust Deed, Borrower represents, warrants, and agrees that representations, warranties, covenants and agreements of Borrower contained in the Trust Deed (a) are true and accurate, (b) are hereby remade and reaffirmed by Borrower, and (c) are in full force and effect, enforceable in accordance with their terms. Borrower further represents and warrants that Borrower is not in default under any of the terms and conditions of the Loan Documents, and Borrower has no knowledge that any conditions exist which, with the passage of time, the giving of notice, or both, would constitute a default by Borrower under the Loan Documents.

6. **Counterparts.** This Supplemental Trust Deed may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Supplemental Trust Deed shall be sufficient for all purposes without producing or accounting for any other counterpart. Copies of this Supplemental Trust Deed, and fax signatures thereon, shall have the same force, effect and legal status as an original.

7. **Defined Terms.** Unless otherwise defined in this Supplemental Trust Deed, capitalized terms used herein have the meanings given them in the Loan Agreement.

8. **Governing Law.** This Supplemental Trust Deed and all matters relating to this Supplemental Trust Deed shall be governed exclusively by and construed in accordance with the applicable laws of the State of Utah.

9. **Integrated Agreement and Subsequent Amendment.** This Supplemental Trust Deed, the Loan Documents, the Renewal Note, and the other agreements, documents, obligations,

and transactions contemplated by the Loan Agreement and this Supplemental Trust Deed constitute the entire agreement between Lender and Borrower with respect to the subject matter of the agreements, and may not be altered or amended except by written agreement signed by Lender and Borrower. PURSUANT TO UTAH CODE SECTION 25-5-4, BORROWER IS NOTIFIED THAT THESE AGREEMENTS ARE A FINAL EXPRESSION OF THE AGREEMENTS BETWEEN LENDER AND BORROWER AND THESE AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

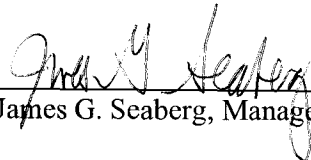
***[SIGNATURE PAGE(S) AND EXHIBIT(S),  
IF ANY, FOLLOW THIS PAGE]***

DATED: February 7<sup>th</sup>, 2018.

BORROWER

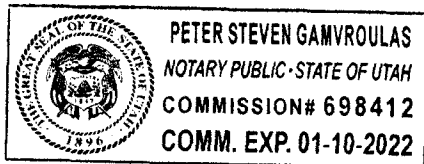
**RESIDENCES AT MONTE VISTA, LLC,**  
a Utah limited liability company

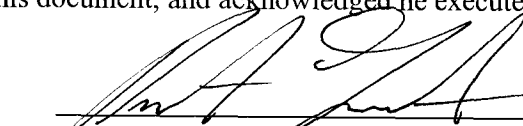
By: ICO Multifamily Holdings Operations, LLC,  
a Utah limited liability company, Manager

By:   
James G. Seaberg, Manager

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

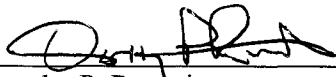
On this 7<sup>TH</sup> day of February, 2018, before me PETER STEVEN GAMVROULAS, a notary public, personally appeared James G. Seaberg, Manager of ICO Multifamily Holdings Operations, LLC, a Utah limited liability company, which is Manager of Residences at Monte Vista, LLC, a Utah limited liability company, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same.



  
NOTARY PUBLIC  
Residing at: SALT LAKE COUNTY


LENDER

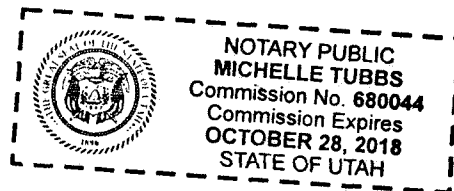
**ZB, N.A., DBA ZIONS FIRST NATIONAL BANK,**

By:   
Timothy P. Raccuia  
Vice President

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

On this 8 day of February, 2018, before me Michelle Tubbs, a notary public, personally appeared Timothy P. Raccuia, Vice President of ZB, N.A., dba Zions First National Bank, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same.

  
NOTARY PUBLIC  
Residing at: Salt Lake City





**EXHIBIT A**

**REAL PROPERTY DESCRIPTION**

The real property located in Utah County, State of Utah, and more particularly described as follows:

Lot 1, RESIDENCES AT MONTE VISTA SUBDIVISION, according to the official plat thereof as recorded in the office of the Utah County Recorder.