

When Recorded Return To:
CW The Rose, LLC
1222 W. Legacy Crossing Blvd. Suite 6
Centerville, UT 84014

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5/22/2020 10:44:00 AM \$40.00
Book - 10948 Pg - 1677-1682
RASHELLE HOBBS
Recorder, Salt Lake County, UT
MILLER HARRISON LLC
BY: eCASH, DEPUTY - EF 6 P.

**FIRST AMENDMENT TO THE
DECLARATION OF CONDOMINIUM FOR THE ROSE CONDOMINIUMS**

This First Amendment to the Declaration of Condominium for The Rose Condominiums (the "First Amendment") is executed and adopted by CW The Rose, LLC (the "Declarant").

RECITALS

A. The Declaration of Condominium for The Rose Condominiums was recorded in the office of the Salt Lake County Recorder on July 23, 2019 as Entry No. 13035512 in Book 10806, at Pages 8057-8118 (the "Declaration").

B. This First Amendment affects the real property located in Salt Lake County, State of Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated herein by reference.

C. The Declarant desires to amend the Declaration as set forth in this First Amendment to add provisions that comply with federally insured mortgage requirements.

D. Unless otherwise set forth herein, the capitalized terms shall have their same meanings and definitions as stated in the Declaration.

E. Pursuant to Article 15, Section 15.1 of the Declaration, the Declarant has the sole authority to amend the Declaration during the Period of Declarant Control. As of the date of the recording of this First Amendment, the Period of Declarant Control remains in effect.

AMENDMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, the Declarant hereby executes this First Amendment, which shall be effective as of its recording date with the Salt Lake County Recorder's office.

(1) **Amendment No. 1.** Article XIII of the Declaration shall be deleted in its entirety and shall be replaced by the following:

**ARTICLE XIII
RIGHTS OF LENDERS**

13.1. **Lender Notice.** Prior to being entitled to receive any notice that this Declaration requires the Association to provide Lenders, each Lender must deliver to the Association a written notice stating that such Lender is the holder of a loan encumbering a Unit within the

Project along with all necessary contact information for notice delivery. Notwithstanding the foregoing, if any right of a Lender under this Declaration is conditioned on a specific written request to the Association, in addition to the above, a Lender must also make such request in writing delivered to the Association. Except as provided in this Section, a Lender's rights pursuant to this Declaration, including, without limitation, the priority of any mortgage lien over the lien of Assessments levied by the Association shall not be affected by the failure to deliver a notice or request to the Association.

13.2. **Title in Mortgagee.** Any first mortgagee who obtains title to a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such Unit's Assessments or charges which accrue prior to the acquisition of title of such Unit by the mortgagee. However, such first mortgagee shall be responsible for Assessments levied while it holds title to the Unit.

13.3. **Priority.** The lien provided for in Article VI for the payment of Assessments shall be subordinate to the lien of any Lender that was recorded prior to the date any such Assessment becomes due. No breach of the Restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat, or render invalid the lien or charge of any Lender made in good faith and for value encumbering any Unit, but all of such Restrictions shall be binding upon and effective against any Owner whose title to a Unit is derived through foreclosure or trustee's sale, or otherwise. No provision herein is intended, nor shall it be construed, to give any Unit Owner, or any other party, priority over any rights of the first mortgagee of a Unit pursuant to its mortgage in the case of payment to the Unit Owner of proceeds from termination, or insurance proceeds, or condemnation awards for losses to or a taking of condo Units and/or Common Areas.

13.4. **Required Lender Approval.** Except upon the prior written approval of sixty-seven percent (67%) of all Lenders that have provided notice to the Association as described in Section 13.1, based on one (1) vote for each Unit encumbered by a loan, the Association shall not take action or inaction to do any of the following:

- (a) Abandon or terminate by an act or omission the legal status of the Condominium Project;
- (b) Use insurance proceeds for any purpose other than to rebuild; or
- (c) Except as specifically provided by this Declaration, or as otherwise reserved by the Declarant during the Period of Declarant Control, amend any provisions of the Declaration governing the following:
 - (i) voting rights;
 - (ii) the priority of Assessment liens;
 - (iii) the allocation of interests in the Common Area;
 - (iv) Unit boundary definitions;
 - (v) expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project; or
 - (vi) restoration or repair of the Project (after damage or particular condemnation) in a manner other than that specified in this Declaration, the Articles, or the Bylaws.
- (d) In addition to the amendment limitations set forth in subsection (b)

above, any other amendment to the Declaration that is of a material adverse nature to Lenders shall require approval of at least fifty-one percent (51%) of Lenders who have provided notice to the Association.

(e) The Association may presume the consent of a Lender for approval of amendments or actions if: (i) written notice of the proposed amendment or action is sent by certified or registered mail with a return receipt requested to the Lender's address listed for receiving notice in the recorded trust deed or other recorded document evidencing the security interest, (ii) at least 60 days have passed after the day on which the notice was mailed, and (iii) the person designated for receipt of the response in the notice has not received a written response from the Lender.

13.5. **Notices and Other Rights.** Any Lender (and such Lender's insurer or guarantor) shall, upon written request to the Association, be entitled to:

(a) Inspect current copies of the books and records of the Association during normal business hours;

(b) Receive the most recent annual financial statement of the Association;

(c) Notice of any failure of an Owner for a period of sixty (60) days or more to cure any default on his part in performance of his obligations under this Declaration or other Governing Documents;

(d) Notice of any condemnation or casualty loss that affects a material portion of the Project or any Unit on which there is a first mortgage held by such Lender;

(e) Notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(f) Notice of any action that requires a specified percentage of Lenders to approve.

(g) Notice of any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which a Lender holds a mortgage; and

(h) Notice of any proposed action by the Owners or the Association that would amount to a change in the Declaration necessitating Lender approval as identified in Section 13.4.

13.6. **Department of Veterans Affairs Loans.** To the extent that any provision in the Governing Documents is inconsistent with the requirement(s) of guaranteed or direct loan programs of the United States Department of Veterans Affairs ("DVA Financing"), such provision shall not apply to any Living Unit that is (i) encumbered by DVA Financing, or (ii) owned by the Department of Veterans Affairs.

13.7. **Single-Entity Ownership Limitations.** The number of Units permitted to be owned by a Single-Entity shall not exceed twenty percent (20%) of the total Units within the Association. Units owned by the Declarant are not subject to the Single-Entity ownership cap. The Board may adopt Rules and reporting procedures to track the number of Units owned by a Single-Entity to ensure consistent administration and enforcement of this ownership restriction. For the purpose of this Section, the term "Single-Entity" means the same natural individual, investor group, partnership, entity, or corporation. If an individual or entity has a 25% or greater share of ownership, control, and right to profits and losses of another entity,

then such entity and its owner(s) shall be considered a Single-Entity. If title to a Unit is obtained in violation of this Section, then: (i) the Board may assess fines against the Owner pursuant to a schedule of fines adopted by the Board; and (ii) the Board may proceed with any available legal remedies, including, without limitation, an action to obtain a court order requiring the Owner to immediately sell or transfer ownership of the Unit.

13.8. **Investor Ownership Limitation.** The Number of Units permitted to be owned by an Investor shall not exceed fifty percent (50%) of the total Units in the Project. For the purpose of this Section, the term "Investor" means: (1) a Person who owns a Unit, but does not occupy the Living Unit as the Investor's primary residence, or (2) in the case of a Unit owned by a trust or registered business entity, the natural individual(s) who own the entity or are beneficiaries of the trust do not occupy the Living Unit as their primary residence.

(2) **Amendment No. 2.** Section 15.3 shall be added to the Declaration as follows:

15.3 **Mortgagee Consent.** The right of the Declarant to amend pursuant to Section 15.1 and the right of the Association to amend pursuant to Section 15.2 shall be subject to the Lender consent requirements set forth in Section 13.4 for amendments that are of a material adverse nature to first lien mortgagees as further described therein. The consent of Lenders may be implied if Lenders fail to submit a response to a written proposal for amendment within 60 days of notice as further set forth in Section 13.4(e).

(3) **Amendment No. 3.** Section 9.3 shall be added to the Exhibit B Bylaws as follows:

9.3 **Mortgagee Consent.** The right of the Declarant to amend pursuant to Section 9.1 and the right of the Association to amend pursuant to Section 9.2 shall be subject to the Lender consent requirements set forth in Section 13.4 of the Declaration for amendments that are of a material adverse nature to first lien mortgagees as further described therein. The consent of Lenders may be implied if Lenders fail to submit a response to a written proposal for amendment within 60 days of notice as further set forth in Section 13.4(e) of the Declaration.


(4) **Conflicts.** All remaining provisions of the Declaration and Bylaws and any prior amendments not specifically amended in this First Amendment shall remain in full force and effect. In the case of any conflict between the provisions of this document and the provisions of the Declaration and Bylaws, or any prior amendments, the provisions of this document shall in all respects govern and control.

(5) **Incorporation and Supplementation of Declaration.** This document is supplemental to the Declaration and Bylaws, which by reference are made a part hereof, and all the terms, definitions, covenants, conditions, restrictions, and provisions thereof, unless specifically modified herein, are to apply to this document and are made a part hereof as though they were expressly rewritten, incorporated, and included herein.

* * * *

IN WITNESS WHEREOF, Declarant has executed this First Amendment this 22 day of MAY, 2020.

CW THE ROSE, LLC
a Utah limited liability company

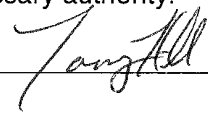
By: 

Name: COLIN H. WRIGHT

Its: MANAGER

STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

On the 22 day of MAY, 2020, personally appeared before me COLIN H. WRIGHT who by me being duly sworn, did say that she/he is an authorized representative of CW The Rose, LLC, and that the foregoing instrument is signed on behalf of said corporation and executed with all necessary authority.

Notary Public 

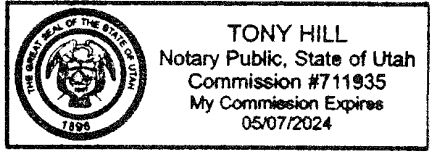


EXHIBIT A
Legal Description

All of **The Rose Condominiums**, according to the official plat on file in the office of the Salt Lake County Recorder as Entry No. 13035511, in Book 2019P, at Page 208.

Including Units 101 through 106 and Common Area

Parcel Numbers: 16064830010000 through 16064830070000

More particularly described as:

A PORTION OF LOT 4, BLOCK 24, PLAT "B", SALT LAKE CITY SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4, BLOCK 24, PLAT "B", SALT LAKE CITY SURVEY, LOCATED N0°01'50"W ALONG THE MONUMENT LINE OF 500 EAST STREET 393.11 FEET AND EAST 68.28 FEET FROM THE SALT LAKE CITY MONUMENT LOCATED AT THE INTERSECTION OF 500 EAST STREET AND 600 SOUTH STREET; THENCE N0°01'37"W ALONG SAID BLOCK LINE 115.50 FEET TO THE SOUTHWEST CORNER OF THAT REAL PROPERTY DESCRIBED IN DEED BOOK 10466 PAGE 1740 OF THE OFFICIAL RECORDS OF SALT LAKE COUNTY; THENCE N89°58'23"E ALONG SAID DEED 211.00 FEET TO THE WEST LINE OF THAT REAL PROPERTY DESCRIBED IN DEED BOOK 9162 PAGE 3903 OF THE OFFICIAL RECORDS OF SALT LAKE COUNTY; THENCE ALONG SAID DEED THE FOLLOWING 3 (THREE) COURSES AND DISTANCES: S0°01'37"E 66.00 FEET; THENCE S89°58'23"W 35.50 FEET; THENCE S0°01'37"E 49.57 FEET TO THE SOUTH LINE OF LOT 4 OF SAID BLOCK; THENCE S89°59'41"W ALONG SAID LOT LINE 175.50 FEET TO THE POINT OF BEGINNING.

CONTAINS: 22,619 SQ.FT.