

PREPARED BY AND WHEN
RECORDED PLEASE RETURN TO:

Parr Brown Gee & Loveless
185 South State Street, Suite 800
Salt Lake City, Utah 84111
Attn: Barton L. Gertsch

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7/15/2020 1:42:00 PM \$40.00
Book - 10979 Pg - 9462-9474
RASHELLE HOBBS
Recorder, Salt Lake County, UT
FIRST AMERICAN NCS
BY: eCASH, DEPUTY - EF 13 P.

DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS

THIS DECLARATION (this "**Declaration**") is executed as of the 2nd day of July, 2020, by **201CC-ONE, LLC**, a Utah limited liability company (the "**201CC-One**"), whose address is 9090 South Sandy Parkway, Sandy, Utah 84070, and **201CC LAND, LLC**, a Utah limited liability company ("**201CC Land**"), whose address is 9090 South Sandy Parkway, Sandy, Utah 84070.

Recital

- A. 201CC-One is the fee owner of Lot 101 (as defined below) located in Salt Lake County, Utah.
- B. 201CC Land is the fee owner of Lot 401 (as defined below), which is located adjacent to Lot 101.
- C. 201CC-One and 201CC Land desire to enter into this Declaration with respect to certain easements and other covenants and restrictions pertaining to the Lots (as defined below).

Agreement

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are acknowledged, 201CC-One and 201CC Land agree as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the indicated meaning:

"**Easement Area**" means the real property located in Salt Lake County, Utah, and more particularly described on Exhibit A, attached hereto and incorporated herein by this reference. The Easement Area is also depicted on Exhibit B, attached hereto and incorporated herein by this reference.

"**Mortgage**" means a mortgage or a deed of trust recorded in the Official Records.

"**Mortgagee**" means the mortgagee under a mortgage, or the beneficiary under a deed of trust, recorded in the Official Records.

"**Official Records**" means the official records of the Salt Lake County Recorder, state of Utah.

"**Owner**" means the person that at the time concerned is the legal owner of record (in the Official Records) of a whole or undivided fee interest in any portion of any Lot, and thus includes any person

that is a successor in interest as to any Owner's fee interest in any portion of either Lot. If there is more than one Owner of a Lot at the time concerned, the obligations and liabilities of each such Owner for performance under, and compliance with, the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a Mortgage, the term "Owner" shall not mean a Mortgagee unless and until such Mortgagee has acquired title to the Lot concerned pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure.

"**Lot 101**" means the real property located in Salt Lake County, Utah, and more particularly described on Exhibit C attached hereto and incorporated herein by this reference.

"**Lot 401**" means the real property located in Salt Lake County, Utah, and more particularly described on Exhibit D attached hereto and incorporated herein by this reference.

"**Lots**" means Lot 101 and Lot 401, collectively, and "**Lot**" means either Lot 101 or Lot 401, individually, where no distinction is required by the context in which such term is used.

2. Grant of Rights-of-Way and Easements.

2.1. Access Right-of-Way and Easement. The Lots (but no other real property) shall have appurtenant thereto and shall be benefited by, and the Easement Area shall be subject to and shall be burdened by, a perpetual, non-exclusive right-of-way and easement for vehicular ingress and egress (but not parking) on, over and across the Easement Area. Such right-of-way and easement shall be limited to use for such purposes and to such extent as may be customary to the use of the Lots for general commercial purposes, which shall include reasonable and customary deliveries.

2.2. Utilities Right-of-Way and Easement.

2.2.1. Grant of Right-of-Way and Easement. The Lots (but no other real property) shall have appurtenant thereto and shall be benefited by, and the Easement Area shall be subject to and shall be burdened by, a perpetual, non-exclusive right-of-way and easement for the laying, construction, installation, use, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of underground utility pipes, lines, wires, conduits and related facilities (including, without limitation, pipes, lines, wires, conduits and related facilities for electricity, natural gas, other fuels or power sources, telephone, sewer, storm drainage and all types of water) under, through and across the Easement Area.

2.2.2. Exercise of Right-of-Way and Easement. Each Lot Owner may (a) enter on any portion of Easement Area as may be necessary or appropriate in order to accomplish the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of the utilities and facilities referred to in Paragraph 2.2.1, and (b) in connection with such utilities and facilities, excavate or conduct construction activities on the Easement Area, so long as such excavation or construction activities are performed in a good and workmanlike manner and are prosecuted diligently to completion. On completion of such excavation or construction activities, the Lot Owner doing such work shall promptly restore any portion of the Easement Area affected to the same condition as existed prior to the commencement of such activities, using the same type and quality of materials previously used.

3. No Interference. Except to the extent necessary (on a temporary basis) for reasonable construction, for repair and maintenance, for traffic regulation and control or to prevent a public dedication or the accrual of any rights to the public, no fence, gate, wall, barricade or other obstruction, whether temporary or permanent in nature, which limits or impairs the free and unimpeded use of the rights-of-way and easements

granted in Paragraph 2 shall be constructed or erected, nor shall any Owner in any other manner obstruct or interfere with the use of such rights-of-way and easements.

4. Maintenance. The Easement Area shall at all times be properly surfaced with asphalt, concrete or other similar material, and each Owner shall at all times maintain or cause to be maintained that portion of the Easement Area located on such Owner's Lot in a reasonably good, clean and safe condition and repair, reasonably free from debris, rubbish, snow, ice and other materials. If any Owner fails to comply with the provisions of the immediately preceding sentence, any other Owner may (but is not obligated to), after giving at least thirty (30) days' written notice to the non-complying Owner, perform or cause to be performed such work as is necessary to cause the Easement Area so to comply. In such event, all sums reasonably expended and all costs and expenses reasonably incurred by the performing Owner in connection with such work shall bear interest from the date expended or incurred (as the case may be) at the rate of twelve percent (12%) per annum until paid or otherwise satisfied in full, and shall be paid promptly to the performing Owner by the non-complying Owner on written demand.

5. Duration. This Declaration and each right-of-way, easement, covenant and restriction set forth in this Declaration shall be perpetual.

6. Not a Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Lots for the general public or for any public purpose whatsoever, it being the intention of the Declarant that this Declaration be strictly limited to the purposes expressed in this Declaration.

7. Appurtenances to Lots; Covenants Run with Land; Various Events.

7.1. Appurtenances to Lots. Each right-of-way, easement, covenant and restriction created by this Declaration is an appurtenance to the Lot benefited by such right-of-way, easement, covenant and restriction (but no other real property) and may not be transferred, assigned or encumbered except as an appurtenance to such Lot. For the purposes of each such right-of-way, easement, covenant and restriction, the benefited Lot shall constitute the dominant estate and the burdened Lot shall constitute the servient estate.

7.2. Covenants Run with Land; Various Events.

7.2.1. Covenants Run with Land. Each right-of-way, easement, covenant and restriction contained in this Declaration (whether affirmative or negative in nature) shall (a) create an equitable servitude on the burdened Lot in favor of the benefited Lot (but no other real property), (b) constitute a covenant running with the land, (c) benefit and bind every person having any fee, leasehold, Mortgage lien or other interest in any portion of the Lot concerned, and (d) benefit and bind any Owner whose title is acquired by judicial foreclosure, trustee's sale, deed in lieu of foreclosure or other means.

7.2.2. Transfer of Lot. If any Owner transfers all or any portion of the Lot owned by such Owner, the transferee shall automatically be deemed to have assumed and agreed to be personally bound by the covenants of such Owner contained in this Declaration, and if the transferring Owner has by such transfer transferred all of such Owner's ownership interest in such Lot, such transferring Owner shall be released and discharged from all obligations under this Declaration with respect to such Lot that accrue after (but not before) the date of recordation in the Official Records of the instrument effecting such transfer.

7.2.3. Effect of Breach. No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration (but such limitation shall not affect any other right or remedy or limit any obligation that any Owner may have under this Declaration by reason of any such breach),

or defeat or render invalid the lien of any Mortgage made in good faith and for value as to any Lot, except as provided in Paragraph 8.

7.2.4. Identical Ownership. The ownership of both Lots by the same person shall not result in the termination of this Declaration.

7.2.5. Priority of Declaration. The interests in and rights concerning any portion of the Lots held by or vested in the Declarant or any other person on or after the date of this Declaration (including, without limitation, any Mortgage lien) shall be subject and subordinate to this Declaration, and this Declaration shall be prior and superior to such interests and rights, as may be necessary to effectuate all of the terms and provisions set forth in this Declaration. As of the date of this Declaration, the Declarant is the sole Owner of the Lots.

8. Lien. If the failure to pay in a timely manner any sum when due under this Declaration is not cured within ten (10) days after written notice is given by any Owner to the defaulting Owner, such sum and any subsequent delinquencies may be secured by a lien against all or any portion of the defaulting Owner's Lot. Such lien shall be evidenced by a notice of lien filed for record by the non-defaulting Owner in the Official Records. A copy of such notice of lien shall be given by the non-defaulting Owner to the defaulting Owner within ten (10) days following recordation in the Official Records. Such notice of lien shall set forth the unpaid amount, the date such amount was due and a description of the property subject to such lien, and shall be signed by the non-defaulting Owner. Any such lien may be foreclosed in the same manner as is provided under applicable law for the foreclosure of Mortgages, but shall be subject and subordinate to (a) each Mortgage affecting the defaulting Owner's Lot at the time such notice of lien is recorded, (b) this Declaration, (c) each (recorded or unrecorded) utility easement, right-of-way or similar interest affecting the defaulting Owner's Lot at the time such notice of lien is recorded, (d) the interest of the tenant or lessee under each lease, rental agreement or similar instrument (whether recorded or unrecorded) affecting the defaulting Owner's Lot at the time such notice of lien is recorded, and (e) the lien for general taxes and other governmental assessments, but shall be prior and superior to all other interests or estates (whether recorded or unrecorded at the time such notice of lien is recorded) in or respecting the defaulting Owner's Lot.

9. Mortgagee Protection. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting any part of the Lots shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, this Declaration.

10. Modification. This Declaration and any right-of-way, easement, covenant or restriction contained in this Declaration may not be terminated, extended, modified or amended without the consent of each Owner, and any such termination, extension, modification or amendment shall be effective on recordation in the Official Records of a written document effecting the same, executed and acknowledged by each Owner; *provided, however*, that no such termination, extension, modification or amendment shall affect the rights of any Mortgagee then holding a Mortgage constituting a lien on any Lot unless such Mortgagee consents to the same in writing.

11. Attorneys' Fees. If any Owner brings suit to enforce or interpret this Declaration or for damages on account of the breach of any provision of this Declaration, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

12. General Provisions. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the state of Utah. This Declaration shall inure to the benefit of, and shall be binding on, each Owner and the heirs, personal representatives, successors

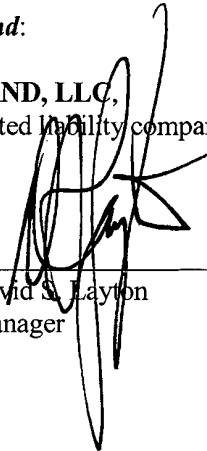
and assigns of each Owner. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration.

[Remainder of page intentionally left blank; signatures on following page]

201CC Land:

201CC LAND, LLC,
a Utah limited liability company

By _____
David S. Layton
Manager



State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 7 day of July, 2020, by David S. Layton, the Manager of 201CC Land, LLC.



Meissa W
Notary Public

My Commission Expires:
8/25/23

Residing at:
Midvale, UT

EXHIBIT A

to

**DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS**

EASEMENT AREA

The Easement Area referred to in the foregoing instrument is more particularly described as follows:

A parcel of land, lying and situate in the Northeast Quarter of Section 19, Township 1 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah. Said parcel being more particularly described as follows:

BEGINNING at the Northeast corner of Lot 101, 201 Commerce Center Subdivision No. 1, recorded September 26, 2008, Book 2008P, Page 250, in the office of the Salt Lake County Recorder; thence South 00°00'32" East 28.65 feet along West line of New Commerce Drive (4305 West); 25.18 feet along the arc of a 20.00 foot radius curve to the left (chord bears North 47°34'57" West 23.55 feet) through a central angle of 72°07'18"; thence North 89°54'57" West 446.62 feet; thence North 00°00'21" West 20.63 feet; thence North 37°13'02" East 55.97 feet; thence South 79°37'03" East 98.81 feet; 0.45 feet along the arc of a 2.50 foot radius curve to the left (chord bears South 84°48'48" East 0.45 feet) through a central angle of 10°23'29"; thence North 89°59'54" East 96.45 feet; thence South 78°45'01" East 21.95 feet; thence North 89°59'29" East 187.01 feet; 38.69 feet along the arc of a 28.00 foot radius curve to the left (chord bears North 50°25'03" East 35.68 feet) through a central angle of 79°09'53" to the West line of New Commerce Drive (4305 West); thence South 00°00'32" East 53.73 feet along the said West line to the POINT OF BEGINNING.

EXHIBIT B

to

**DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS**

EASEMENT AREA

The Easement Area referred to in the foregoing instrument is depicted on the attached drawing, consisting of one (1) page.

EXHIBIT C

to

**DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS**

LEGAL DESCRIPTION OF LOT 101

The real property located in Salt Lake County, Utah and more particularly described as follows:

Lot 101, 201 Commerce Center Subdivision No. 1, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office; and any portion located with Links Drive and New Commerce Drive.
[Tax Parcel No. 15-19-252-001-0000]

EXHIBIT D

to

**DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS**

LEGAL DESCRIPTION OF LOT 401

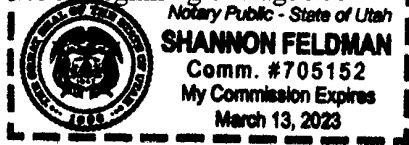
The real property located in Salt Lake County, Utah and more particularly described as follows:

Lot 401, 201 Commerce Center Subdivision No. 4, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office.

CONSENT AND SUBORDINATION

THE UNDERSIGNED, U.S. BANK NATIONAL ASSOCIATION, a national banking association (the "Lender"), consents to the foregoing Declaration of Easements, Covenants and Restrictions (the "Declaration"), and agrees that (i) the interests in and rights concerning Lot 101 (as defined in the Declaration) held by or vested in Lender on or after the date of the Declaration shall be subject and subordinate to the easements, rights and arrangement provided for in the Declaration, and (ii) the Declaration shall be prior and superior to such interests and rights, as may be necessary to effectuate all of the provisions set forth in the Declaration.

(Lender currently holds, among other instruments, a Construction Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing dated January 9, 2009, by 201CC-One, as trustor, for the benefit of Lender, as beneficiary, recorded on January 9, 2009, as Entry Number 10595702 in Book 9673, beginning on Page 682 of the official records of Salt Lake County, Utah, as amended by that certain First Amendment to Construction Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing and Related Recorded Documents dated as of March 31, 2010 and recorded on April 2, 2010, as Entry Number 10927166 in Book 9815, beginning on Page 3386 of the official records of Salt Lake County, Utah, as amended by that certain Second Amendment to Construction Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing and Related Recorded Documents dated as of April 16, 2013 and recorded on April 25, 2013, as Entry Number 11626572 in Book 10131, beginning on Page 3320 of the official records of Salt Lake County, Utah, as amended by that certain Third Amendment to Construction Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing and Related Recorded Documents dated as of July 10, 2013 and recorded on July 10, 2013 as Entry Number 11680980 in Book 10157 beginning on Page 9240 of the official records of Salt Lake County, Utah, as amended by that certain Fourth Amendment to Construction Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing and Related Recorded Documents dated as of October 29, 2013 and recorded on October 30, 2013 as Entry Number 11751024 in Book 10188 beginning on Page 8465 of the official records of Salt Lake County, Utah, and as amended by that certain Fifth Amendment to Construction Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing and Related Recorded Documents dated October 8, 2015 to be effective as of October 1, 2015 and recorded on October 8, 2015 as Entry Number 12148264 in Book 10368 beginning on Page 9688 of the official records of Salt Lake County, Utah)



U.S. BANK NATIONAL ASSOCIATION, a national banking association

By: [Signature]
Name: Michelle Pearce
Title: V.P.

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 13 day of July, 2020, by Michelle Pearce, the V.P. of U.S. Bank National Association, a national banking association.

[Signature]
Notary Public

My Commission Expires:

Residing at:
544 Rocky Mouth Ln, Draper, UT 84040

