

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Bank of America, N.A.
Doc Retention Center
NC1-001-0s-13
One Independence Center
101 North Tryon St.
Charlotte, NC 28255-0001

APN: 28-06-353-003

CTIA # 129428-WTHP

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7/30/2020 2:53:00 PM \$40.00
Book - 10989 Pg - 4187-4196
RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 10 P.

**AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (the "*Amendment*") is made as of June 30, 2020, by and among **JORDAN COMMONS FUNDING, L.L.C.**, a Utah limited liability company ("*Trustor*"), and **BANK OF AMERICA, N.A.** ("*Beneficiary*").

RECITALS:

A. Beneficiary previously extended a term loan (the "*Loan*") to Borrower in the maximum principal amount of FIFTY-SEVEN MILLION TWO HUNDRED SEVENTY-ONE THOUSAND ONE HUNDRED FIFTY AND NO/100 DOLLARS (\$57,271,150.00) pursuant to that certain Loan Agreement dated December 31, 2014 (as may be amended from time to time, the "*Loan Agreement*"). Capitalized terms used herein without definition, shall have the meanings given to such terms in the Loan Agreement.

B. The Loan is secured by, among other things, a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated December 31, 2014, from Borrower in favor of Lender, and recorded on December 31, 2014 in Official Records Book 10286, Page 504-525 in the Public Records of Salt Lake County, Utah (as amended, supplemented, modified, restated, renewed or extended from time to time, the "*Deed of Trust*"), covering certain real property and improvements thereon, more particularly described in Exhibit A herein (the "*Property*");

C. Pursuant to that certain Third Loan Extension and Modification Agreement of even date herewith (the "*Modification Agreement*"), Trustor and Beneficiary have agreed to modify and amend the Loan Agreement and other Loan Documents (the "*Modification*").

D. Concurrently with the Modification, Trustor and Beneficiary desire to amend the Deed of Trust, as more particularly set forth herein.

NOW THEREFORE, in consideration of the covenants and conditions contained herein and in the Loan Documents, the parties agree as follows:

1. Accuracy of Recitals. Trustor hereby acknowledges the accuracy of the foregoing Recitals which are incorporated herein by this reference.

2. Notice of Amendment; Amendment of Deed of Trust.

(a) Notice. Notice is hereby given that the Loan Agreement and other Loan Documents have been amended and modified pursuant to the Modification Agreement. The Deed of Trust is hereby modified, to the extent necessary, to be consistent with the Modification Agreement.

(b) Partial Release. Contemporaneously with the recording of this Amendment, Beneficiary is releasing its Deed of Trust lien on that certain portion of the Property described in Exhibit B hereto (the "*Release Parcel*"). Exhibit A to the Deed of Trust is hereby replaced in its entirety with Exhibit C attached hereto. The Deed of Trust is hereby amended as necessary to reflect the release of the Release Parcel from the lien of the Deed of Trust.

(c) Reduction of Loan Amount. Section 2.1(a)(i) of the Deed of Trust is hereby amended and restated in its entirety as follows:

“(i) That certain Loan Agreement dated as of December 31, 2014, between Obligor and Beneficiary, as amended by that certain Amendment No. 1 to Loan Agreement dated January 5, 2016, that certain Loan Extension and Modification Agreement dated January 2, 2020, and that certain Third Loan Extension and Modification Agreement dated as of even date herewith, which provides for extensions of credit in a principal amount not exceeding Thirty-Two Million and No/00 Dollars (\$32,000,000.00)”

(d) Not a Novation. The parties each agree and acknowledge that the modifications set forth herein are not intended to be a novation or to constitute or evidence a new loan but rather a continuation of the existing Loan and the lien and charge of the Deed of Trust against the Property and all assets and properties described in the Deed of Trust shall continue unabrogated and in full force and effect.

3. Ratification of Deed of Trust and Assignment of Rents. As amended by this Amendment, the Deed of Trust is ratified and confirmed and continues in full force and effect and contains the entire understanding and agreement of the parties in respect of the Deed of Trust and supersedes all prior representations, warranties, agreements and understandings. The Deed of Trust as modified herein shall be binding upon and inure to the benefit of Trustor and Beneficiary, and their respective successors and assigns. No provision of this Amendment may be changed, discharged, supplemented, terminated or waived except in a writing signed by Beneficiary.

4. Release and Discharge. Trustor fully, finally, and forever releases and discharges Beneficiary and its respective successors, assigns, directors, officers, employees, agents, and representatives from any and all actions, causes of action, claims, debts, demands, liabilities, obligations, and suits, of whatever kind or nature, in law or equity, that Trustor has or in the future may have, whether known or unknown, (i) in respect of the Loan, the Loan Documents, or the actions or omissions of Beneficiary in respect of the Loan or the Loan Documents, and (ii) arising from events occurring prior to the date of this Amendment.

5. Governing Law. This Amendment shall be governed by the law of the State of Utah without regard to its conflicts of laws principles.

6. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Amendment to physically form one document.

7. Miscellaneous. Except for the amendment above stated, all of the conditions and covenants of the Deed of Trust shall remain in full force effect, unchanged, and the Deed of Trust is in all respects ratified, confirmed and approved. All of the terms and conditions of the Deed of Trust are incorporated herein by reference.

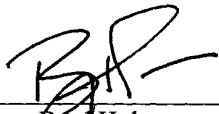
8. Binding Effect. The Deed of Trust as modified herein shall be binding upon and inure to the benefit of Trustor and Beneficiary and their respective successors and assigns.

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PURSUANT TO UTAH CODE ANNOTATED SECTION 25-5-4, TRUSTOR IS NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

JORDAN COMMONS FUNDING, LLC
a Utah limited liability company

By 
Name: Brad Holmes
Title: Operating Manager

“Trustor”

BANK OF AMERICA, N.A.
a national banking association

By: _____
Name: Debbie Martinez
Title: Managing Director

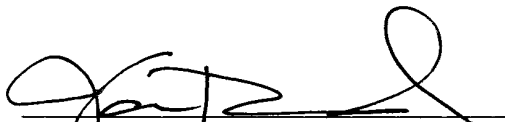
“Beneficiary”

State of Utah

ss.

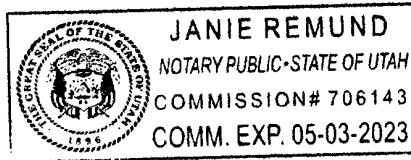
County of SALT LAKE

On this 28 day of July, in the year 2020, before me Janie Remund, a notary public, personally appeared Brad Holmes, an individual, a manager of JORDAN COMMONS FUNDING, 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 Signature

(Notary Seal)



State of _____

ss.

County of _____

On this ___ day of _____, in the year 2020, before me _____, a notary public, personally appeared Debbie Martinez, an individual, a managing director of BANK OF AMERICA, N.A., proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

Notary Signature

(Notary Seal)

PURSUANT TO UTAH CODE ANNOTATED SECTION 25-5-4, TRUSTOR IS NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

JORDAN COMMONS FUNDING, LLC
a Utah limited liability company

By _____
Name: Brad Holmes
Title: Operating Manager

“Trustor”

BANK OF AMERICA, N.A.
a national banking association

By: *Debbie Martinez*
Name: Debbie Martinez
Title: Managing Director

“Beneficiary

State of Utah

ss.

County of SALT LAKE

On this _____ day of _____, in the year 2020, before me _____, a notary public, personally appeared Brad Holmes, an individual, a manager of JORDAN COMMONS FUNDING, 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 Signature

(Notary Seal)

State of Texas

ss.

County of Harris

On this 28 day of July, in the year 2020, before me Tommara Long, a notary public, personally appeared Debbie Martinez, an individual, a managing director of BANK OF AMERICA, N.A., proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

[Signature]

Notary Signature

(Notary Seal)

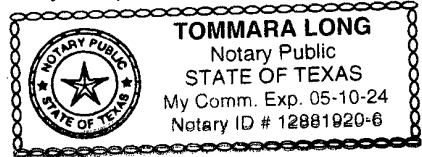


EXHIBIT A

PROPERTY DESCRIPTION

That certain real property situated in the County of Salt Lake, State of Utah and described as follows:

Beginning at a point on the Easterly right of way of State Street (US Highway 89), said point being 53.00 feet perpendicularly distant from the centerline of said State Street, said point also lies North 90.89 feet and East 143.82 feet from the Southwest corner of Section 6, Township 3 South, Range 1 East, Salt Lake Base and Meridian and running thence North 00°02'40" East 747.79 feet along said Easterly line to a point on a 26.50 foot radius tangent curve to the right, (radius bears South 89°57'20" East); thence along the arc of said curve 41.52 feet through a central angle of 89°47'17" to the Southerly line of 9270 South Street; thence along said Southerly line the following (4) courses; North 89°49'34" East 116.13 feet to a point on a 300.00 foot radius tangent curve to the left, (radius bears North 00°10'26" West), and along the arc of said curve 19.90 feet through a central angle of 03°48'00", and North 86°01'34" East 201.46 feet, and North 89°49'34" East 758.50 feet to a point on a 22.00 foot radius tangent curve to the right, (radius bears South 00°10'26" East); thence along the arc of said curve 35.90 feet through a central angle of 93°29'19" to the Westerly line of 150 East Street; thence South 03°18'53" West 766.60 feet along said Westerly line; thence South 45°25'00" West 29.02 feet to the North line of 9400 South Street; thence along said North line the following (2) courses; South 89°57'00" West 532.52 feet, and North 89°58'00" West 526.51 feet to a point on a 17.50 foot radius tangent curve to the right, (radius bears North 00°02'00" East); thence along the arc of said curve 27.49 feet through a central angle of 90°00'40"; thence North 89°57'20" West 3.00 feet to the point of beginning.

LESS AND EXCEPTING that portion conveyed to the Utah Department of Transportation by that certain Warranty Deed recorded August 10, 2006 as Entry No. 9806862 in Book 9333 at Pages 7242-7243 of Official Records, being a parcel of land in fee for the widening and reconstruction of the existing highway State Route 89 known as Project No. SP-0089(88)313, being a part of an entire tract of property, situate in the SW1/4SW1/4 of Section 6, T.3S., R.1E., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning in the easterly right of way line of said existing highway State Route 89 at a point 90.90 feet (90.89 feet by record) North and 143.78 feet (143.82 feet by record) East from the Southwest Corner of said Section 6, which point is approximately 53.00 feet perpendicularly distant easterly from the control line of said highway opposite engineer station 163+61.40, and running thence N. 00°02'40" E. 29.01 feet along said easterly right of way line parallel with and 53.00 feet perpendicularly distant easterly from said control line; thence S. 44°46'24" E. 65.57 feet to the northerly right of way line of 9400 South Street at a point 99.21 feet perpendicularly distant easterly from said control line; thence N. 89°58'00" W. 25.73 feet along said northerly right of way line to the beginning of a 17.50-foot radius tangent curve to the right at a point 73.48 feet perpendicularly distant easterly from said control line; thence northwesterly 27.49 feet along the arc of said curve through a delta of 90°00'40" (Note: Chord to said curve bears N. 44°57'40" W. for a distance of 24.75 feet) to a point of non-tangency, which point is 55.98 feet perpendicularly distant easterly from said control line; thence N. 89°57'20" W. 3.00 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

ALSO LESS AND EXCEPTING that portion conveyed to Sandy City, a municipal corporation by that certain Warranty Deed recorded August 10, 2006 as Entry No. 9806865 in Book 9333 at Pages 7248-7249 of Official Records, being a parcel of land in fee for the widening and reconstruction of the existing highway State Route 89 known as Project No. SP-0089(88)313, being a part of an entire tract of property, situate in the SW1/4SW1/4 of Section 6, T.3S., R.1E., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning in the easterly right of way line of said existing highway State Route 89 at a point 843.64 feet North and 144.83 feet East from the Southwest Corner of said Section 6, which point is approximately 53.47 feet perpendicularly distant easterly from the control line of said highway opposite engineer station 171+14.14, said point is also a point of cusp of a 26.50-foot radius non-tangent curve to the right (Note: Radius bears S. 79°10'47" E.), and running thence Northeasterly 6.21 feet along the arc of said curve through a delta of 13°25'05" (Note: Chord to said curve bears N. 17°31'46" E. for a distance of 6.19 feet) to a point of cusp, which point is 55.33 feet perpendicularly distant easterly from said control line; thence S. 14°57'50" E.

4.82 feet to a point 56.57 feet perpendicularly distant easterly from said control line; thence S. 68°04'15" W, 3.35 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The following is shown for informational purposes only: Tax Parcel No. 28-06-353-003

Exhibit A-2

EXHIBIT B

RELEASE PARCEL

Lot 2, LHM JORDAN COMMONS SANDY SUBDIVISION, according to the official plat thereof as recorded July 6, 2020 as Entry No. 13319905 in Book 2020P of Plats at Page 167 in the office of the Salt Lake County Recorder.

EXHIBIT C

AMENDED AND RESTATED LEGAL DESCRIPTION

PARCEL 1:

Lot 1, LHM JORDAN COMMONS SANDY SUBDIVISION, according to the official plat thereof as recorded July 6, 2020 as Entry No. 13319905 in Book 2020P of Plats at Page 167 in the office of the Salt Lake County Recorder.

PARCEL 2:

Non-exclusive easements, appurtenant to Parcel 1 described herein, as created by that certain Declaration of Reciprocal Easements recorded July 6, 2020 as Entry No. 13319909 in Book 10974 at Page 280, of official records.