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DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING

FROM

RIMINI PROPERTIES, LLC

TO

STEWART TITLE GUARANTY COMPANY  
as Trustee for the benefit of

LIFE INSURANCE COMPANY OF THE SOUTHWEST

FEBRUARY 17, 2021

*Prepared and recording requested by and  
after recording please return to:*

Jean O'Neil, Esq.  
Law Offices of F. J. von Turkovich, PC  
One National Life Drive, M-230  
Montpelier, VT 05604

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

LSW LOAN NO. 210879

This DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("**Mortgage**") is granted this February 17, 2021, by RIMINI PROPERTIES, LLC, a Utah limited liability company, ("**Borrower**") with offices at and mailing address of c/o Tom Stuart Construction, 259 South River Bend Way, Suite 102, North Salt Lake, UT 84054, as Trustor/Grantor;

to

STEWART TITLE GUARANTY COMPANY, a Texas corporation with offices at and mailing address of c/o Cottonwood Title, 1216 W. Legacy Crossing Boulevard, Suite 100, Centerville, UT 84014 ("**Trustee**");

for the benefit of

LIFE INSURANCE COMPANY OF THE SOUTHWEST, a Texas corporation ("**Lender**") with offices at and mailing address of One National Life Dr., Montpelier, VT 05604, as Beneficiary/Mortgagee.

**RECITALS**

This Mortgage is made to secure Lender's rights, remedies, benefits and privileges under the documents and agreements ("**Loan Documents**") pertaining to that certain Loan from Lender to Borrower in the original principal amount of EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS (\$8,500,000) ("**Loan**"), but specifically excluding therefrom the obligations arising under the Environmental Indemnity Agreement and the Guaranty in favor of Lender of near or even date herewith pertaining to the Loan. The Loan has been advanced pursuant to the Loan Agreement of near or even date herewith between Lender and Borrower, is evidenced by, among other things, Borrower's Promissory Note to Lender of near or even date herewith ("**Note**"), and is secured by, among other things, this Mortgage and the Assignment of Rents of near or even date herewith from Borrower to Lender. This Mortgage creates a valid first lien on Borrower's interests in the Real Property, the Leases and the Rents, and a valid first lien security interest in the Personal Property, all as more specifically stated below.

**GRANT**

For and in consideration of the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Borrower has granted, conveyed, bargained, sold, aliened, enfeoffed, released and confirmed, and by these presents does hereby grant, convey, bargain, sell, alien, enfeoff, release and confirm unto Trustee,

in trust for the benefit of the Beneficiary, WITH POWER OF SALE, that certain real property, commonly known as:

1040 North 950 West and 1041 North 950 West  
Centerville, Davis County, Utah 84014

as more particularly described in **Exhibit A** attached hereto and made a part hereof, and all of the rights, title, benefits and entitlements including any leasehold, sub-leasehold, or ground lease interest in, and any option to purchase such real property ("**Land**").

TOGETHER WITH all right, title and interest of Borrower, now owned or hereafter acquired, in and to any and all tenements, hereditaments and appurtenances belonging or in any way appertaining to the Land, including, but not limited to: utilities, sewer rights, water courses, water rights and powers, streets, ways, roads, avenues, alleys, rights of way, or passages, easements; vaults, strips or gores, air rights, parking areas, parking rights and agreements, common areas, public places; other facilities (public or private, opened or proposed) located adjacent to or adjoining the Land; leasehold estates; condominium rights, covenants now existing or hereafter created for the benefit of the Land or for the benefit of Borrower or any subsequent owner or tenant of the Land; development agreements, reciprocal rights agreements and all other rights, liberties and privileges of any kind or character existing for the benefit of the Land or any part thereof, and any after-acquired title or reversion in and to any of the same; and all rights to enforce the maintenance thereof ("**Appurtenances**");

TOGETHER WITH all right, title and interest of Borrower in and to any and all buildings, site improvements, landscaping and other improvements now or hereafter erected on the Land, and the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said buildings and improvements ("**Improvements**") (the Land, Appurtenances and Improvements are collectively referred to as the "**Real Property**");

TOGETHER WITH all right, title and interest of Borrower in and to all leasehold estates, space leases, ground leases, tenancies, subleases, licenses, concessions, franchises or other occupancy agreements, and all amendments to and extensions of, any of the same, now existing or hereafter entered into, and all rights, and interests of Borrower in any guaranty of a tenant's obligations, all cash or security deposits, advance rentals, and other deposits or payments, income, issues and profits, and all other rights under existing and future leases and other tenancies of the said Real Property or Improvements or any portion thereof ("**Leases**");

TOGETHER WITH all right, title and interest of Borrower in and to all existing and future rents, issues, profits, royalties, income, reimbursements, reversions, remainders, security deposits, all other deposits, and all other benefits derived from the Real Property ("**Rents**" or "**Rent**");

TOGETHER WITH all right, title and interest of Borrower in and to all materials intended for construction, reconstruction, alteration and repair of the Improvements ("**Construction and Repair Materials**") all of which materials shall be deemed to be included within the Collateral;

TOGETHER WITH all right, title and interest of Borrower in and to all goods, inventory, equipment, machinery, furniture, fixtures and other articles of tangible personal property of every kind and nature, now or hereafter located in, on or about the Real Property, and used or usable in connection with the present or future operation of the Real Property, whether or not the same are or will be attached to said Real Property in any manner, including all elements of landscaping; all elements of the exterior and interior decor of the Improvements (including works of art); all goods; tools, machinery; equipment; apparatus; fittings; motors; radiators; fans; blowers; exterior awnings; draperies and drapery rods, brackets and associated hardware, interior awnings, venetian blinds, curtains; shades and other window coverings; screens; storm windows and doors; wall safes; rugs, carpeting and other floor coverings; air conditioners; window and structural cleaning rigs; entertainment and recreational equipment and accessories (including exercise equipment and accessories); stoves; refrigerators and refrigeration systems; dishwashers; freezers; disposal units; range hoods; appliances and cooking, preparation and serving equipment of every nature; all laundry equipment; signs and all signage systems; all heating, ventilating and air conditioning equipment; all power and lighting fixtures and equipment, including chandeliers and lamps; all fire prevention and extinguishing equipment; all plumbing, incinerating, and sprinkler equipment and fixtures; all elevators and escalators; all communication and electronic monitoring equipment (including all types of alarm systems); all items of indoor or outdoor furniture and other furnishings; parking ticket dispensing and validation equipment; cash registers; time clocks; equipment used in connection with maintenance, exclusion of vermin or insects, and removal of dust, refuse or garbage; maintenance, janitorial and other supplies; Borrower's books and records with respect to the Property; meaning hereby to include all property used or useful in the operation, maintenance and protection of the Property and all renewals or replacements thereof or articles in substitution therefor, including insurance proceeds and, furthermore, intending to include equipment and facilities of all kinds which constitute fixtures under Laws of the State as the same may be amended, and all replacements and substitutions therefor ("**FF&E**");

TOGETHER WITH all right, title and interest of Borrower in and to (a) all policies of insurance, and all rights of owner and insured under those policies including, without limitation, the right to assign ownership, the right to designate the insured, the right to receive refunds of premiums in the event of overpayment or cancellation, and the right to demand, collect, receive and give receipt for all proceeds of every nature; (b) all policies of insurance provided by any tenant in connection with such tenant's occupancy of premises at the Property; (c) except as otherwise specifically set forth herein or in any of the other Loan Documents, all insurance payments and proceeds heretofore paid and hereafter to be paid by reason of any loss of income from the Real Property, including, but not limited to, any use or occupancy loss, business interruption or interruption of rental payments under any lease, prepaid premiums or unearned premiums, accrued or accruing; (d) all compensation or other payments accruing for the benefit of Borrower or the Property under any casualty or title insurance policy; (e) all proceeds and payments received or receivable from any third party as a result of any casualty or damage to the Property; (f) all proceeds of the sale or disposition of the Property or the conversion, voluntary or involuntary, of any of the Property into cash or liquidated claims; and (g) all awards, compensation, damages, rights of action and other payments or relief accruing for the benefit of Borrower or the Property from any Governmental Authority for any reason including any Condemnation, eminent domain or by any proceeding or purchase in lieu thereof, any awards resulting from a change of grade

of streets and awards of severance damages of the whole or any part of the Real Property, including any consequential damages resulting therefrom ("**Proceeds**");

TOGETHER WITH all right, title and interest of Borrower in and to all licenses, franchises, certifications, authorizations, approvals and permits of every nature that are useful in any way in the operation of the Real Property and the Improvements, issued or approved by any Governmental Authority or other person, including, without implied limitation, certificates of occupancy, occupancy permits, building permits, sign permits, environmental permits, elevator permits, machinery permits, business licenses, ingress and egress permits, all amounts paid for the use and occupancy of the Real Property herein described, governmental awards, credits, refunds, rebates, zoning credits, refunds are rebates under environmental laws, impact fee credits, and all proceeds thereof ("**Permits**");

TOGETHER WITH all right, title and interest of Borrower in and to all claims and causes of action which may now or hereafter exist on account of physical damage to the Real Property or the Improvements or injury to business operations, or otherwise, such causes of action that relate to the use, operation, maintenance, occupancy or enjoyment of the Real Property or Improvements, together with the right to bring suit upon any such claim, to effect settlements, and to collect the proceeds, including any consequential damages, resulting therefrom ("**Claims**");

TOGETHER WITH all right, title and interest of Borrower in and to: (a) any tenants-in-common agreement; (b) rights of first refusal or purchase options of interests in Borrower or the Property; (c) contracts, subcontracts, payment and performance bonds; (d) service, maintenance, operating, repair and other contract rights and commitments; (e) licenses, permits, designs, surveys, plans and specifications; (f) management, and other agreements now or hereafter existing; (g) equipment leases, conditional sale contracts and all rights and options of Borrower thereunder, including, without implied limitation, the right to renew or extend the term of any such contract or to purchase the leased equipment; and (h) guaranties and warranties and other assurances of performance; (i) agreements with contractors, materialmen, laborers, managers and other persons providing for the construction, renovation or installation of all or portions of the Improvements, together with all payment and/or performance bonds, insurance policies, certificates and other assurances relating thereto; (j) agreements with architects and engineers for design and supervision services; (k) agreements with all other contractors, engineers, architects, property managers, brokers, professionals and consultants entered into by Borrower or any predecessor in title to Borrower relating to the Real Property or the Improvements; (l) utility contracts; (m) the right, at Lender's election, to assume any contracts for the sale or financing of the Real Property; and (n) all modifications and amendments and replacements of all of the above ("**Contracts**");

TOGETHER WITH all right, title and interest of Borrower in and to: all deposit accounts; security and other deposits (including tenants' security deposits); utility security deposit accounts and other accounts established as security for the fulfillment of any obligation of Borrower or affiliate of Borrower in connection with the Real Property; funds (including funds received for the use of parking spaces); instruments; accounts receivable; documents and general intangibles arising out of or used in connection with the operation of the Property; and all notes and chattel paper arising from or by virtue of any transaction related to the Property, and in and to all reserve or escrow funds or accounts now or hereafter established pursuant to the Loan Documents ("**Accounts**");

TOGETHER WITH all right, title and interest of Borrower in and to: (a) all trade names, royalties, trademarks, service marks, logos, copyrights, goodwill, books and records, and all other general intangibles specific to or used in connection with the operation of the Property and all right, title and interest of Borrower in and to all refunds, rebates or credits in connection with a reduction in, abatement or deferral of or other agreement changing any Impositions; (b) guaranties and warranties; and (c) all intangible personal property used or useable in the construction, renovation, ownership, management, marketing or operation of the Real Property and improvements herein described or any part thereof and all replacements, additions or accessions thereto, including without implied limitation, Borrower's right, title and interest in all goodwill, logos, designs, trade names, trademarks, service marks, copyrights, marketing and advertising materials, books and records and general intangibles (in all record formats, paper and electronic), option rights, licenses, purchase contracts, financing contracts, accounts, contract rights, instruments, chattel paper and other rights of Borrower for payment of money for property sold or lent, for services rendered, for money lent or for advances or deposits made, and any other intangible property of Borrower related to the Real Property or the Improvements ("**Intangibles**");

TOGETHER WITH all right, title and interest of Borrower in and to surveys, plans, specifications, designs, drawings, and materials prepared for any construction on the Real Property ("**Plans**");

TOGETHER WITH all right, title and interest of Borrower in and to all water and water rights (whether riparian, appropriative, or otherwise and whether or not appurtenant), pumps and pumping stations used in connection therewith and all shares of stock or permits evidencing the same ("**Water Rights**");

TOGETHER WITH all right, title and interest of Borrower in and to all oil, gas, mineral rights and all other rights and interests of every nature related thereto now or hereafter appurtenant to the said Real Property ("**Mineral Rights**");

The Construction and Repair Materials, FF&E, Proceeds, Permits, Claims, Contracts, Accounts, Intangibles, Plans, Water Rights, Mineral Rights, Subsurface Rights, together with all right, title and interest of Borrower in and to all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to any such items are collectively referred to as the "**Personal Property**."

All of the above described Real Property, Leases, Rents and Personal Property and the balance of the entire estate, property and interest hereby conveyed for the benefit of Lender, now owned or hereafter acquired, are collectively referred to herein and in the other Loan Documents as the "**Property**."

FOR THE PURPOSE OF SECURING:

a. Payment of the Indebtedness evidenced by the Note, and any and all modifications, extensions and renewals thereof, including Indebtedness arising as a result of Advances made in the future, including all Advances by Lender to protect the Property or its interests therein as permitted under the Loan Documents or as authorized under the Laws of the State.



b. Payment and performance of all Obligations of Borrower under this Mortgage or under the other Loan Documents.

c. Payment of all other sums, with interest thereon, which may be loaned to Borrower, or its successors or assigns, by Lender.

TO HAVE AND TO HOLD the Property unto Trustee and its substitutes or successors for the use and behoof of Lender, its successors and assigns, forever.

PROVIDED ALWAYS, that this Mortgage is made upon the express condition that, if Borrower pays to Lender the Indebtedness specified in the Note and all other amounts due under the Loan Documents, without deduction, fraud or delay, and Borrower performs and complies with all of the Obligations contained herein and in the other Loan Documents, then this Mortgage and the estate hereby granted will cease and become void.

TO PROTECT THE SECURITY OF THIS MORTGAGE, BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS:

**ARTICLE 1.  
DEFINITIONS AND RULES OF CONSTRUCTION**

1.1 Definitions

The definition for any terms with initial capital letters used in this Agreement but not otherwise defined herein shall be defined as set forth in the Glossary contained in the Loan Agreement between Borrower and Lender pertaining to the Loan or as otherwise defined in any of the other Loan Documents.

1.2 Construction and Interpretation

The provisions of the Loan Agreement with respect to construction and interpretation of the Loan Documents are incorporated herein by reference.

**ARTICLE 2.  
LOAN INFORMATION**

The following information is presented in connection with the Loan. Contact Borrower or Lender at their notice addresses set forth herein for additional information.

Loan Amount:	\$8,500,000
Interest Rate:	3.25% per annum.
Maturity Date:	March 10, 2031

Advances: This Mortgage secures all Advances made by Lender in connection with the Loan up to an amount equal to 200% of the Loan Amount including accrued interest, applicable late charges, foreclosure costs and expenses (including attorneys' fees), plus any other costs and expenses authorized by this Mortgage or the other Loan Documents.

### ARTICLE 3. COVENANTS AND AGREEMENTS OF BORROWER

#### 3.1 Warranty of Title

Borrower is the record owner of indefeasible, marketable and insurable fee simple absolute title to the Real Property and has all right, power and authority to bargain, sell and convey the Real Property by this Mortgage, and the Real Property is free from all encumbrances except those Permitted Exceptions identified in **Exhibit B** attached hereto. This Mortgage is and will remain a valid and enforceable first mortgage lien on the Real Property subject only to the Permitted Exceptions. Borrower will preserve such title and will forever warrant and defend the validity and priority of this Mortgage against the claims of all Persons and parties whatsoever.

#### 3.2 Warranty of Possession

Borrower warrants that Trustee, for the benefit of Lender, will quietly enjoy and possess the Property, subject to Borrower's right of possession before an Event of Default.

#### 3.3 Restrictions on Transfer and Encumbrance

Borrower will not:

- 3.3.1 Except as allowed by the Loan Documents, permit any Lien to exist on the Property or encumber the Property (other than Permitted Exceptions) or any interest in Borrower or hypothecate any interest in the Property (the foregoing will not preclude installment purchases or leases of FF&E, entered into in the ordinary course of business, provided that any security interest granted in connection with any such purchase or lease relates only to the FF&E so purchased or leased).
- 3.3.2 Sell, lease (other than equipment leases in the ordinary course of business and Leases in accordance with the terms of the Loan Agreement) or transfer its interest in all or any portion of the Property except as specifically set forth in the Loan Agreement.
- 3.3.3 Record a declaration of condominium or common interest community with respect to all or any portion of the Property.
- 3.3.4 Change, directly or indirectly, the ownership or Control of Borrower or any Entity Acting for Borrower including a direct or indirect transfer of first or more remote tier limited partnership interests or stock or membership interests, or voting or non-

voting securities or management rights with respect to Borrower or any Entity Acting for Borrower or otherwise affect the ownership of Borrower or any Entity Acting for Borrower.

#### 3.4 Other Covenants and Agreements

There are numerous material provisions regarding the Loan contained in the Loan Documents referred to herein, including provisions dealing with Defaults, Events of Default, casualty, condemnation, insurance, reserves, impounds, environmental matters and Borrower representations, warranties and covenants. All of the provisions, covenants, agreements and definitions as set forth in any of the Loan Documents are hereby incorporated by reference into this Mortgage as though all such provisions, covenants and agreements were set forth herein in full. Particular reference is made to the Glossary contained in the Loan Agreement for the definitions of some of the terms contained herein.

For a copy of the Glossary please apply to Lender in writing as follows:

Mortgage Servicing Director  
SENTINEL ASSET MANAGEMENT, INC.  
One National Life Drive  
Montpelier, VT 05604

### **ARTICLE 4. ASSIGNMENT OF LEASES AND RENTS**

#### 4.1 Assignment of Leases and Rents

Borrower has executed the Assignment of Rents in favor of Lender, the provisions, agreements, terms and conditions of which are hereby incorporated by reference as though set forth herein in full.

### **ARTICLE 5. SECURITY AGREEMENT**

#### 5.1 Creation of Security Interest

Borrower grants to Lender a security interest in Borrower's interest in all of the Personal Property, including the proceeds thereof, for the purpose of securing the Indebtedness and all other Obligations of Borrower contained in any of the Loan Documents.

This Mortgage constitutes a Security Agreement under the Uniform Commercial Code of the State. This Mortgage also constitutes a Financing Statement filed as a fixture filing pursuant to the Uniform Commercial Code of the State. Notwithstanding any release of any or all of the Property, any proceedings to foreclose this Mortgage or its satisfaction of record, the terms hereof

will survive as a Security Agreement with respect to the security interest created hereby until the repayment and satisfaction in full of all Obligations of Borrower.

5.2 Names and Addresses of Parties

Borrower hereby certifies that the following are the correct names and addresses for the parties to the Security Agreement created hereunder:

Name of Debtor:	Address of Debtor:
RIMINI PROPERTIES, LLC	C/O TOM STUART CONSTRUCTION 259 South River Bend Way, Suite 102 North Salt Lake, UT 84054 Attn: Thomas D. Stuart
Name of Secured Party:	Address of Secured Party:
LIFE INSURANCE COMPANY OF THE SOUTHWEST	One National Life Drive Montpelier, VT 05604

5.3 Fixture Filing

This Mortgage constitutes a fixture filing with respect to all of the Personal Property that is attached to or otherwise constitutes a part of the Real Property, under the Uniform Commercial Code of the State.

5.4 Other Financing Statements

Borrower warrants and represents that there is no financing statement covering the Property, or any part thereof, on file in any public office or, if any such financing statement exists, that it will be paid at or before the closing of the funding of the Loan.

5.5 Further Assurances

Borrower hereby authorizes Lender to deliver and file one or more financing statements and renewals, continuation statements and amendments thereof pursuant to the Uniform Commercial Code of the State in form satisfactory to Lender with respect to the Personal Property and any proceeds thereof, and will pay the cost of filing the same in all public offices wherever filing is deemed by Lender to be necessary or desirable.

## **ARTICLE 6. POWER OF ATTORNEY**

### **6.1 Power of Attorney**

Borrower hereby irrevocably appoints Lender, any designee appointed by Lender, and Lender's successors and assigns, as Borrower's true and lawful attorney-in-fact, to perform and do, in Borrower's name, every act and thing whatsoever requisite and necessary to be done in connection with the Loan and the Property upon a Default under any of the Loan Documents, or as otherwise specifically authorized in any of the Loan Documents. This appointment is coupled with an interest, is irrevocable, and will terminate only upon satisfaction of the Indebtedness. Borrower hereby ratifies and confirms all that Lender will lawfully do or cause to be done as such attorney-in-fact.

## **ARTICLE 7. REMEDIES UPON DEFAULT**

### **7.1 Acceleration upon Default and Available Remedies**

Upon the occurrence of an Event of Default, Lender may accelerate the Maturity Date under the Note whereupon the Indebtedness will immediately become due and payable without presentment, demand, protest or Notice of any kind. When the entire Indebtedness becomes due and payable, either at maturity or because of an Event of Default, without Notice to Borrower and without regard to the adequacy of the security for the Indebtedness, or the solvency or insolvency of Borrower, Lender (or Trustee for the benefit of Lender) may in its discretion:

- 7.1.1 Commence an action to foreclose this Mortgage; conduct a sale of the property; or take action to specifically enforce any of the terms, covenants and conditions hereof.
- 7.1.2 Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of the State, including, without limitation:
  - 7.1.2.1 Either personally or by means of Receiver, taking possession of all or any of the Personal Property and excluding therefrom Borrower and all others claiming under Borrower, and thereafter holding, storing, using, operating, managing, maintaining and controlling, making repairs, replacements, alterations, additions and improvements to and exercising all rights and powers of Borrower in respect of the Personal Property. If Lender demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Documents, Borrower promises and agrees promptly and peacefully to turn over and deliver complete possession thereof to Lender.

- 7.1.2.2 Without notice to or demand upon Borrower, making such payments and doing such acts as Lender may deem necessary to protect its security interest in the Personal Property, including, paying, purchasing, contesting or compromising any Lien that is before or superior to the security interest of Lender, and in exercising any such rights, paying all expenses incurred in connection therewith.
- 7.1.2.3 Requiring Borrower to assemble the Personal Property or any portion thereof, at a place designated by Lender and reasonably convenient to both parties, and promptly to deliver such Personal Property to Lender, or an agent or representative designated by Lender. Lender, and its agents and representatives will have the right to enter upon any or all of the Real Property and other property of Borrower to exercise Lender's rights hereunder.
- 7.1.2.4 Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Lender may determine. Lender may be a purchaser at any such sale. Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender will give Borrower at least ten (10) days prior written Notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such Notice may be mailed to Borrower in accordance with the Loan Agreement.
- 7.1.3 By itself or by agent, with or without bringing any action, suit or proceeding, immediately enter upon and take possession and control of the Property and the Rents, with those rights and powers more particularly set forth herein.
- 7.1.4 Whether or not Lender has brought any action for foreclosure of this Mortgage, make application to a court of competent jurisdiction and obtain the immediate ex parte appointment of a Receiver authorized to immediately enter upon and take possession and control of the Property and the Rents with those rights and powers more particularly set forth herein.
- 7.1.5 Without taking possession and control of the Property, immediately commence action to collect directly all Rents due to Borrower with full rights and powers to notify all Persons liable to make payments of Rents to make said payments directly to Lender or its agents, and Lender or its agents will have the further power and authority to sue for or otherwise collect and receive all Rents.

## 7.2 Foreclosure and Other Actions by Lender

When the Indebtedness becomes due, whether upon Maturity, by acceleration, or otherwise, Lender, or the Trustee for the benefit of Lender, may institute one or more actions of mortgage foreclosure against the Property or take such other action at Law or in equity for the

enforcement of this Mortgage and the Note and realization on the Property as the Law may allow, and may proceed to final judgment and execution for the entire unpaid balance of the Indebtedness, with interest at the Interest Rate stipulated in the Note to the date of the Event of Default, and thereafter at the Default Rate together with all other sums due in accordance with the provisions of the Note, this Mortgage, and the other Loan Documents. Such judgment may include: (a) all Advances made or obligations incurred by Lender with respect to additional sums loaned by Lender to Borrower after the date of this Mortgage and pursuant to the terms of this Mortgage; (b) Impositions, insurance premiums, water or sewer rents, charges or claims, payments of Liens, or repairs to the Property; (c) appraiser's fees, documentary and expert evidence, stenographers' charges, publication costs, and costs of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Lender may deem reasonably necessary (which costs may be estimated as to items to be expended after entry of judgment) either to prosecute such suit or to evidence to bidders at any sale conducted pursuant to such judgment the true condition of the title to or the value of the Property; (d) all costs of suit; (e) the protection of the Property and the maintenance of this Mortgage, including but not limited to reasonable fees of any attorney empowered by Lender in any litigation or proceedings affecting this Mortgage or any other Loan Document, including probate proceedings and Bankruptcy Proceedings or in the preparation for the commencement or defense of any proceeding or threatened suit or proceeding; (f) Lender's exercise of its right of possession as set forth herein; and (g) any other costs incurred by Lender in proceeding hereunder. If the Property consists of separate parcels, Lender may prosecute separate foreclosure actions with respect to one or more of such parcels in such order as Lender determines in its sole discretion. Any real estate or interest therein sold pursuant to any writ of execution issued on a judgment obtained by virtue of the Note or this Mortgage, or pursuant to any other judicial proceedings under this Mortgage, may be sold in one parcel, as an entirety, or in such parcels, and such interests, and in such manner or order as Lender elects in its sole discretion. If Lender elects to exercise its remedies hereunder with respect to a portion, but not all, of the Property securing the Loan, no such election or exercise will impair or otherwise affect Lender's Lien upon or rights with respect to the remainder of such Property. Lender will not be required to accept any part or parts of the Property, as distinguished from the whole, as payment of or for the Indebtedness notwithstanding the value of said part or parts and Lender will not be compelled to accept or allow such apportionment of the Indebtedness to any part of the Property. Borrower agrees that any court having jurisdiction to foreclose this Mortgage may sell the Property in part or in its entirety.

### 7.3 Power of Sale

This Mortgage contains a power of sale as provided for by the Laws of the State. Should Lender elect to foreclose the Mortgage by exercise of the power of sale herein contained, Lender shall notify Trustee and deposit therewith this instrument and all other documentation and evidence as the law or Trustee may require. Upon receipt of such notice from Lender, Trustee shall cause to be given all notices required by law. Trustee shall then sell the Property at the time and place of sale fixed in any notice of sale and as otherwise required by law, either as a whole, or in separate lots or parcels, as Lender shall deem expedient, as allowed by law, to the highest bidder. The trustee may postpone any sale by announcement as required by law. Trustee shall deliver, or cause to be delivered, to such purchaser or purchasers thereof, good and sufficient deed or deeds

conveying the Property so sold. Any person, including, without limitation, as allowed by law, Borrower or Lender, may purchase at such sale.

7.4 Right of Possession upon Event of Default

- 7.4.1 In addition to any other rights granted Lender under this Mortgage, upon the occurrence of an Event of Default, Lender in its sole discretion, but without obligation so to do and without Notice to or demand upon Borrower (except as specifically provided herein), and without releasing Borrower from any Obligation, may make any payment or do any act in such manner and to such extent as Lender may deem necessary to protect its interests in the Property and its rights and remedies under the Loan Documents, including demanding the surrender of possession of the Property in which case Borrower will so surrender to Lender and Lender will be entitled to take actual possession of the Property or any part thereof, personally, or by its agent or attorneys (together, "agents").
- 7.4.2 If Lender or any agent of Lender or any Receiver takes possession of the Property and the Rents, Lender, such agent or Receiver, as applicable, will have and is hereby given the right but will have no obligation, with or without force, or without proceeding by process of Law, to enter upon and take and maintain possession of all or any part of the Property together with all documents, books, records, papers and accounts of Borrower relating to the Property, and may exclude Borrower and Borrower's agents or servants wholly from the Property.
- 7.4.3 If Lender, Lender's agent or the Receiver permits Borrower to remain in possession of any part of the Property, Borrower will pay monthly in advance to Lender, such agent or such Receiver, the fair and reasonable rental value for the use and occupancy of such part of the Property as may be in the actual possession of Borrower, and upon default of any such payment Borrower will vacate and surrender possession of such part of the Property to Lender or to such Receiver and, in default thereof, Borrower may be evicted by Lender.
- 7.4.4 Lender, such agent or such Receiver may, as attorney-in-fact or agent of Borrower or in its own name, hold, operate, manage and control the Property and conduct the business, if any, thereof with full power to use such legal or equitable measures as, in its discretion, Lender may deem proper or necessary to enforce the payment of the Rents, or protect the value, marketability or rentability of the Property; (a) to cancel or terminate any Lease for any cause or on any grounds which would entitle Borrower to cancel such Lease; (b) to extend or modify any then existing Leases and to make new Leases, which extensions, modifications and new Leases may provide for terms to expire beyond the Maturity Date of the Indebtedness and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, will be binding upon Borrower and all Persons whose interests in the Property are subject to the Lien hereof and upon the purchaser or purchasers at any foreclosure sale,



notwithstanding any discharge or satisfaction of the Indebtedness, satisfaction of any foreclosure decree or deficiency judgment, or issuance of any bill of sale or deed to any purchaser; (c) to make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments and improvements to the Property; (d) to insure and reinsure the Property and all risks incidental to possession, operation and management thereof; (e) to collect and receive all Rents and exercise each and every of the rights, privileges and powers herein granted, without notice to Borrower; (f) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Lender; (g) to pay, purchase, contest or compromise any encumbrance, claim, charge, Lien or debt which, may affect or, in Lender's judgment, appear to affect the security of this Mortgage or be prior or superior hereto; (h) in exercising such powers, to pay necessary expenses, including employment of counsel or other appropriate consultants; (i) to elect to disaffirm any Lease or sublease that is then subordinate to the lien hereof, or, at Lender's election, to treat any subordinate Lease as being superior; (j) to exercise all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property; and (k) to exercise such other powers as may otherwise be granted by the court or under applicable Law. Lender or such agent or Receiver will be liable to account only for Rents actually received, and Lender will not be liable to account for Rents held by the Receiver. Notwithstanding the appointment of any Receiver, Lender will be entitled to the continued possession and control of any cash, deposits or instruments at the time held by or payable or deliverable under the terms of this Mortgage to Lender. Notwithstanding the foregoing rights and powers, neither Lender, such agent nor such Receiver will be obligated to perform or discharge any obligation, duty or liability under any Lease. Borrower will and does hereby agree to indemnify and hold Lender, and each such agent and Receiver harmless of and from any and all liability, loss or damage which it may incur in connection with taking any action it is authorized to take under this section and the amount of any such cost, loss, expense or liability, including reasonable attorneys' fees, will be secured by this Mortgage until paid in full.

#### 7.5 No Impairment of Obligations

Neither Borrower nor any other Person now or hereafter obligated for payment of all or any part of the sums now or hereafter secured by this Mortgage will be relieved of such obligation by reason of the failure of Lender to comply with any request of Borrower or of any other Person so obligated to take action to foreclose on this Mortgage or otherwise enforce any provisions of the Mortgage or the other Loan Documents, or by reason of the release, regardless of consideration, of all or any part of the security held for the Indebtedness secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner of the Property or any interest therein and Lender extending the time of payment or modifying the terms of the Mortgage or other Loan Documents without first having given notice to, or obtained the consent of, Borrower or such other Person; and, in the latter event, Borrower and all such other Persons will continue to be liable

to make payments according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Lender.

7.6 Recovery of Expenses by Lender

All expenses incurred by Lender and added to the Indebtedness, will be immediately due and payable by Borrower, together with interest at the Default Rate, and will be secured by this Mortgage. Lender will have the right, from time to time, to bring an action to recover any sums required to be paid by Borrower under the terms of this Mortgage, as they become due, without regard to whether or not the Indebtedness or any other sums evidenced by the Note and secured by this Mortgage will be due, and without prejudice to the right of Lender to bring an action of mortgage foreclosure, or any other action, for any Default by Borrower existing at the time the earlier action was commenced.

7.7 Expenses during Redemption Period

If this Mortgage is foreclosed and the Property or any part thereof is sold or attempted to be sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the lesser of the Default Rate under the Note, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale.

**ARTICLE 8.  
GENERAL PROVISIONS**

8.1 Governing Law

The Loan will be deemed to have been made in the State and will be governed by and construed and enforced in accordance with the Laws of the State. Borrower irrevocably (a) agrees that any suit, action or other legal proceeding arising out of or relating to this Mortgage, the Note or the other Loan Documents may be brought in a court of record in the State or in the Courts of the United States of America located in the State; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Borrower irrevocably consents to the service of any and all process in any such suit, action or proceeding by service of copies of such process to Borrower at its address provided in the Loan Agreement. Nothing in this section, however, will affect the right of Lender to serve legal process in any other manner permitted by law or affect the right of Lender to bring any suit, action or proceeding against Borrower or Borrower's assets in the courts of any other jurisdiction.

8.2 Notice

Each Notice under this Mortgage shall be delivered as set forth in the Loan Agreement.

### 8.3 Additional Security

If Lender holds additional security for any of the Obligations, Lender may enforce the sale thereof or otherwise realize upon such additional security, at its option, either before or concurrently with or after enforcing its remedies hereunder or under any of the Loan Documents.

### 8.4 Actions to Protect Property

Lender will have the power and authority to institute and maintain any suits and proceedings as Lender may deem advisable as follows: (a) to prevent any impairment of the Property by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve and protect its interest in the Property, and (c) to restrain the enforcement of or compliance with any Law that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such Law might impair the security hereunder or be prejudicial to Lender's interest. Any such power and authority of Lender may be exercised through the Trustee if required or permitted by applicable law or custom.

### 8.5 Proof of Claim

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial case or proceedings affecting Borrower or any Guarantor, Lender may, unless prohibited by law, file such proof of claim and other documents as may be necessary or advisable in order to have its claims allowed in such case or proceedings for the entire Indebtedness due at the date of the institution of such case or proceedings, and for any additional amounts which may become due and payable by Borrower after such date whether by the passage of time or by way of acceleration of the due date of such Indebtedness or Obligation as may be provided for in any of the Loan Documents.

### 8.6 Survival of Representations and Warranties

All representations and warranties of Borrower contained herein or in any other Loan Document will survive the making of the Loan and the execution and delivery of the Note, and are material and have been relied upon by Lender, notwithstanding any investigation or inquiry made by Lender. All statements made in any certificate, agreement, or other materials delivered by or on behalf of Borrower in connection with the Loan will be deemed to be representations and warranties of Borrower.

### 8.7 Severability of Provisions

If a court of competent jurisdiction finds any provision of this Mortgage or the other Loan Documents to be invalid or unenforceable as to any Person or circumstance in any state, such finding will not render that provision invalid or unenforceable as to any other Person or circumstance or state. Where permitted by applicable Laws, any provision found invalid or unenforceable will be deemed modified to the extent necessary to be within the limits of enforceability or validity; however, if such provision cannot be deemed so modified, it will be

deemed stricken and all other provisions of this Mortgage in all other respects will remain valid and enforceable.

#### 8.8 Invalidity of Lien

If the lien of this Mortgage is invalid or unenforceable as to any part of the Indebtedness, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the Indebtedness will be paid completely before the payment of the remaining and secured or partially secured portion of the Indebtedness, and all payments made on the Indebtedness, whether voluntary or under foreclosure or other enforcement action or procedure, will be considered to have been first paid on and applied to the full payment of that portion of the Indebtedness which is not secured or not fully secured by the lien of this Mortgage.

#### 8.9 Subrogation

To the extent that proceeds of the Note are used to pay any outstanding Lien against the Property, Lender will be subrogated to any and all rights and Liens held by any such owner or holder, irrespective of whether such Liens are released.

#### 8.10 Merger; Construction Against

If both the lessor's and lessee's estates under any lease or any portion thereof which constitutes a part of the Property will at any time become vested in one owner, this Mortgage and the lien created hereby will not be destroyed or terminated by application of the Doctrine of Merger, and, in such event, Lender will continue to have and enjoy all of the rights and privileges of Lender as purchaser after any foreclosure. No act by or on behalf of Lender or any such purchaser will constitute a termination of any lease or sublease unless Lender or such purchaser will give written notice thereof to such tenant or subtenant.

#### 8.11 Future Advances

In the event further Advances are made to Borrower by Lender, such advances, with interest thereon, will be secured by this Mortgage when evidenced by promissory notes stating that such notes are secured hereby. At no time will the maturity of such further advances secured hereby extend beyond the maturity date of the Note. Notwithstanding the foregoing, this Mortgage is an "open-end" mortgage and shall constitute a lien on the Property for all advances and expenses of Lender, including, but not limited to, interest thereon, regardless of when such advances are made or expenses are incurred.

#### 8.12 Prejudgment Remedies

TO INDUCE LENDER TO MAKE THE LOAN, BORROWER AGREES THAT THE LOAN EVIDENCED BY THE NOTE, THIS MORTGAGE AND ALL OTHER LOAN DOCUMENTS ARE AND EVIDENCE A COMMERCIAL TRANSACTION AND NOT A CONSUMER TRANSACTION, AND WAIVES ANY AND ALL RIGHT BORROWER MAY HAVE UNDER APPLICABLE FEDERAL OR STATE LAWS TO NOTICE AND HEARING

OR TO REQUIRE POSTING OF ANY BOND BEFORE ISSUANCE OF PREJUDGMENT REMEDIES, AND AUTHORIZES LENDER'S ATTORNEY TO ISSUE A WRIT FOR ANY PREJUDGMENT REMEDY WITHOUT COURT ORDER PROVIDED THE COMPLAINT SETS FORTH A COPY OF THIS WAIVER.

8.13 Joint and Several Obligations

If this Mortgage is executed by more than one Person as Borrower, the obligations of such Persons hereunder will be joint and several Obligations.

8.14 Trustee; Substitute Trustee; Action by Single Trustee

Trustee may resign by an instrument in writing addressed to Lender, or Trustee may be removed at any time with or without cause by an instrument in writing executed by Lender. In case of the death, resignation, removal or disqualification of Trustee or if for any reason Lender shall deem it desirable to appoint a substitute or successor trustee to act instead of the herein named Trustee or any substitute or successor trustee, then Lender shall have the right and is hereby authorized and empowered to appoint a successor trustee, or a substitute trustee, without other formality than appointment and designation in writing executed by Lender, and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the Indebtedness hereby secured has been paid in full or until the Property is sold hereunder. In the event the Indebtedness hereby secured is owned by more than one Person or entity, the holder or holders of not less than a majority in the amount of such Indebtedness shall have the right and authority to make the appointment of a successor or substitute trustee provided for in the preceding sentence. Such appointment and designation by Lender or by the holder or holders of not less than a majority of the Indebtedness hereby secured shall be full evidence of the right and authority to make the same and of all facts therein recited. If Lender is a corporation and such appointment is executed in its behalf by an officer of such corporation, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation. Upon the making of any such appointment and designation, all of the estate and title of Trustee in the Property shall vest in the named successor or substitute trustee and such successor or substitute Trustee shall thereupon succeed to and shall hold, possess and execute all the rights, powers, privileges, immunities and duties herein conferred upon the Trustee; but nevertheless, upon the written request of Lender or of the successor or substitute Trustee, Trustee ceasing to act shall execute and deliver an instrument transferring to such successor or substitute Trustee all of the estate and title in the Property of Trustee so ceasing to act, together with all the rights, powers, privileges, immunities and duties herein conferred upon Trustee, and shall duly assign, transfer and deliver any of the properties and moneys held by said Trustee hereunder to said successor or substitute Trustee. All references herein to Trustee shall be deemed to refer to Trustee (including any successor or substitute appointed and designated as herein provided) from time to time acting hereunder. Borrower hereby ratifies and confirms any and all acts which the herein named Trustee or its successor or successors, substitute or substitutes, in this Mortgage, shall do lawfully by virtue hereof. Trustee shall not be liable for any error of judgment or act done by Trustee, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's willful

misconduct. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by it in good faith to be genuine. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by it hereunder. BORROWER WILL REIMBURSE LENDER AND TRUSTEE FOR, AND INDEMNIFY, SAVE AND HOLD LENDER AND TRUSTEE HARMLESS AGAINST, ANY AND ALL LIABILITY AND EXPENSES WHICH MAY BE INCURRED BY LENDER OR TRUSTEE IN THE PERFORMANCE OF TRUSTEE'S DUTIES HEREUNDER, INCLUDING, BUT NOT LIMITED TO, ANY LIABILITY AND EXPENSES BASED UPON OR ARISING OUT OF NEGLIGENCE OR STRICT LIABILITY.

8.15 Time of Essence

Time is of the essence in all matters pertaining to this instrument.

8.16 Jury Trial Waiver

BORROWER AND LENDER HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT NOW OR HEREAFTER EXISTS WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER, AND IS INTENDED TO ENCOMPASS, INDIVIDUALLY, EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY MAY OTHERWISE ACCRUE. LENDER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER.

8.17 Effective Date

In the event that this instrument is executed and delivered by the parties without entering an effective date, the effective date, unless otherwise provided for herein, will be deemed to be the date on which the Loan proceeds were disbursed to Borrower.

(Execution pages follow)



**EXHIBIT A**  
**DESCRIPTION OF THE LAND**

**PARCEL 1:**

Lots 1 and 2, PARRISH CREEK SUBDIVISION, according to the official plat thereof, on file and of record in the office of the Davis County Recorder, recorded December 29, 2017 as Entry No. 3067633 in Book 6921 at Page 119.

**PARCEL 1A:**

Appurtenant easements as contained in the Declaration of Covenants, Conditions, Restrictions and Easements for Parrish Creek, recorded October 31, 2017 as Entry No. 3055345 in Book 6882 at Page 1640.



**EXHIBIT B**  
**PERMITTED EXCEPTIONS**

1. Taxes for the year 2021 and subsequent years that not yet due and payable.
2. Charges and assessments levied as a result of the location of the Land within the boundaries of Centerville City, Weber Basin Water Conservancy District, Davis County Mosquito Abatement District, South Davis Sewer Improvement District, South Davis Recreation District, South Davis Metro Fire District, Barnard Creek Community Development Area, that are not yet due and payable.
3. Ordinance No. 2013-09 Adopting the Barnard Creek Community Development Project Area Plan, recorded August 14, 2013 as Entry No. 2760362 in Book 5831 at Page 880.
4. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed herein.
5. Claim, right, title or interest to water or water rights whether or not shown by the Public Records.
6. Easements, notes and restrictions as shown on the recorded plat for Parrish Creek Subdivision, recorded December 29, 2017 as Entry No. 3067633 in Book 6921 at Page 119, as shown on ALTA/NSPS Land Title Survey prepared by Gary Christensen of CIR Civil Engineering & Surveying dated January 15, 2021 and last revised February 2, 2021, Project ID: 21-02-01 ("Survey").
7. Easement in favor of Pioneer Electric Power Company, to construct, reconstruct, operate, maintain and repair electric transmission and other equipment over, under and across a portion of the subject Land. Said Easement recorded November 2, 1896 in Book A of Liens and Leases, at Page 180.
8. Right of Way and Easement Grant, in favor of Wasatch Gas Co., to lay, maintain, operate, repair, inspect, protect, remove and replace pipelines, valves, valve boxes, and other gas transmission and distribution facilities, through and across a portion of the subject Land. Said Right of Way and Easement Grant recorded March 25, 1929, as Entry No. 45308, in Book 1 of Liens and Leases, at Page 11.
9. Deed of Easement in favor of The United States of America, acting pursuant to the provisions of the Act of June 17, 1902 (32 Stat., 388) and acts amendatory thereof or supplementary thereto for a perpetual easement to construct, reconstruct, operate and maintain an irrigation waterway and incidental purposes, by instrument recorded May 26, 1959, as Entry No. 189678, in Book 164, at Page 178, as shown on the Survey.

10. Easement in favor of PacifiCorp, an Oregon corporation, its successors and assigns for an easement to locate, maintain, repair, replace anchors, guys, and other appurtenances to its transmission, distribution and communication lines and incidental purposes, by instrument dated September 15, 2003 and recorded October 22, 2003, as Entry No. 1925248, in Book 3401, at Page 111, as shown on the Survey.

11. Underground Right of Way Easement in favor of Rocky Mountain Power, an unincorporated division of PacifiCorp to construct, reconstruct, operate, maintain and repair electric transmission and other equipment and incidental purposes, over, under and across a portion of the subject Land. Said Easement recorded April 26, 2019, as Entry No. 3156231, in Book 7250, at Page 1901, as shown on the Survey.

12. Easement and right of way as they may pertain to a county storm drain ditch along the Southern boundary of subject Land, as evidenced by visual inspection, as shown on the Survey.

13. Restrictions, reservations, conditions and lack of access to the adjoining expressway known as Project No. 0067 (Legacy Parkway) as set forth in those certain Quit Claim Deeds recorded September 14, 2010 as Entry No. 2552782 in Book 5108 at Page 975 and also recorded September 14, 2010 as Entry No. 2552783 in Book 5108 at Page 978 and also recorded September 14, 2010 as Entry No. 2552784 in Book 5108 at Page 981.

14. The effects, if any, of that certain Notice of Agreement and Covenant Not to Sue Between and Among the United States on Behalf of the Environmental Protection Agency and the Utah Transit Authority, recorded November 18, 2008 as Entry No. 2405404 in Book 4659 at Page 157.

15. Declaration of Restrictions by U.S.B. Properties, Ltd. a Utah limited partnership, dated April 30, 2012 and recorded April 30, 2012 as Entry No. 2658505 in Book 5511 at Page 1898.

16. Terms, provisions, covenants, conditions, restrictions, easements, charges, assessments and liens provided for in that certain Instrument recorded October 31, 2017 as Entry No. 3055346 in Book 6882 at Page 1640.

17. Subject to the following matters disclosed on that certain survey prepared by CIR Engineering, L.L.C., having been certified under the date of January 15, 2021, as Job No. 21-02-01, by Gary Christensen, a Registered Land Surveyor holding License No. 5152617:

- a. Existing water lines as shown
- b. Existing sanitary sewer lines as shown
- c. Existing utilities, including but not limited to overhead power line(s), light pole(s), power pole(s), electric box(es), electric meter(s), water manhole(s), sanitary sewer manhole(s), fire hydrant(s), storm drain manhole(s), storm drain catch basin(s), water valve(s) located on and

across the Land without dedicated easements and any prescriptive easement rights associated with the same

18. Landlord's Release recorded August 19, 2019 as Entry No. 3180776 in Book 7328 at Page 1950.

19. Rights of parties in possession by reason of any unrecorded leases with no rights of first refusal or options to purchase any portion of the Land.