



\*W2880450\*

**WHEN RECORDED MAIL TO:**

Rocky Mountain Community Reinvestment Corporation  
Attn: Production Manager  
64 East Winchester Street, Suite 230  
Salt Lake City, Utah 84107

E# 2880450 PG 1 OF 26  
Leann H. Kilts, WEBER COUNTY RECORDER  
25-Sep-17 0332 PM FEE \$60.00 DEP DA  
REC FOR: INWEST TITLE - WEST HAVEN  
ELECTRONICALLY RECORDED

Inwest # 220831

**Tax Parcel I.D. No(s):01-023-0021**

#01-023-0021

---

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

---

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (hereinafter, this "Instrument") is made as of this 25 day of September, 2017, among the Trustor, IMAGINE JEFFERSON 2 LLC, a Utah limited liability company, whose address is 2604 Jefferson Avenue, Ogden, Utah 84401 (hereinafter, "Borrower"), the Trustee, STEWART TITLE GUARANTY COMPANY, whose address is 2037 West Commerce Way, West Haven, UT 84401 (hereinafter, "Trustee"), and the Beneficiary, ROCKY MOUNTAIN COMMUNITY REINVESTMENT CORPORATION, a Utah nonprofit corporation, whose address is 64 East Winchester Street, Suite 230, Salt Lake City, Utah 84107 (hereinafter, "Lender").

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, all of Borrower's present and future estate, right, title and interest in and to the following property, rights, privileges and interests, to-wit:

I.

That certain tract of real property (hereinafter referred to as the "Tract") lying in Weber County, State of Utah, which is more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein.

Together with all rights-of-way, easements, tenements, hereditaments, appurtenances, royalties, mineral, oil and gas rights and profits, water, water rights and water stock of Borrower belonging to or in any way appertaining to the Tract.

Together with all right, title and interest of Borrower, now owned or hereafter acquired, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Tract.

Together with all right, title and interest of Borrower, now owned or hereafter acquired, in and to any and all sidewalks and alleys, and all strips and gores of land, adjacent to or used in connection with the Tract.

## II.

All of Borrower's interests presently owned or hereafter acquired in all buildings, structures, and improvements now or at any time hereafter erected, constructed, or situated upon the Tract or any part thereof, and all apparatus, fixtures, engines, boilers, incinerators, building materials, equipment, inventory, appliances and goods of every nature whatsoever now or hereafter located in, or on, and used, or intended to be used in connection with the Tract, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related fixtures, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, awnings, storm windows, storm doors, screens, blinds, shades, paneling, attached floor coverings, antennas, trees and plants, including replacements and additions thereto, and proceeds and products thereof, all of which shall be deemed to be and remain a part of the Tract, together with any and all replacements of any of the foregoing and any and all additions thereto.

## III.

All of Borrower's interests in all permits, contracts, licenses and related rights and benefits associated with the development and use of the Tract including construction contracts, rights to plans and specifications for construction, and governmental permits relating to the construction of improvements on the Tract, or occupancy or use of the Tract, and all names by which the Tract may be known, trademarks and goodwill, and all proceeds from any of the foregoing.

## IV.

All of Borrower's interests presently owned or hereafter acquired in personal property associated with the development and use of the Tract, including, but not limited to, furniture, materials, furnishings, goods, including building materials located on or off the Tract, machinery, accounts, instruments, chattel paper, general intangibles, contract rights, investment property, and all items listed in II or III above to the extent such items are deemed to be personal property under the Utah Uniform Commercial Code, and in the proceeds and products of any of the foregoing.

## V.

All awards for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of the Tract or of any improvements now or hereafter situated thereon or any estate or easement therein, and all proceeds of insurance paid on account of partial or total destruction of improvements on the Tract, all of which awards and proceeds are hereby assigned to Lender, which is hereby authorized to collect and receive such awards and proceeds and to give proper receipts and acquittances therefor.

## VI.

All right, title and interest of Borrower in and to any and all present and future leases, rental agreements, subleases, licenses and tenancies of any portion of the Tract or of any space in any building erected upon the Tract, and the income, receipts, rents, issues and profits therefrom and of any improvements now or hereafter situated on the Tract.

## VII.

All right, title and interest of Borrower in and to all unearned premiums accrued, accruing, or to accrue under any and all insurance policies now or hereafter obtained by Borrower pursuant to the provisions hereof.

All of the real and personal property, rights, privileges and interests described in the foregoing items I through VII and hereby granted, conveyed and assigned are hereinafter collectively referred to as the "Property."

TO SECURE TO LENDER (a) the repayment of the indebtedness evidenced by Borrower's Promissory Note dated of even date herewith (the "Note"), in the original principal amount of THREE MILLION THREE HUNDRED SIXTY SEVEN THOUSAND SEVEN HUNDRED THIRTY FOUR AND NO/100 DOLLARS (\$3,367,734.00), with interest thereon; (b) any extensions, renewals or modifications of the Note or the obligations evidenced thereby, regardless of the extent of or the subject matter of any such extensions, renewals or modifications; (c) the repayment of any future advances, with interest thereon, made by Lender to Borrower pursuant to paragraph 32 hereof ("Future Advances"); (d) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; (e) the performance of the covenants and agreements of Borrower herein contained; (f) the performance of the covenants and agreements of Borrower set forth in that certain Loan Agreement – LIHTC I Loan dated as of September 22, 2015, as amended by that certain Loan Modification Agreement – LIHTC I Loan dated as of the date hereof (as the same may be subsequently amended or modified, the "Loan Agreement"), including, without limitation, those certain rent rate and tenant income restrictions set forth therein, and any other document executed by Borrower in connection therewith; and (g) the payment and performance of any other indebtedness, obligation or agreement which recites by its own terms that it is secured by this Instrument. The foregoing items (a) through (g) are sometimes referred to herein as the "Obligations."

Borrower covenants that Borrower is lawfully seised of fee title to the Tract and the improvements thereon hereby conveyed and has the right to grant, convey and assign all of its interest in the Property, that the Property, except as previously disclosed to Lender, is free and clear of all liens, claims and encumbrances, and that Borrower will warrant and defend generally the title to the Property against all claims and demands.

Borrower and Lender covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Instrument.

## 2. FUNDS FOR TAXES, INSURANCE AND OTHER ITEMS.

(a) Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly installments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "T & I Funds") equal to one-twelfth of the sum of (i) the yearly taxes and assessments, including water and sewer charges, which may be levied on the Property, (ii) the yearly ground rents, if any, (iii) the yearly premium installments for fire and other hazard insurance, rent loss insurance and such other insurance covering the Property as Lender may require pursuant to paragraph 5 hereof, (iv) the yearly premium installments for mortgage insurance, if any, and (v) if this Instrument is on a leasehold, the yearly fixed rents, if any, under the ground lease, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Lender shall not be obligated to pay to or credit Borrower with any interest, earning or profits in connection with the T&I Funds, and shall not charge Borrower for any administration thereof.

(b) Debt Service and Operating Reserve. As additional security for the Obligations, unless otherwise set forth in the Loan Agreement, a Debt Service and Operating Reserve shall be funded and administered as follows:

(i) Funding. Unless waived in writing by Lender, upon or prior to the date hereof, Borrower shall pay to Lender that amount designated under the "Debt Service and Operating Reserve" provision set forth in Part I of the Loan Agreement (herein "Debt Service/Operating Funds"). In the event the balance of the Debt Service and Operating Reserve falls to less than the Replenishment Debt Service and Operating Reserve Balance (as defined in the Loan Agreement or, if not defined therein, then seventy five percent (75%) of the initial required reserve amount) Lender shall provide written notice to the Borrower together with a statement of the replenishment amount then required, and Borrower shall promptly replenish the Debt Service and Operating Reserve accordingly from all net positive cash generated by the operation of the Project, subject only to payments required under the Note, this Instrument, the Loan Agreement and any other document, instrument or agreement executed in connection therewith (collectively, the "Loan Documents"), payments of principal and/or interest required under such other debt secured by the Property and expressly approved by Lender and a reasonable property management fee set forth in an operating budget approved by Lender, and in any event not more than the amount of the property management fee paid by Borrower during its most recent break-even fiscal year.

(ii) Disbursements. Until the Note is paid in full, Lender may, in its sole discretion, upon Borrower's failure to make any scheduled installment payment of principal and interest under the Note, utilize Debt Service Funds to make such payment, or to make an advance payment of principal under the Note and re-amortize the then-remaining principal balance due under the Note so as to reduce future installment payments. In addition, Lender shall, upon Borrower's request but not more frequently than once in any ninety (90) day period, disburse Debt Service/Operating Funds to

Borrower, to the extent such funds are available, in the amount paid or incurred by Borrower for operating the Project within ten (10) days following:

(a) Request by Borrower. The receipt by Lender of a written request from Borrower for disbursement and a certification by Borrower in a form approved in writing by Lender that the applicable expense has been incurred;

(b) Verification of Costs. The delivery to Lender of invoices, receipts or other evidence satisfactory to Lender, verifying the cost of such expense; and,

(c) Project Budget. The delivery to Lender of Borrower's current operating budget showing budgeted expenses and year to date actual expenses for approval by Lender, which requirement shall continue in force for Borrower's subsequent fiscal years until the Debt Service and Operating Reserve is fully replenished to its required amount.

(iii) Lender's Rights.

(a) In advancing any Debt Service/Operating Funds, Lender shall be entitled to rely on such request from Borrower without any inquiry into the accuracy, validity or contestability of any such amount.

(b) In the event any payment of principal and interest due under the Note, or the amount of any T & I Funds and/or any other funds required by the Note, this Instrument, the Loan Agreement, or any other of the Loan Documents is not timely paid, Lender may advance funds from the Debt Service/Operating Reserve for such payments.

(c) In the event Lender receives notice of any overdue amount payable with respect to services rendered in behalf of the operation of the Project, or, if in Lender's reasonable discretion it is necessary to advance funds pursuant to Section 8 hereof, Lender may, in its sole discretion and without any inquiry into the accuracy, validity or contestability of any such amount, make such payment from the Debt Service and Operating Reserve. Nothing contained in this Section will relieve Borrower of the obligation to pay all costs incurred by Borrower to operate the Project.

(d) At the maturity of the Note, any remaining Debt Service and Operating Reserve balance may be applied to the then current principal of the Note so long as no Event of Default has occurred and is continuing hereunder or under the Note or Loan Agreement.

(c) Capital Replacement Reserve.

(i) Funding. As additional security for the Obligations, unless waived in writing by Lender, commencing upon the occurrence of such event or events specified in the Loan Agreement in connection with the capital reserve, until the Note is paid in full, Borrower shall pay to Lender on the day monthly installments of principal or interest are due and payable under the Note (or on another day designated in writing by Lender), those monthly amounts designated under the "Capital Replacement Reserve" provision to the extent set forth in Part I of the Loan Agreement (herein, collectively, "Replacement Funds").

(ii) Disbursements. Until the Note is paid in full, Lender shall, upon Borrower's request but not more frequently than once in any ninety (90) day period, disburse Replacement Funds to Borrower, in the amount paid or incurred by Borrower for repairs or replacements as agreed to on the Capital Replacement Reserve Analysis (as defined in the Loan Agreement) following:

(a) Request. The receipt by Lender of a Capital Replacement Reserve Disbursement Request and Certification, in a form approved by Lender, that the applicable repairs or replacements have been completed;

(b) Verification of Costs. The delivery to Lender of invoices, receipts or other evidence satisfactory to Lender, verifying the cost of performing such repairs or replacements; and,

(c) Less than \$25,000. For disbursement requests of less than \$25,000, the delivery to Lender of affidavits, lien waivers or other evidence reasonably satisfactory to Lender showing that all materialmen, laborers, subcontractors, and any other party who might or could claim statutory or common law liens and are furnishing or have furnished material or labor to the Property have been paid all amounts due for labor and materials furnished to the Property; and

(d) \$25,000 or More. For disbursement requests of \$25,000 or more, (1) delivery to Lender of all of the items required by the immediately foregoing subsection (c); (2) delivery to Lender of a certification from an inspecting architect or other third party acceptable to Lender describing the completed repairs or replacement and verifying the completion and cost thereof; and (3) delivery to Lender of a new certificate of occupancy for the portion of the Property so repaired or replaced if said new certificate of occupancy is required by law, or a certification by Borrower that no new certificate of occupancy is required.

(iii) Lender's Rights. In advancing any Replacement Funds, Lender shall be entitled to rely on such request from Borrower without any inquiry into the accuracy, validity or contestability of any such amount. In addition, Lender may, at Borrower's expense, make or cause to be made an inspection of the Property in

connection with each such request to determine in Lender's reasonable judgment whether repairs or replacement of any of the Property is required. Lender shall provide Borrower with a written description of such required repairs and replacements and Borrower shall complete the same to the reasonable satisfaction of Lender within ninety (90) days after the receipt of such description from Lender, or such later date as may be approved by Lender in its sole discretion.

(d) Other Impositions. Lender may require Borrower to pay to Lender, in advance, such other funds for other taxes, charges, premiums, assessments, and impositions (the "Other Impositions") in connection with Borrower or the Property which Lender shall reasonably deem necessary to protect Lender's interests (herein "Other Imposition Funds"). Unless otherwise provided by applicable law, Lender may require funds for Other Impositions to be paid by Borrower in a lump sum or in periodic installments, at Lender's option. Lender shall not be obligated to pay to or credit Borrower with any interest, earning or profits in connection with the Other Imposition Funds, and shall not charge Borrower for any administration thereof.

(e) Security Interest in Funds. As additional security for the payment and performance by Borrower of the Obligations, Borrower hereby unconditionally and irrevocably assigns, conveys, pledges, mortgages, transfers, delivers, deposits, sets over, and confirms unto Lender, and hereby grants to Lender full control of and a security interest in (i) the T&I Funds, the Debt Service/Operating Funds, the Replacement Funds, and the Other Imposition Funds (collectively, the "Funds"), (ii) the accounts into which the Funds have been deposited, (iii) all insurance on said accounts, (iv) all accounts, contract rights, and general intangibles or other rights and interest pertaining thereto, (v) all sums now or hereafter therein or represented thereby, (vi) all replacements, substitutions, or proceeds thereof, (vii) all instruments and documents now or hereafter evidencing the Funds or such accounts, (viii) all powers, options, rights, privileges, and immunities pertaining to the Funds (including the right to make withdrawals therefrom), and (ix) all proceeds of the foregoing. Borrower hereby authorizes and consents to the deposit of Funds in accounts held in Borrower's name or the name of any entity servicing the Note for Lender and hereby acknowledges and agrees that Lender, or at Lender's election, such servicing agent, shall have exclusive control over said accounts. Notice of the assignment and security interest granted to Lender herein may be delivered by Lender at any time to the financial institution wherein the Funds have been or will be deposited, and Lender, or such servicing entity, shall have possession of all evidences of such accounts. Borrower hereby assumes all risk of loss with respect to amount of Funds so deposited (other than losses resulting from the gross negligence or willful misconduct of Lender) and hereby waives all right to withdraw Funds except as provided for in this Instrument. Borrower hereby knowingly, voluntarily and intentionally stipulates, acknowledges and agrees that any advance of the Funds as set forth herein is at Borrower's direction and is not the exercise by Lender of any right of set-off or other remedy upon a Default or an Event of Default.

(f) Benefit; Administration. The Funds shall not, unless otherwise explicitly required by applicable law, be or be deemed to be held by Lender in escrow or trust for the benefit of Borrower, but solely for the benefit and protection of Lender. At Lender's option and in its discretion, Lender may either hold Funds in one or more separate account(s) or commingle Funds with the general funds of Lender; provided, that the Funds shall be held in an institution(s)



the deposits or accounts of which are insured or guaranteed by a federal or state agency (including an affiliate of Lender). Lender shall apply the Funds to pay items for which such Funds are held so long as Borrower is not in breach of any covenant or agreement of Borrower in this Instrument. Any waiver by Lender of a requirement that Borrower pay any Funds may be revoked by Lender, in Lender's sole discretion, at any time upon notice in writing to Borrower. Upon assignment of this Instrument by Lender, any Funds shall be assigned to and delivered to the assignee and any responsibility of Lender, as assignor, with respect thereto shall terminate. Borrower and Lender may agree in writing that interest on the Funds shall be paid to Borrower, and unless such agreement is made, Lender shall not be required to pay Borrower any interest, earnings or profits on the Funds or to account to Borrower for any earnings or profits made by Lender from any use of the Funds. Lender shall make no charge for so holding and applying the Funds, analyzing any accounts in which Funds are deposited, or for verifying and compiling the assessments and bills, unless Lender pays Borrower interest, earnings or profits on the Funds and applicable law permits Lender to make such a charge, in which event Lender may elect to make such charge in its sole discretion. Lender shall give to Borrower, without charge, an annual accounting of the Funds in Lender's normal format showing credits and debits to the Funds and the purpose for which each debit to the Funds was made.

If the amount of any Funds held by Lender at the time of the annual accounting thereof shall exceed the amount deemed necessary by Lender to provide for the payment of items for which such Funds are held, such excess shall be credited to Borrower on the next installment or installments of Funds due. If at any time the amount of the Funds held by Lender shall be less than the amount deemed necessary by Lender for the payment of items for which such Funds are held, as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within thirty days after notice from Lender to Borrower requesting payment thereof.

Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may apply, in any amount and in any order as Lender shall determine in Lender's sole discretion, any Funds held by Lender at the time of application (i) to pay items for which any Funds are held which are then due and payable, or (ii) as a credit against sums secured by this Instrument. Upon payment in full of all sums secured by this Instrument, Lender shall promptly refund to Borrower any remaining Funds held by Lender.

3. APPLICATION OF PAYMENTS. Unless applicable law or the Note provides otherwise, all payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order of priority: (i) amounts payable to Lender by Borrower under paragraph 2 hereof; (ii) interest payable on the Note; (iii) interest payable on advances made pursuant to paragraph 8 hereof; (iv) principal of advances made pursuant to paragraph 8 hereof; (v) principal of the Note; (vi) interest payable on any Future Advance, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the amounts of interest payable on the Future Advances in such order as Lender, in Lender's sole discretion, may determine; (vii) principal of any Future Advance, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the principal balances of the Future Advances in such order as Lender, in Lender's sole discretion may determine; and (viii) any other sums secured by this Instrument in



such order as Lender, at Lender's option, may determine; provided, however, that Lender may, at Lender's option, apply any sums payable pursuant to paragraph 8 hereof prior to interest on and principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this paragraph 3.

4. CHARGES; LIENS. Borrower shall pay all taxes, assessments, premiums and Other Impositions attributable to the Property, by Borrower making payment, when due, directly to the payee thereof, or, at Lender's option, in the manner provided under paragraph 2 hereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph 4, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, Borrower shall not allow any lien inferior to this Instrument to be perfected against the Property. Notwithstanding the foregoing, Borrower shall have the right to contest in good faith the validity, amount and enforceability of any such lien so long as Borrower shall post a bond, or such other security as Lender may reasonably require, to protect the interest of Lender in the Property.

5. HAZARD INSURANCE. Borrower shall keep the improvements now existing or hereafter erected on the Tract and all Borrower's tangible personal property presently owned or hereafter acquired and wherever located at or on the Tract insured by carriers at all times satisfactory to Lender against loss by fire, theft, hazards included within the term "extended coverage," rent loss and such other hazards, casualties, liabilities and contingencies as Lender (and, if this Instrument is on a leasehold, the ground lease) reasonably shall require and in such amounts and for such periods as Lender reasonably shall require. All premiums on insurance policies shall be paid, at Lender's option, in the manner provided under paragraph 2 hereof, or by Borrower making payment, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgagee clause in favor of and in form acceptable to Lender. Lender shall have the right to hold true and correct copies of the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender. If this Instrument is on a leasehold, Borrower shall furnish Lender a duplicate of all policies, renewal notices, renewal policies and receipts of paid premiums if, by virtue of the ground lease, the originals thereof may not be supplied by Borrower to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and empowers Lender, at Lender's option, as attorney-in-fact for Borrower, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this paragraph 5

shall require Lender to incur any expense or take any action hereunder. Borrower further authorizes Lender, at Lender's option, (i) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property or (ii) to apply the balance of such proceeds to the payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof (subject, however, to the rights of the lessor under the ground lease if this Instrument is on a leasehold).

Notwithstanding any inconsistent terms in the preceding paragraph, in the event of destruction of a portion of the Property which is (i) less than fifty percent (50%) of the replacement cost of improvements located on the Tract as estimated by Lender in good faith, or (ii) fifty percent (50%) or greater of the replacement cost of such improvements and Lender's receipt of notice from Borrower, within sixty (60) days of said destruction, of its intent to use the proceeds to repair or restore the Property to its original condition or such other condition as Lender reasonably may approve in writing, and provided Borrower is not in default hereunder or under the Note, Lender shall hold the balance of insurance proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property; provided, however, if Lender determines that the insurance proceeds shall not be sufficient to reconstruct or repair the Property to Lender's reasonable satisfaction, Borrower shall deposit in an interest bearing account maintained by Lender, within thirty days of Lender's request, an amount determined by Lender which, when added to the insurance proceeds, shall be sufficient to restore the Property to the equivalent of its original condition or such other condition as Lender may approve in writing.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amounts of such installments. If the Property is sold pursuant to paragraph 27 hereof, or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. PRESERVATION AND MAINTENANCE OF PROPERTY; INJURY TO PROPERTY; LEASEHOLDS. Borrower (i) shall not commit waste or permit impairment or unusual deterioration of the Property, (ii) shall not abandon the Property, (iii) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (iv) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon, in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary

to keep such items in good repair, (v) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property (including, but not limited to, zoning laws, building codes, and the requirements of Title III of the Americans With Disabilities Act of 1990) and with any covenants and restrictions running with the land, (vi) shall provide for professional management of the Property by Borrower, or an affiliate of Borrower, or a rental property manager satisfactory to Lender pursuant to a contract approved by Lender in writing, unless such requirement shall be waived by Lender in writing, (vii) subject to the restrictions on rents to which the Property is subject, shall generally operate and maintain the Property in a manner to ensure maximum rentals, and (viii) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any third party action or proceeding purported to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind, or incident to the alteration by Borrower or a tenant of any leasehold improvements or fixtures in any tenant space resulting in the installation of improvements and fixtures with a comparable or greater value than those removed.

All causes of action of Borrower, whether accrued before or after the date of this Instrument, for damage or injury to the Property or any part thereof, or in connection with the transaction financed in whole or in part by the funds loaned to Borrower by Lender or in connection with or affecting the Property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, but not including causes of action of Borrower against Lender, are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid to Lender who, after deducting therefrom all its expenses, including reasonable attorney's fees, may apply such proceeds to the sums secured by this Instrument or to any deficiency hereunder or may release any moneys so received by it or any part thereof, as Lender may elect. Lender may at its option appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute such further assignments and other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

7. **USE OF PROPERTY.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

8. **PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole

discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, (iii) procurement of satisfactory insurance as provided in paragraph 5 hereof, and (iv) if this Instrument is on a leasehold, exercise of any option to renew or extend the ground lease on behalf of Borrower and the curing of any default of Borrower in the terms and conditions of the ground lease.

Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable laws, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action hereunder.

9. INSPECTION. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall make a reasonable effort to provide Borrower with notice of any such inspection except in the event of default under the Note, or impairment or risk of impairment to the Property as determined in the reasonable judgment of Lender.

10. BOOKS AND RECORDS. Borrower shall keep and maintain at all times at Borrower's address stated herein, or such other place as Lender may approve in writing, complete and accurate books of accounts and records in accordance with generally accepted accounting principles adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, budgets, change orders, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Upon Lender's request, Borrower shall furnish to Lender, within one hundred and twenty (120) days after the end of each fiscal year of Borrower, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Borrower and, if Lender shall require, by an independent certified public accountant. Borrower shall furnish, together with the foregoing financial statements and at any other time upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid.

11. CONDEMNATION. Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or

claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender subject, if this Instrument is on a leasehold, to the rights of lessor under the ground lease, and subject to the rights of any tenants of the Property for relocation expenses awarded exclusive to such tenants.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, with the balance, if any, to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

Notwithstanding any inconsistent terms in the preceding paragraph, in the event of destruction of a portion of the Property which is (i) less than fifty percent (50%) of the replacement cost of improvements located on the Tract as estimated by Lender in good faith, or (ii) fifty percent (50%) or greater of the replacement cost of such improvements and Lender's receipt of notice from Borrower, within sixty (60) days of said destruction of its intent to use the proceeds to repair or restore the Property to its original condition or such other condition as Lender reasonably may approve in writing, and provided Borrower is not in default hereunder or under the Note, Lender shall hold the balance of any such condemnation awards, proceeds, payments or damages to be used to reimburse Borrower for the cost of reconstruction and repair of the Property; provided, however, if Lender determines that the condemnation awards, proceeds, payments or damages shall not be sufficient to reconstruct or repair the Property to Lender's reasonable satisfaction, Borrower shall deposit in an interest bearing account maintained by Lender, within thirty days of Lender's request, an amount determined by Lender which, when added to the condemnation awards, proceeds, payments or damages, shall be sufficient to restore the Property to the equivalent of its original condition or such other condition as Lender may approve in writing.

12. BORROWER AND LIEN NOT RELEASED. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of the indebtedness or any part thereof, reduce the payments thereon, release anyone liable on the Obligations, accept a renewal note or notes therefor, modify the terms of the Obligations, including the time of payment or performance, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Lender pursuant to the terms of this paragraph 12 shall not affect the



obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment or performance of the Obligations secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred, at Lender's option, for any such action if taken at Borrower's request.

13. **FORBEARANCE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under paragraphs 5 and 11 hereof operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

14. **ESTOPPEL CERTIFICATE.** Borrower shall within fifteen days of a written request from Lender furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

15. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** This Instrument is intended to be a security agreement pursuant to the Utah Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Utah Uniform Commercial Code, and Borrower hereby grants lender a security interest in these items and in the proceeds and products of such items to secure the Obligations of Borrower to Lender as defined herein. This Instrument shall cover all property now or hereafter affixed or attached to or incorporated upon the Tract, which, to the fullest extent permitted by law, shall be deemed fixtures and part of the Property. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to the items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements which Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Utah Uniform Commercial Code any other security interest in the items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this

Instrument, Lender shall have the remedies of a secured party under the Utah Uniform Commercial Code or other applicable law, and, at Lender's option, may also invoke the remedies provided in paragraph 27 of this Instrument as to such items. In exercising any of these remedies, Lender may proceed against the real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Utah Uniform Commercial Code or of the remedies provided in paragraph 27 of this Instrument.

16. LEASES OF THE PROPERTY. As used in this paragraph 16, the word "lease" shall mean "sublease" if this Instrument is on a leasehold. Borrower shall comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower, at Lender's request, shall furnish Lender with executed copies of all leases now existing or hereafter made of all or any part of the Property, and all leases now or hereafter entered into will be in form and substance subject to the approval of Lender. All leases other than Borrower's lease of the Property shall specifically provide that such leases are subordinate to this Instrument; that the tenant attorns to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; and that Lender may, at Lender's option, accept or reject such attornments. Borrower shall not, without Lender's written consent, execute, modify, surrender or terminate, either orally or in writing, any lease now existing, or hereafter made, of all or any part of the Property providing for a term of three years or more, permit an assignment or sublease of such a lease without Lender's written consent, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right or set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, (ii) notify Lender thereof and of the amount of the set-offs, and (iii) within ten days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

Pursuant to Borrower's assignment of leases of the Property herein, upon Borrower's default hereunder or under the Note, Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases, in Lender's sole discretion.

17. REMEDIES CUMULATIVE. Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity and may be exercised concurrently, independently or successively, in any order whatsoever.

18. ACCELERATION IN CASE OF BORROWER'S INSOLVENCY. If Borrower shall voluntarily file a petition under the federal Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings



brought for the reorganization, dissolution or liquidation of Borrower within sixty days of the date of filing of such proceedings, or if an order for relief in bankruptcy shall be entered against Borrower, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within sixty (60) days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. Any attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 8 hereof.

Upon an event of bankruptcy as described in this paragraph 18, and if the Property or any portion thereof is included within the bankruptcy estate pursuant to 11 U.S.C. § 541 or is otherwise administered in the bankruptcy case, then all rents, issues, profits and all other income whatsoever derived from or generated by the Property ("Rents") shall be deemed to be "Cash Collateral" for purposes of 11 U.S.C. § 363, and shall be subject to the secured claims of Lender in and to such cash collateral. Further, Borrower acknowledges and confirms that Lender now holds, and will continue to hold, a valid and perfected lien on all Rents upon any such event of bankruptcy.

19. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER; ASSUMPTION. On sale or transfer of (i) all or any part of the Property, or any interest therein (excluding leases of tenant space which do not include options or rights to acquire any ownership or operating interest in the Property), or (ii) beneficial interests in Borrower or any approved successor in interest to Borrower in the ownership of the Property (if Borrower or any such successor is not a natural person or persons but is a corporation, partnership, trust or other legal entity), Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. This option shall not apply in case of:

- (a) transfers by devise or descent or by operation of law upon the death of a joint tenant;
- (b) sales or transfers approved by Lender when the transferee's creditworthiness and management ability are satisfactory to Lender and the transferee has executed, prior to the sale or transfer, a written assumption agreement containing such terms as Lender may require, including, if required by Lender, an increase in the interest rate in the Note;
- (c) sales or transfers of beneficial interests in Borrower by the non-managing member(s) of Borrower to affiliates of such non-managing member(s) and, as security, to lenders having capital and surplus of not less than \$100,000,000;
- (d) sales or transfers of fixtures or any personal property pursuant to the first paragraph of paragraph 6 hereof; and

(e) any other sale or transfer approved by Lender in writing, including, without limitation, in the Loan Agreement.

20. NOTICE. Except for any notice required under applicable law to be given in another manner, any notice or other communication required or permitted to be given hereunder and any approval by any party shall be in writing and shall be personally delivered or delivered by overnight courier in each case with receipt acknowledged, or deposited in an official depository of the United States Postal Service, postage prepaid, by registered or certified mail, return receipt requested, to the other party or parties at the addresses listed below. All notices and other communications shall be deemed to have been duly given on (a) the date of receipt thereof (including all required copies thereof as set forth below) if delivered personally or by overnight courier or (b) five (5) business days after the date of mailing thereof (including all required copies thereof as set forth below) if transmitted by mail. Each party may change its address for receipt of notices by a notice given to the other parties in accordance with this provision. Notices shall be addressed as follows:

To Borrower:

IMAGINE JEFFERSON 2 LLC  
Attn: Derrick Porter  
2604 Jefferson Avenue  
Ogden, Utah 84401

With a copy to:

Bentley & Briggs, PLLC  
Attn: Curt Bentley  
476 West Heritage Park Boulevard, Suite 200  
Layton, UT 84041

With a copy to:

GS II PHASE II LIHTC INVESTOR, LLC  
Attn: Andrea Gift Allan  
200 West Street  
New York, New York 10282

To Lender:

ROCKY MOUNTAIN COMMUNITY REINVESTMENT  
CORPORATION  
Attn: President  
64 East Winchester Street, Suite 230  
Salt Lake City, Utah 84107

With a copy to:

PRINCE, YEATES & GELDZAHLER  
Attn: Tacy A. Hartman, Esq.  
15 West South Temple, Suite 1700  
Salt Lake City, Utah 84101

Notwithstanding the foregoing, the failure of Lender to give notice to any party other than Borrower shall not prevent, delay or otherwise hinder Lender's exercise of any of its remedies against Borrower.

21. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 19 hereof. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

22. GOVERNING LAW; SEVERABILITY. The loan secured by this Instrument is made pursuant to the laws of the State of Utah and the rules and regulations promulgated thereunder, and the loan contract between the parties, including this Instrument, the Note and any other obligation which this Instrument secures, and shall be construed and governed by such laws, rules and regulations. In the event that any provision or clause of this Instrument or the Note is invalid, such invalidity shall not affect other provisions of this Instrument or the Note which can be given effect without the invalid provision, and to this end the provisions of this Instrument and the Note are declared to be severable. The procedures to be applied by Lender in the event of default of Borrower shall be those procedures required by the jurisdiction where the Property or any portion thereof is located.

23. WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

24. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waive any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

25. INTENTIONALLY OMITTED.

26. ASSIGNMENT OF LEASES AND RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the leases, rents and revenues of the Property (including security deposits), including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Borrower hereby authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay such rents to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower, to apply the rents and revenues so collected to the sums secured by this Instrument in the order provided in paragraph 3 hereof with the balance, so long as no such breach has occurred, to the account of Borrower, it being intended by Borrower and Lender that this assignment of leases and rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all rents and revenues of the Property as specified in this paragraph 26 as the same become due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Borrower as trustee for the benefit of Lender only; provided, however, that the written notice by Lender to Borrower of the breach by Borrower shall contain a statement that Lender exercises its right to such rents. Borrower agrees that commencing upon delivery of such written notice of Borrower's breach by Lender to Borrower, each tenant of the Property shall make such rents payable to and pay such rents to Lender or Lender's agents on Lender's written demand to each tenant therefor, delivered to each tenant personally or by mail or by delivering such demand to each rental unit, without any liability on the part of the tenant to inquire further as to the existence of a default by Borrower.

Except as disclosed in writing by Borrower to Lender, Borrower hereby covenants that Borrower has not executed any prior assignment of said leases and rents, that Borrower has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this paragraph 26, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any of the rents of the Property for more than two months prior to the due dates of such rents. Borrower covenants that Borrower will not hereafter collect or accept payment of any rents of the Property more than two months prior to the due dates of such rents. Borrower further covenants that Borrower will execute and deliver to Lender such further assignments of leases, rents and revenues of the Property as Lender may from time to time request.

Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in

order to perform all acts necessary and appropriate for the operation and maintenance thereof, including but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Borrower hereby expressly consents to the appointment of such receiver without notice to Borrower. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessment and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Instrument. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph 26.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument pursuant to paragraph 8 hereof. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or as provided herein. This assignment of rents of the Property shall terminate at such time as this Instrument ceases to secure indebtedness held by Lender.

27. ACCELERATION; REMEDIES. Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, including, but not limited to, the covenants to pay when due any sums secured by this Instrument, or upon Borrower's breach of any covenant or agreement of Borrower in the Environmental Indemnification Agreement executed and delivered by Borrower, of even date herewith, or in any other deed of trust encumbering the Property, Lender, at Lender's option, may declare all of the sums secured by this Instrument to be immediately due and payable, and may invoke the power of sale and other

remedies permitted by applicable law or provided herein; provided, however, that in the case of a breach relating to a failure by Borrower to make payment of any sum secured by this Instrument when due, the remedies provided herein or by law shall not be exercised if such payment is made within fifteen (15) days of the date on which such payment was due, and provided further that, except as otherwise specified, in the case of a breach relating to the failure of Borrower to perform any other covenant or agreement of Borrower in the Note, this Instrument, the above-described Environmental Indemnification Agreement or any other agreement or obligation secured by this Instrument, the remedies provided hereunder or by law shall not be exercised unless Lender shall have given Borrower written notice stating the nature of the breach and (i) Borrower shall not have cured the breach within thirty (30) days after notice of the breach was given or (ii) where such breach cannot be reasonably cured within the thirty (30) day period, Borrower shall not have commenced corrective action within the thirty (30) day period or shall not have prosecuted any corrective action commenced diligently to conclusion. Borrower acknowledges that the power of sale herein granted may be exercised by Lender without prior judicial hearing. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorneys' fees and costs of documentary evidence, abstracts and title reports.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Trustee shall give notice of default and notice of sale and shall sell the Property according to applicable law. Trustee may sell the Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as trustee may determine. Trustee may postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale to the extent permitted by law. Lender or Lender's designee may purchase the Property at any sale. Borrower agrees to surrender possession of the Property to the Purchaser immediately after such sale.

Trustee shall deliver to the purchaser a Trustee's deed conveying the Property so sold without any covenant or warranty, express or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (i) to all costs and expenses of the sale, including, but not limited to, Trustee's and attorney's fees and costs of title evidence; (ii) to all sums secured by this Instrument in such order as Lender, in Lender's sole discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled thereto.

28. RECONVEYANCE. Upon payment of all sums secured by this Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Instrument and all notes evidencing indebtedness secured by this Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

29. SUBSTITUTE TRUSTEE. Lender, at Lender's option, may from time to time, by an instrument in writing, appoint a successor trustee to any Trustee appointed hereunder, which instrument when executed and acknowledged by Lender and recorded in the



office of the Recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor trustee. The successor trustee shall, without conveyance of the Property, succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law upon recordation of the instrument. Said instrument shall contain the name of the original Lender, Trustee and Borrower hereunder, the book and page where this instrument is recorded, and the name and address of the successor trustee.

30. REQUEST FOR NOTICES. Borrower requests that copies of any notice of default and notice of sale hereunder be sent to Borrower at Borrower's address stated herein.

31. STATEMENT OF OBLIGATION. Lender may collect a reasonable fee not to exceed the maximum allowed by applicable law for furnishing any statement of obligation or statement regarding the condition of or balance owing under the Note or secured by this Instrument.

32. FUTURE ADVANCES. Upon request of Borrower, Lender, at Lender's option, so long as this Instrument secures indebtedness held by Lender, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Instrument when evidenced by promissory notes stating that said notes are secured hereby.

33. OFFSETS. No indebtedness secured by this Instrument shall be deemed to have been offset or to be offset or compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counter-claim or cross-claim, whether liquidated or unliquidated, which Borrower now or hereafter may have or may claim to have against Lender. In respect to the indebtedness now or hereafter secured hereby, Borrower waives, to the fullest extent permitted by law, the benefits of any applicable law, regulation or procedure which substantially provides that, where cross-demands for money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the times of filing his answer be barred by the applicable statute of limitations.

34. JUDICIAL FORECLOSURE. Upon the occurrence of a default hereunder, Lender shall have the option to declare all sums secured by this Instrument immediately due and payable and foreclose this Instrument as a Mortgage, to the extent permitted by law. In addition, should this Instrument be or become ineffective as a deed of trust, then this Instrument shall be construed and enforced as a realty mortgage with the Borrower being the mortgagor and Lender being the mortgagee.

35. TRUSTEE. The Trustee shall accept the trust created under this Instrument when this Instrument is duly executed, acknowledged and recorded in accordance with law. To the extent required by law, any right or remedy granted to Lender hereunder shall be deemed to be granted to Trustee where such right or remedy must be held or enforced by Trustee, and any action which Lender is authorized by this Instrument to take and which is taken



by Trustee shall have the same effect and protections contained in this Instrument as if such action had been taken by Lender.

36. FINANCING STATEMENT. This Instrument is intended to be a financing statement complying with the formal requisites therefore as set forth in the Utah Uniform Commercial Code. For that purpose, the name and address of the debtor is the name and address of Borrower set forth on page 1 of this Instrument and the name and address of the secured party is the name and address of the Lender as set forth on page 1 of this Instrument. This financing statement covers those types of items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Utah Uniform Commercial Code, and in which Borrower has granted to Lender a security interest under paragraph 15 of this Instrument, including the proceeds and products from any and all such Property. This financing statement also covers goods which are or may become fixtures on the Tract and is to be recorded in the real estate records of the county recorder in each county in which a portion of the Property is located. Borrower is the record owner of the Tract. Lender is a seller or purchase money lender of the Property.

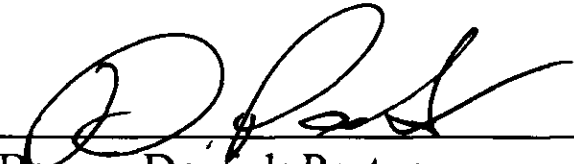
37. NO MERGER. It is hereby agreed and intended that this Instrument will not merge with any other similar instrument executed and delivered by Borrower in favor of Lender and encumbering the Property, and that the debts secured by any of such instruments shall not be extinguished, notwithstanding Lender's acquisition of fee title to the Property by the foreclosure of this Instrument or any similar instrument held by Lender encumbering the Property, conveyance of the Property by deed in lieu of foreclosure pursuant to this Instrument or any similar instrument executed in favor of Lender, or otherwise. It is the intention of Borrower and Lender that no documents, instruments or agreements shall be necessary to confirm the foregoing.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, BORROWER has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER: IMAGINE JEFFERSON 2 LLC, a Utah limited liability company

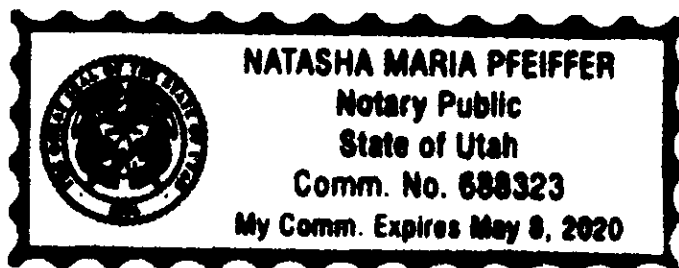
By: OCIG 2 LLC, a Utah limited liability company  
Its: Managing Member

  
By: Derrick Porter  
Its: Member

By: David Blake  
Its: Member

STATE OF UTAH                    )  
  : ss.  
COUNTY OF Salt Lake

The foregoing DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING was acknowledged before me this 15<sup>th</sup> day of September, 2017, by Derrick Porter, a Member of OCIG 2 LLC, a Utah limited liability company, the Managing Member of IMAGINE JEFFERSON 2 LLC, a Utah limited liability company.




  
NOTARY PUBLIC SIGNATURE AND SEAL

IN WITNESS WHEREOF, BORROWER has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER: IMAGINE JEFFERSON 2 LLC, a Utah limited liability company

By: OCIG 2 LLC, a Utah limited liability company  
Its: Managing Member

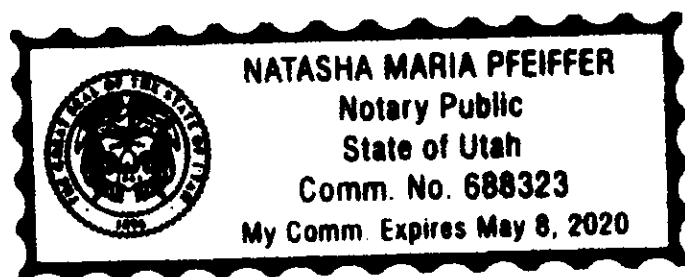
\_\_\_\_\_  
By: Derrick Porter  
Its: Member

  
\_\_\_\_\_  
By: David Blake  
Its: Member

STATE OF UTAH                    )  
  : ss.  
COUNTY OF Salt Lake

The foregoing DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING was acknowledged before me this 21<sup>st</sup> day of September, 2017, by David Blake, a Member of OCIG 2 LLC, a Utah limited liability company, the Managing Member of IMAGINE JEFFERSON 2 LLC, a Utah limited liability company.

  
\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE AND SEAL



## EXHIBIT A

---

### (Legal Description of the Property)

PROPERTY located in the County of Weber, State of Utah, more particularly described as follows:

**PARCEL 1:**

PART OF LOTS 2, 3, 4 AND 5, BLOCK 27, PLAT "A", OGDEN CITY SURVEY, WEBER COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF BLOCK 27, PLAT A, OGDEN CITY SURVEY, WEBER COUNTY, UTAH. SAID POINT BEING 49.40 FEET N00°58'00"E ALONG THE CENTER LINE OF ADAMS AVENUE AS MONUMENTED, AND 49.50 FEET S89°02'00"E FROM AN OGDEN CITY MONUMENT AT THE INTERSECTION OF ADAMS AVENUE AND 25TH STREET; AND RUNNING THENCE N00°58'00"E 484.60 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK 27; THENCE S89°02'02"E 332.42 FEET; THENCE S00°57'58"W 199.72 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF THE WEBER COMMONS CONDOMINIUMS FINAL PLAT; THENCE ALONG SAID PLAT THE FOLLOWING THREE (3) COURSES AND DISTANCES; (1) N89°04'13"W 40.10 FEET; (2) THENCE S01°53'37"W 118.26 FEET; (3) THENCE S00°56'36"W 166.53 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF SAID BLOCK 27; THENCE N89°03'01"W ALONG SAID SOUTHERLY BOUNDARY LINE 290.48 FEET TO THE POINT OF BEGINNING.

**PARCEL 1A:**

TOGETHER WITH THE FOLLOWING 5 FOOT PEDESTRIAN EASEMENT:

PART OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

A 5 FOOT PEDESTRIAN EASEMENT, BEING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT, SAID POINT BEING 330.86 FEET N00°58'00"E ALONG THE CENTER LINE OF ADAMS AVENUE AS MONUMENTED, AND 195.63 FEET S89°02'00"E FROM A OGDEN CITY MONUMENT AT THE INTERSECTION OF ADAMS AVENUE AND 25TH STREET; AND RUNNING THENCE S89°04'03"E 27.14; THENCE S58°20'50"E 22.29 FEET; THENCE S89°00'26"E 99.05 FEET; THENCE S80°53'04"E 21.02 FEET; THENCE S89°04'52"E 20.18 FEET TO THE POINT OF TERMINUS.



\*W2880458\*

When recorded, please return to:

Rocky Mountain Community Reinvestment Corporation  
Attn: Production Manager  
64 East Winchester Street, Suite 230  
Salt Lake City, UT 84107

E# 2880458 PG 1 OF 4  
Leann H. Kilts, WEBER COUNTY RECORDER  
25-Sep-17 0347 PM FEE \$16.00 DEP DAI  
REC FOR: INWEST TITLE - WEST HAVEN  
ELECTRONICALLY RECORDED

Inwest # 220831  
# 01-023-0021

Tax Parcel I.D. Nos.:01-023-0021

## COLLATERAL ASSIGNMENT OF DEED OF TRUST

Reference is hereby made to that certain Promissory Note ("Lender's Note") identified on Schedule A-1 attached hereto and by this reference incorporated herein, executed and delivered by **ROCKY MOUNTAIN COMMUNITY REINVESTMENT CORPORATION**, a Utah nonprofit corporation, ("Assignor") to **ZB, N.A. dba ZIONS FIRST NATIONAL BANK**, whose address is 2460 South 3270 West, West Valley City, Utah 84119 ("Assignee").

Know all Persons by these Presents, that Assignor does hereby assign, as security for the performance by Assignor of all of its obligations under the Lender's Note, to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to (including, without limitation, its right, title and interest as Lender under the Loan Agreement described below) the deed of trust, identified on Schedule A-2 attached hereto and by this reference incorporated herein (as such document may have been amended, modified, spread, consolidated and/or reduced, collectively hereinafter referred to as the "Deed of Trust"), together with the corresponding notes and indebtedness described in and secured by such Deed of Trust and any money due or to become due thereunder with interest (which loans and indebtedness are more particularly described in that certain Loan Agreement identified on attached Schedule A-3, by and between Assignor and the Borrower thereunder (the "Loan Agreement").


Assignor hereby certifies that it has not heretofore assigned any of its right, title or interest in, to or under the Deed of Trust.

The Deed of Trust encumbers the real property described more particularly on Exhibit A attached hereto.

This Collateral Assignment of Deed of Trust is dated and effective as of September 25, 2017.

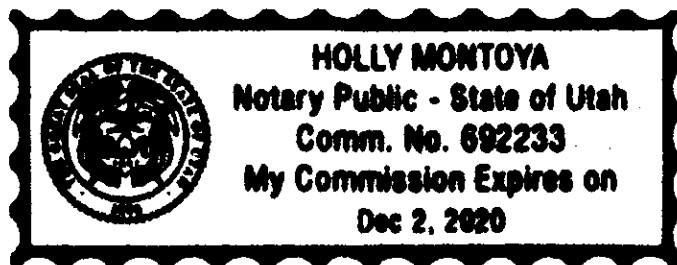
IN WITNESS WHEREOF, the Assignor has caused these presents to be signed as of the date and year first written above.

ROCKY MOUNTAIN COMMUNITY  
REINVESTMENT CORPORATION, a Utah  
nonprofit corporation

By:   
Katherine Eberly, VP Chief Risk Officer

STATE OF UTAH                    )  
  : ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 25 day of  
September, 2017, by Katherine Eberly, VP Chief Risk Officer of ROCKY MOUNTAIN  
COMMUNITY REINVESTMENT CORPORATION, a Utah nonprofit corporation.



  
NOTARY PUBLIC AND SEAL

**SCHEDULE A-1**

**Lender's Note:** Promissory Note in the amount of \$3,367,734.00 dated September 25, 2017, executed and delivered by **ROCKY MOUNTAIN COMMUNITY REINVESTMENT CORPORATION** to **ZB, N.A. dba ZIONS FIRST NATIONAL BANK**.

**SCHEDULE A-2**

1. Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of September 25, 2017, made by **IMAGINE JEFFERSON 2 LLC**, a Utah limited liability company, as Borrower/Grantor/Trustor, to **STEWART TITLE GUARANTY COMPANY**, whose address is 2037 West Commerce Way, West Haven, Utah 84401, as Trustee, in favor of **ROCKY MOUNTAIN COMMUNITY REINVESTMENT CORPORATION**, a Utah nonprofit corporation, whose address is 64 East Winchester Street, Suite 230, Salt Lake City, Utah 84107, as Beneficiary, to secure the original aggregate principal amount of \$3,367,734.00, recorded on the 25 day of September, 2017, in the official real estate records of the Weber County Recorder, State of Utah, as Instrument No. 2880450 in Book      at Page      et seq.

**SCHEDULE A-3**

**Loan Agreement:** Loan Agreement – LIHTC I Loan dated as of September 22, 2015, as amended by that certain Loan Modification Agreement – LIHTC I Loan of even date herewith, and as the same may be subsequently amended or modified, by and between **ROCKY MOUNTAIN COMMUNITY REINVESTMENT CORPORATION**, as Lender, and **IMAGINE JEFFERSON 2 LLC**, a Utah limited liability company, as Borrower, in connection with a term loan in the amount of \$3,367,734.00.



---

EXHIBIT A

---

(Legal Description of the Property)

PARCEL 1:

PART OF LOTS 2, 3, 4 AND 5, BLOCK 27, PLAT "A", OGDEN CITY SURVEY, WEBER COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF BLOCK 27, PLAT A, OGDEN CITY SURVEY, WEBER COUNTY, UTAH. SAID POINT BEING 49.40 FEET N00°58'00"E ALONG THE CENTER LINE OF ADAMS AVENUE AS MONUMENTED, AND 49.50 FEET S89°02'00"E FROM AN OGDEN CITY MONUMENT AT THE INTERSECTION OF ADAMS AVENUE AND 25TH STREET; AND RUNNING THENCE N00°58'00"E 484.60 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK 27; THENCE S89°02'02"E 332.42 FEET; THENCE S00°57'58"W 199.72 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF THE WEBER COMMONS CONDOMINIUMS FINAL PLAT; THENCE ALONG SAID PLAT THE FOLLOWING THREE (3) COURSES AND DISTANCES; (1) N89°04'13"W 40.10 FEET; (2) THENCE S01°53'37"W 118.26 FEET; (3) THENCE S00°56'36"W 166.53 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF SAID BLOCK 27; THENCE N89°03'01"W ALONG SAID SOUTHERLY BOUNDARY LINE 290.48 FEET TO THE POINT OF BEGINNING.

PARCEL 1A:

TOGETHER WITH THE FOLLOWING 5 FOOT PEDESTRIAN EASEMENT:

PART OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

A 5 FOOT PEDESTRIAN EASEMENT, BEING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT, SAID POINT BEING 330.86 FEET N00°58'00"E ALONG THE CENTER LINE OF ADAMS AVENUE AS MONUMENTED, AND 195.63 FEET S89°02'00"E FROM A OGDEN CITY MONUMENT AT THE INTERSECTION OF ADAMS AVENUE AND 25TH STREET; AND RUNNING THENCE S89°04'03"E 27.14; THENCE S58°20'50"E 22.29 FEET; THENCE S89°00'26"E 99.05 FEET; THENCE S80°53'04"E 21.02 FEET; THENCE S89°04'52"E 20.18 FEET TO THE POINT OF TERMINUS.



\*W2757200\*

**WHEN RECORDED MAIL TO:**

Tacy A. Hartman, Esq.  
Prince, Yeates & Geldzahler  
15 West South Temple, Suite 1700  
Salt Lake City, UT 84101

E# 2757200 PG 1 OF 14  
Leann H. Kilts, WEBER COUNTY RECORDER  
23-Sep-15 0907 AM FEE \$38.00 DEP TT  
REC FOR: INWEST TITLE - WEST HAVEN  
ELECTRONICALLY RECORDED

Tax Parcel I.D. Nos. ~~01-023-0004~~  
~~01-023-0003, 01-023-0019~~

01-023-0001 ✓

---

**DEED OF TRUST,  
SECURITY AGREEMENT  
AND FIXTURE FILING**

---

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (hereinafter, this "Instrument") is made as of this 22 day of September, 2015, among the Trustor, IMAGINE JEFFERSON 2 LLC, a Utah limited liability company, whose address is 2604 Jefferson Avenue, Ogden, Utah 84401 (hereinafter, "Borrower"), the Trustee, INWEST TITLE SERVICES, INC., whose address is 2037 West Commerce Way, West Haven, Utah 84401 (hereinafter, "Trustee"), and the Beneficiary, UTAH COMMUNITY REINVESTMENT CORPORATION, a Utah nonprofit corporation, whose address is 64 East Winchester Street, Suite 230, Salt Lake City, Utah 84107 (hereinafter, "Lender").

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, all of Borrower's present and future estate, right, title and interest in and to the following property, rights, privileges and interests, to-wit:

I.

That certain tract of real property (hereinafter referred to as the "Tract") lying in Weber County, State of Utah, which is more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein.

Together with all rights-of-way, easements, tenements, hereditaments, appurtenances, royalties, mineral, oil and gas rights and profits, water, water rights and water stock of Borrower belonging to or in any way appertaining to the Tract.

Together with all right, title and interest of Borrower, now owned or hereafter acquired, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Tract.

Together with all right, title and interest of Borrower, now owned or hereafter acquired, in and to any and all sidewalks and alleys, and all strips and gores of land, adjacent to or used in connection with the Tract.

## II.

All of Borrower's interests presently owned or hereafter acquired in all buildings, structures, and improvements now or at any time hereafter erected, constructed, or situated upon the Tract or any part thereof, and all apparatus, fixtures, engines, boilers, incinerators, building materials, equipment, inventory, appliances and goods of every nature whatsoever now or hereafter located in, on, and used, or intended to be used in connection with the Tract, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related fixtures, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, awnings, storm windows, storm doors, screens, blinds, shades, paneling, attached floor coverings, antennas, trees and plants, including replacements and additions thereto, and proceeds and products thereof, all of which shall be deemed to be and remain a part of the Tract, together with any and all replacements of any of the foregoing and any and all additions thereto.

## III.

All of Borrower's interests in all permits, contracts, licenses and related rights and benefits associated with the development and use of the Tract including construction contracts, rights to plans and specifications for construction, and governmental permits relating to the construction of improvements on the Tract, or occupancy or use of the Tract, and all names by which the Tract may be known, trademarks and goodwill, and all proceeds from any of the foregoing.

## IV.

All of Borrower's interests presently owned or hereafter acquired in personal property associated with the development and use of the Tract, including, but not limited to, furniture, materials, furnishings, goods, including building materials located on or off the Tract, accounts, chattel paper, general intangibles, contract rights, and all items listed in II or III above to the extent such items are deemed to be personal property under the Utah Uniform Commercial Code, and in the proceeds and products of any of the foregoing.

## V.

All awards for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of the Tract or of any improvements now or hereafter situated thereon or any estate or easement therein, and all proceeds of insurance paid on account of partial or total destruction of improvements on the Tract, all of which awards and proceeds are hereby assigned to Lender, which is hereby authorized to collect and receive such awards and proceeds and to give proper receipts and acquittances therefor.

## VI.

All right, title and interest of Borrower in and to any and all present and future leases, rental agreements, subleases, licenses and tenancies of any portion of the Tract or of any space in any building erected upon the Tract, and the income, receipts, rents, issues and profits therefrom and of any improvements now or hereafter situated on the Tract.

## VII.

All right, title and interest of Borrower in and to all unearned premiums accrued, accruing, or to accrue under any and all insurance policies now or hereafter obtained by Borrower pursuant to the provisions hereof.

All of the real and personal property, rights, privileges and interests described in the foregoing items I through VII and hereby granted, conveyed and assigned are hereinafter collectively referred to as the "Property."

TO SECURE TO LENDER (a) the repayment of the obligation set forth in Section 7(b) of that certain Loan Commitment and Agreement by and between Borrower and Lender dated as of September \_\_, 2015 (the "Loan Agreement") in an amount equal to SEVENTY ONE THOUSAND AND NO/100 DOLLARS (\$71,000.00) (the "Breakage Fee"); (b) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; (c) the performance of the covenants and agreements of Borrower herein contained; and (d) the payment and performance of any other indebtedness, obligation or agreement which recites by its own terms that it is secured by this Instrument. The foregoing items (a) through (d) are sometimes referred to herein as the "Obligations."

Borrower covenants that Borrower is lawfully seised of fee title to the Tract and the improvements thereon hereby conveyed and has the right to grant, convey and assign all of its interest in the Property, that the Property, except as previously disclosed to Lender, is free and clear of all liens, claims and encumbrances, and that Borrower will warrant and defend generally the title to the Property against all claims and demands.

Borrower and Lender covenant and agree as follows:

1. **PAYMENT OF BREAKAGE FEE.** Borrower shall promptly pay when due the Breakage Fee and all other sums secured by this Instrument.

2. **TAXES, INSURANCE AND OTHER ITEMS.** Subject to applicable law or to a written waiver by Lender, Borrower shall promptly pay when due (i) the yearly taxes and assessments, including water and sewer charges, which may be levied on the Property, (ii) the yearly ground rents, if any, (iii) the yearly premium installments for fire and other hazard insurance, rent loss insurance and such other insurance covering the Property as Lender may require pursuant to paragraph 5 hereof, (iv) the yearly premium installments for mortgage insurance, if any, and (v) if this Instrument is on a leasehold, the yearly fixed rents, if any, under the ground lease, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof.

3. [INTENTIONALLY OMITTED]

4. **CHARGES; LIENS.** Borrower shall pay all taxes and assessments attributable to the Property by Borrower making payment, when due directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph 4, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Except as otherwise provided in the Loan Agreement or in writing by Lender, Borrower shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, and except as provided in the Loan Agreement or any other document or instrument executed in connection herewith, Borrower shall not allow any lien inferior to this Instrument to be perfected against the Property. Notwithstanding the foregoing, Borrower shall have the right to contest in good faith the validity, amount and enforceability of any such lien so long as Borrower shall post a bond, or such other security as Lender may reasonably require, to protect the interest of Lender in the Property.

5. **HAZARD INSURANCE.** Borrower shall keep the improvements now existing or hereafter erected on the Tract and all Borrower's tangible personal property presently owned or hereafter acquired and wherever located at or on the Tract insured by carriers at all times satisfactory to Lender against loss by fire, theft, hazards included within the term "extended coverage," rent loss and such other hazards, casualties, liabilities and contingencies as Lender (and, if this Instrument is on a leasehold, the ground lease) reasonably shall require and in such amounts and for such periods as Lender reasonably shall require.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY; INJURY TO PROPERTY; LEASEHOLDS.** Borrower (i) shall not commit waste or permit impairment or unusual deterioration of the Property, (ii) shall not abandon the Property, (iii) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (iv) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon, in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (v) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property (including, but not limited to, zoning laws, building codes, and the requirements of Title III of the Americans With Disabilities Act of 1990) and with any covenants and restrictions running with the land, (vi) shall provide for professional management of the Property by Borrower, or an affiliate of Borrower, or a rental property manager satisfactory to Lender pursuant to a contract approved by Lender in writing, unless such requirement shall be waived by Lender in writing, (vii) shall generally operate and maintain the Property in a manner to ensure maximum rentals, subject to paragraph 37 hereof, and (viii) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any third party action or proceeding purported to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind, or incident to the alteration by Borrower or a tenant of any leasehold improvements or fixtures in any tenant space resulting in the installation of improvements and fixtures with a comparable or greater value than those removed.

7. **USE OF PROPERTY.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

8. **PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, (iii) procurement of satisfactory insurance as provided in paragraph 5 hereof, and (iv) if this Instrument is on a leasehold, exercise of any option to renew or extend the ground lease on behalf of Borrower and the curing of any default of Borrower in the terms and conditions of the ground lease.

Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at a rate of fifteen percent (15%) per year unless collection from Borrower of interest at such rate would be contrary to applicable laws, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action hereunder.

9. [INTENTIONALLY OMITTED]

10. [INTENTIONALLY OMITTED]

11. CONDEMNATION. Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing.

12. BORROWER AND LIEN NOT RELEASED. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of the indebtedness or any part thereof, reduce the payments thereon, release anyone liable on the Obligations, accept a renewal note or notes therefor, modify the terms of the Obligations, including the time of payment or performance, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, and join in any extension or subordination agreement. Any actions taken by Lender pursuant to the terms of this paragraph 12 shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment or performance of the Obligations secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred, at Lender's option, for any such action if taken at Borrower's request.

13. FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under paragraphs 5 and 11 hereof operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

14. [INTENTIONALLY OMITTED]

15. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Instrument is intended to be a security agreement pursuant to the Utah Uniform Commercial Code for

any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Utah Uniform Commercial Code, and Borrower hereby grants lender a security interest in these items and in the proceeds and products of such items to secure the Obligations of Borrower to Lender as defined herein. This Instrument shall cover all property now or hereafter affixed or attached to or incorporated upon the Tract, which, to the fullest extent permitted by law, shall be deemed fixtures and part of the Property. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to the items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements which Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Utah Uniform Commercial Code any other security interest in the items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Utah Uniform Commercial Code or other applicable law, and, at Lender's option, may also invoke the remedies provided in paragraph 27 of this Instrument as to such items. In exercising any of these remedies, Lender may proceed against the real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Utah Uniform Commercial Code or of the remedies provided in paragraph 27 of this Instrument.

16. [INTENTIONALLY OMITTED]

17. REMEDIES CUMULATIVE. Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity and may be exercised concurrently, independently or successively, in any order whatsoever.

18. ACCELERATION IN CASE OF BORROWER'S INSOLVENCY. If Borrower shall voluntarily file a petition under the federal Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower within sixty days of the date of filing of such proceedings, or if an order for relief in bankruptcy shall be entered against Borrower, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within sixty (60) days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. Any attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 8 hereof.



Upon an event of bankruptcy as described in this paragraph 18, and if the Property or any portion thereof is included within the bankruptcy estate pursuant to 11 U.S.C. § 541 or is otherwise administered in the bankruptcy case, then all rents, issues, profits and all other income whatsoever derived from or generated by the Property ("Rents") shall be deemed to be "Cash Collateral" for purposes of 11 U.S.C. § 363, and shall be subject to the secured claims of Lender in and to such cash collateral.

19. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER; ASSUMPTION. On sale or transfer of (i) all or any part of the Property, or any interest therein (excluding leases of tenant space which do not include options or rights to acquire any ownership or operating interest in the Property), or (ii) beneficial interests in Borrower or any approved successor in interest to Borrower in the ownership of the Property (if Borrower or any such successor is not a natural person or persons but is a corporation, partnership, trust or other legal entity), Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. This option shall not apply in case of:

(a) transfers by devise or descent or by operation of law upon the death of a joint tenant;

(b) sales or transfers approved by Lender when the transferee's credit-worthiness and management ability are satisfactory to Lender and the transferee has executed, prior to the sale or transfer, a written assumption agreement containing such terms as Lender may require;

(c) sales or transfers of beneficial interests in Borrower to affiliates of the non-managing member(s) or limited partner(s) of Borrower, provided that Lender is notified of each such sale or transfer in writing within ten (10) days of its occurrence, and, as security, to lenders having capital and surplus of not less than \$100,000,000; and

(d) sales or transfers of fixtures or any personal property pursuant to the first paragraph of paragraph 6 hereof;

20. NOTICE. Except for any notice required under applicable law to be given in another manner, any notice or other communication required or permitted to be given hereunder and any approval by any party shall be in writing and shall be personally delivered or delivered by overnight courier in each case with receipt acknowledged, or deposited in an official depository of the United States Postal Service, postage prepaid, by registered or certified mail, return receipt requested, to the other party or parties at the addresses listed below. All notices and other communications shall be deemed to have been duly given on (a) the date of receipt thereof (including all required copies thereof as set forth below) if delivered personally or by overnight courier or (b) five (5) business days after the date of mailing thereof (including all required copies thereof as set forth below) if transmitted by mail. Each party may change its address for receipt of notices by a notice given to the other parties in accordance with this provision. Notices shall be addressed as follows:

To Borrower:

IMAGINE JEFFERSON 2 LLC  
Attn: Derrick Porter and David Blake  
2604 Jefferson Avenue  
Ogden, Utah 84401

With a copy to:

BENTLEY & BRIGGS, PLLC  
Attn: Curtis G. Bentley, Esq.  
2593 North 2000 West  
Clinton, Utah 84015

To Lender:

UTAH COMMUNITY REINVESTMENT CORPORATION  
Attn: Steven J. Nielsen, President  
64 East Winchester Street, Suite 230  
Salt Lake City, Utah 84107

With a copy to:

PRINCE, YEATES & GELDZAHLER  
Attn: Tacy A. Hartman, Esq.  
15 West South Temple, Suite 1700  
Salt Lake City, Utah 84101

Notwithstanding the foregoing, the failure of Lender to give notice to any party other than Borrower shall not prevent, delay or otherwise hinder Lender's exercise of any of its remedies against Borrower.

21. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 19 hereof. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

22. **GOVERNING LAW; SEVERABILITY.** The Loan Agreement obligating Borrower to pay the Breakage Fee was made pursuant to the laws of the State of Utah and the rules and regulations promulgated thereunder, and the contract between the parties, including this Instrument, and any other obligation which this Instrument secures, shall be construed and governed by such laws, rules and regulations. In the event that any provision or clause of this Instrument or the Loan Agreement is invalid, such invalidity shall not affect other provisions of this Instrument or the Loan Agreement which can be given effect without the invalid provision, and to this end the provisions of this Instrument and the Loan Agreement are declared to be severable. The procedures to be applied by Lender in the event of default of Borrower shall be those procedures required by the jurisdiction where the Property or any portion thereof is located.

23. **WAIVER OF STATUTE OF LIMITATIONS.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Loan Agreement or any other obligation secured by this Instrument.

24. **WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to

determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein.

Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waive any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

25. [INTENTIONALLY OMITTED]

26. [INTENTIONALLY OMITTED]

27. **ACCELERATION; REMEDIES.** Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, including, but not limited to, the covenants to pay when due any sums secured by this Instrument, or in any other deed of trust encumbering the Property, Lender, at Lender's option, may declare all of the sums secured by this Instrument to be immediately due and payable, and may invoke the power of sale and other remedies permitted by applicable law or provided herein; provided, however, that in the case of a breach relating to a failure by Borrower to make payment of any sum secured by this Instrument when due, the remedies provided herein or by law shall not be exercised if such payment is made within ten (10) days of the date on which Lender shall have given Borrower written notice of such failure, and provided further that, except as otherwise specified, in the case of a breach relating to the failure of Borrower to perform any other covenant or agreement of Borrower in this Instrument or any other agreement or obligation secured by this Instrument, the remedies provided hereunder or by law shall not be exercised unless Lender shall have given Borrower written notice stating the nature of the breach and (i) Borrower shall not have cured the breach within thirty (30) days after notice of the breach was given or (ii) where such breach cannot be reasonably cured within the thirty (30) day period, Borrower shall not have commenced corrective action within the thirty (30) day period or shall not have prosecuted any corrective action commenced diligently to conclusion. Borrower acknowledges that the power of sale herein granted may be exercised by Lender without prior judicial hearing. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, reasonable attorneys' fees and costs of documentary evidence, abstracts and title reports.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Trustee shall give notice of default and notice of sale and shall sell the Property according to applicable law. Trustee may sell the Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as trustee may determine. Trustee may postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale to the extent permitted by law. Lender or Lender's designee may purchase the Property at any sale. Borrower agrees to surrender possession of the Property to the Purchaser immediately after such sale.

Trustee shall deliver to the purchaser a Trustee's deed conveying the Property so sold without any covenant or warranty, express or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (i) to all costs and expenses of the sale, including, but not limited to, Trustee's and attorney's fees and costs of title evidence; (ii) to all sums secured by this Instrument in such order as

Lender, in Lender's sole discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled thereto.

28. RECONVEYANCE. Upon payment of all sums secured by this Instrument, or the waiver of the same by Lender, Lender shall request Trustee to reconvey the Property and shall surrender this Instrument and all notes evidencing indebtedness secured by this Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

29. SUBSTITUTE TRUSTEE. Lender, at Lender's option, may from time to time, by an instrument in writing, appoint a successor trustee to any Trustee appointed hereunder, which instrument when executed and acknowledged by Lender and recorded in the office of the Recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor trustee. The successor trustee shall, without conveyance of the Property, succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law upon recordation of the instrument. Said instrument shall contain the name of the original Lender, Trustee and Borrower hereunder, the book and page where this instrument is recorded, and the name and address of the successor trustee.

30. REQUEST FOR NOTICES. Borrower requests that copies of any notice of default and notice of sale hereunder be sent to Borrower at Borrower's address stated herein.

31. [INTENTIONALLY OMITTED]

32. [INTENTIONALLY OMITTED]

33. OFFSETS. No indebtedness secured by this Instrument shall be deemed to have been offset or to be offset or compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counter-claim or crossclaim, whether liquidated or unliquidated, which Borrower now or hereafter may have or may claim to have against Lender. In respect to the indebtedness now or hereafter secured hereby, Borrower waives, to the fullest extent permitted by law, the benefits of any applicable law, regulation or procedure which substantially provides that, where cross-demands for money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the times of filing his answer be barred by the applicable statute of limitations.

34. JUDICIAL FORECLOSURE. Upon the occurrence of a default hereunder, Lender shall have the option to declare all sums secured by this Instrument immediately due and payable and foreclose this Instrument as a Mortgage, to the extent permitted by law. In addition, should this Instrument be or become ineffective as a deed of trust, then this Instrument shall be construed and enforced as a realty mortgage with the Borrower being the mortgagor and Lender being the mortgagee.

35. TRUSTEE. The Trustee shall accept the trust created under this Instrument when this Instrument is duly executed, acknowledged and recorded in accordance with law. To the extent required by law, any right or remedy granted to Lender hereunder shall be deemed to be granted to Trustee where such right or remedy must be held or enforced by Trustee, and any action which Lender is authorized by this Instrument to take and which is taken by Trustee shall have the same effect and protections contained in this Instrument as if such action had been taken by Lender.

36. FINANCING STATEMENT. This Instrument is intended to be a financing statement complying with the formal requisites therefore as set forth in the Utah Uniform Commercial Code. For that purpose, the name and address of the debtor is the name and address of Borrower set forth on page 1 of this Instrument and the name and address of the secured party is the name and address of the Lender as set forth on page 1 of this Instrument. This financing statement covers those types of items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Utah Uniform Commercial Code, and in which Borrower has granted to Lender a security interest under paragraph 15 of this Instrument, including the proceeds and products from any and all such Property. This financing statement also covers goods which are or may become fixtures on the Tract and is to be recorded in the real estate records of the county recorder in each county in which a portion of the Property is located. Borrower is the record owner of the Tract. Lender is a seller or purchase money lender of the Property.

IN WITNESS WHEREOF, BORROWER has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER:

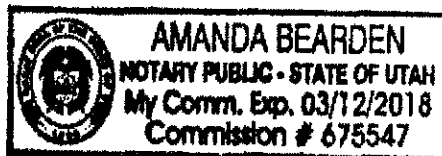
IMAGINE JEFFERSON<sup>2</sup> LLC,  
a Utah limited liability company

By: OCIG 2 LLC,  
a Utah limited liability company  
Its: Managing Member

By: [Signature]  
Derrick Porter  
Its: Member

By: \_\_\_\_\_  
David Blake  
Its: Member

STATE OF UTAH )  
: ss.  
COUNTY OF Salt Lake )



The foregoing DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING was acknowledged before me this 18 day of September, 2015, by Derrick Porter, a Member of OCIG 2 LLC, a Utah limited liability company, the Managing Member of IMAGINE JEFFERSON<sup>2</sup> LLC, a Utah limited liability company.

[Signature]  
NOTARY PUBLIC SIGNATURE AND SEAL

STATE OF UTAH )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING was acknowledged before me this \_\_\_\_ day of September, 2015, by David Blake, a Member of OCIG 2 LLC, a Utah limited liability company, the Managing Member of IMAGINE JEFFERSON<sup>2</sup> LLC, a Utah limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE AND SEAL

IN WITNESS WHEREOF, BORROWER has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER:

<sup>2</sup>  
**IMAGINE JEFFERSON II LLC,**  
a Utah limited liability company

By: OCIG 2 LLC,  
a Utah limited liability company  
Its: Managing Member

By: \_\_\_\_\_  
Derrick Porter  
Its: Member

By: David Blake  
David Blake  
Its: Member

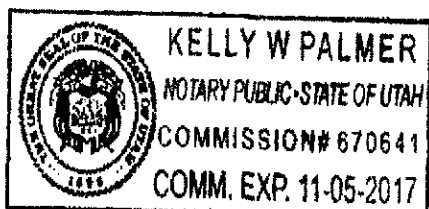
STATE OF UTAH )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING was acknowledged before me this \_\_\_\_ day of September, 2015, by Derrick Porter, a Member of OCIG 2 LLC, a Utah limited liability company, the Managing Member of IMAGINE JEFFERSON II LLC, a Utah limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE AND SEAL

STATE OF UTAH )  
: ss.  
COUNTY OF Utah )

The foregoing DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING was acknowledged before me this 18<sup>th</sup> day of September, 2015, by David Blake, a Member of OCIG 2 LLC, a Utah limited liability company, the Managing Member of IMAGINE JEFFERSON <sup>2</sup> II LLC, a Utah limited liability company.



Kelly W Palmer  
NOTARY PUBLIC SIGNATURE AND SEAL



---

EXHIBIT A

---

(Legal Description of the Property)

PROPERTY located in Weber County, State of Utah, more particularly described as follows:

PART OF LOTS 2, 3, 4 AND 5, BLOCK 27, PLAT "A", OGDEN CITY SURVEY, WEBER COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF BLOCK 27, PLAT "A" OGDEN CITY SURVEY, WEBER COUNTY, UTAH. SAID POINT BEING 49.40 FEET N00°58'00"E ALONG THE CENTER LINE OF ADAMS AVENUE AS MONUMENTED, AND 49.50 FEET S89°02'00"E FROM AN OGDEN CITY MONUMENT AT THE INTERSECTION OF ADAMS AVENUE AND 25TH STREET; AND RUNNING THENCE N00°58'00"E 484.60 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK 27; THENCE S89°02'02"E 332.42 FEET; THENCE S00°57'58"W 199.72 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF THE WEBER COMMONS CONDOMINIUMS FINAL PLAT; THENCE ALONG SAID PLAT THE FOLLOWING THREE (3) COURSES AND DISTANCES; (1) N89°04'13"W 40.10 FEET; (2) THENCE S01°53'37"W 118.26 FEET; (3) THENCE S00°56'36"W 166.53 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF SAID BLOCK 27; THENCE N89°03'01"W ALONG SAID SOUTHERLY BOUNDARY LINE 290.48 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING 5 FOOT PEDESTRIAN EASEMENT:

PART OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

A 5 FOOT PEDESTRIAN EASEMENT, BEING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT, SAID POINT BEING 330.86 FEET N00°58'00"E ALONG THE CENTER LINE OF ADAMS AVENUE AS MONUMENTED, AND 195.63 FEET S89°02'00"E FROM AN OGDEN CITY MONUMENT AT THE INTERSECTION OF ADAMS AVENUE AND 25TH STREET; AND RUNNING THENCE S89°04'03"E 27.14 FEET; THENCE S58°20'50"E 22.29 FEET; THENCE S89°00'26"E 99.05 FEET; THENCE S80°53'04"E 21.02 FEET; THENCE S89°04'52"E 20.18 FEET TO THE POINT OF TERMINUS.