

Assignment of Lease Page 1 of 14
Russell Shirts Washington County Recorder
11/21/2019 04:12:46 PM Fee \$40.00 By
COTTONWOOD TITLE INSURANCE AGENCY,
INC.

PREPARED BY AND UPON
RECORDATION RETURN TO:

Troutman Sanders LLP
401 9th St. NW, Suite 1000
Washington, D.C. 20004
Attn: Kimberly J. Hargrove, Esq.

APN: W-5-2-13-245

CTIA#117684-WHF

**ASSIGNMENT
OF LEASES AND RENTS**

RSF AV ST. GEORGE II VII, L.P., a Texas limited partnership
and
SIENNA HILLS VILLAS OPERATIONS, LLC, a Utah limited liability company
(individually and collectively, "Borrower")

To

SUNTRUST BANK, a Georgia banking corporation, as Administrative Agent
("Administrative Agent")

November 21, 2019

Location: St. George, Utah

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "**Assignment**") is made as of November 21, 2019, by (i) RSF AV ST GEORGE IL VII, L.P., a Texas limited partnership ("**PropCo Borrower**") having an address at 3899 Maple Avenue, Suite 250, Dallas, Texas 75219, Attn: Kurt C. Read, and (ii) SIENNA HILLS VILLAS OPERATIONS, LLC a Utah limited liability company ("**OpCo Borrower**") (PropCo Borrower and OpCo Borrower are collectively referred to as "**Borrower**," provided that the term "**Borrower**" shall also refer to any one or more of PropCo Borrower or OpCo Borrower) having an address at 25115 SW Parkway Avenue, Suite B, Portland, Oregon 97070, Attn: Lawrence Lopardo, General Counsel, for the benefit of SUNTRUST BANK, a Georgia banking corporation, as Administrative Agent (in such capacity, and together with any successor Administrative Agent under the Loan Agreement (as hereinafter defined), hereinafter called "**Administrative Agent**"), for the ratable benefit of itself and Lenders (as hereinafter defined), a grantee for purposes of indexing, having an address at SunTrust Bank, Attn: Jeff McNeill, 4777 Sharon Road, Mail Code: NC-Charlotte-0400, Charlotte, North Carolina 28210.

WITNESSETH:

A. Borrower has requested that Administrative Agent and certain financial institutions from time to time a party to the Construction Loan Agreement (individually and collectively, the "**Lenders**") dated as of even date herewith (as amended, restated and/or replaced from time to time, the "**Loan Agreement**") make a loan (herein referred to as the "**Loan**") to Borrower in the principal amount of up to Seven Million One Hundred Sixty-Seven Thousand Seven Hundred Fifty-Five and No/100 Dollars (\$7,167,755.00). The Loan will be evidenced by certain Promissory Notes, pursuant to the terms of the Loan Agreement, made by Borrower payable to Lenders in the aggregate principal amount of Seven Million One Hundred Sixty-Seven Thousand Seven Hundred Fifty-Five and No/100 Dollars (\$7,167,755.00) (collectively, as the same may be amended, restated, supplemented, substituted or replaced from time to time, together with any additional evidence of indebtedness issued pursuant to the Loan Agreement, the "**Notes**"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

B. The Loan and other obligations of Borrower under the Loan Agreement are secured by that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated the date hereof (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Security Instrument**") from Borrower to the trustee named therein for the benefit of Administrative Agent.

C. Borrower desires to further secure the payment and performance of the Obligations under the Notes, the Loan Agreement and the other Loan Documents.

NOW THEREFORE, in consideration of the making of the Loan by Lenders and the covenants, agreements, representations and warranties set forth in this Assignment:

ARTICLE I
ASSIGNMENT

Section 1.1 Property Assigned. Borrower hereby absolutely and unconditionally assigns, transfers and grants to Administrative Agent in accordance with the Utah Uniform Assignment of Rents Act, *Utah Code Ann.* § 57-26-101 et seq. (the "Utah Act") and grants a security interest in and to, in accordance with the Utah Uniform Commercial Code, *Utah Code Ann.* § 70A-9a-101 et seq. (the "Utah UCC"), for the benefit of itself and Lenders, the following property, rights, interests and estates, now owned, or hereafter acquired by Borrower:

(a) Leases. All of Borrower's right, title and interest in all existing and future Leases (including the right to enforce, at law, in equity or by and other means, such Leases) The term "Leases" shall mean all agreements, whether or not in writing affecting the use, enjoyment, or occupancy of all or any part of that certain lot or piece of land, more particularly described in Exhibit A annexed hereto and made a part hereof, or all or any part of the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (collectively, the "Property") or any portion thereof now or hereafter made, whether made before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 *et seq.*, as the same may be amended from time to time (the "Bankruptcy Code"), together with any extension, renewal or replacement of the same, this Assignment of present and future Leases being effective without further or supplemental assignment. The term "Leases" includes those certain resident agreements entered into from time to time by and between OpCo Borrower and residents (the "Residents") of the Facility (the "Resident Agreements"). Borrower assigns its right, title and interest in all existing and future Resident Agreements to the extent assignable under applicable law.

(b) Rents. All of the Rents (as defined in the Utah Act), rents, royalties, issues, profits, revenues, earnings, income and other benefits of the Property, or arising from the use or enjoyment of the Property, or from any of the Leases or other use or occupancy agreement pertaining to the Property ("Rents"), which term shall include Rents paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code.

(c) Bankruptcy Claims. All of Borrower's claims and rights (the "Bankruptcy Claims") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code.

(d) Lease Guaranties. All of Borrower's right, title and interest in, and claims under, any and all lease guaranties, letters of credit and any other credit support (individually, a "Lease Guaranty," and collectively, the "Lease Guaranties") given by any guarantor in connection with any of the Leases (individually, a "Lease Guarantor", and collectively, the "Lease Guarantors") to Borrower.

(e) Proceeds. All proceeds or cash proceeds (as such terms are defined in the Utah Act or Utah UCC) from the sale or other disposition of the Leases, the Rents, the Lease Guaranties and/or the Bankruptcy Claims.

(f) **Other.** All rights, powers, privileges, options and other benefits of Borrower as lessor under any of the Leases and beneficiary under any of the Lease Guaranties, including, without limitation, the immediate and continuing right to make claim for, receive, collect and receipt for all Rents payable or receivable under the Leases and all sums payable under the Lease Guaranties or pursuant thereto (and to apply the same to the payment of the Obligations), and to do all other things which Borrower or any lessor is or may become entitled to do under any of the Leases or Lease Guaranties.

(g) **Entry.** The right, at Administrative Agent's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents, provided, however, that any such entry shall be during regular business hours of the Facility and Administrative Agent shall use commercially reasonable efforts not to disturb any of the Residents.

(h) **Power of Attorney.** Borrower's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in and in accordance with the terms of Section 3.1 of this Assignment and any or all other actions designated by Administrative Agent for the proper management and preservation of the Property.

(i) **Other Rights And Agreements.** Any and all other rights of Borrower in and to the items set forth in subsections (a) through (h) above, and all amendments, modifications, replacements, renewals and substitutions thereof.

ARTICLE 2 **TERMS OF ASSIGNMENT**

Section 2.1 **Present Assignment and License Back.** It is intended by Borrower that this Assignment constitute a present, absolute assignment of the Leases, Rents, Lease Guaranties and Bankruptcy Claims, and not an assignment for additional security only. Notwithstanding the foregoing or anything to the contrary contained herein, subject to the terms of this Assignment, Administrative Agent grants to Borrower a revocable license to exercise Borrower's rights powers, privileges, options and other benefits under the Leases and the Lease Guaranties, and to collect, receive, use and enjoy the Rents, (as they become due, but not more than one (1) month prior to accrual), Bankruptcy Claims, and other sums due under the Lease Guaranties. Borrower shall receive and hold such Rents, Bankruptcy Claims, and other sums due under the Lease Guaranties in trust as a fund to be applied, and Borrower hereby covenants and agrees that such Rents, Bankruptcy claims, and other sums due under the Lease Guaranties shall be so applied, first to the operation, maintenance and repair of the Property, including, without limitation, the payment of taxes and insurance, and the payment of interest, principal and other sums becoming due under the Loan, before retaining and/or disbursing any part of the Rents, Bankruptcy Claims, and other sums due under the Lease Guaranties for any other purpose.

Section 2.2 **Notice to Lessees.** Borrower hereby authorizes and directs the lessees named in the Leases including and all Lease Guarantors to pay over to Administrative Agent, or to such other party as Administrative Agent directs, for the benefit of itself and Lenders, all Rents and all sums due under any Lease Guaranties, upon receipt from Administrative Agent of written

notice to the effect that Administrative Agent is then the holder of this Assignment and that an Event of Default exists, and to continue so to do until otherwise notified by Administrative Agent.

Section 2.3 Incorporation by Reference. All representations, warranties, covenants, conditions and agreements contained in the Loan Agreement, as the same may be modified, renewed, substituted or extended from time to time, are hereby made a part of this Assignment to the same extent and with the same force as if fully set forth herein.

Section 2.4 Secured Obligations. Borrower makes the foregoing assignment, transfer, and grant set forth in Section 1.1 of this Assignment for the purpose of securing the payment and performance of the Obligations.

ARTICLE 3 **REMEDIES**

Section 3.1 Remedies of Administrative Agent. Upon the occurrence and during the continuance of an Event of Default, though subject to applicable law:

(a) the license granted to Borrower in Section 2.1 of this Assignment shall automatically be revoked, and Administrative Agent shall immediately be entitled to possession of all Rents and all sums due under any Lease Guaranties, whether or not Administrative Agent enters upon or takes control of the Property.

(b) Administrative Agent may, at its option and to the extent permitted by Applicable Law, without waiving such Event of Default, without regard to the adequacy of the security for the Obligations, either in person or by agent, nominee or attorney, with or without bringing any action or proceeding, or by a receiver appointed by a court, dispossess Borrower and its agents and servants from the Property, without liability for trespass, damages or otherwise and exclude Borrower and its agents wholly therefrom. Administrative Agent may apply for the appointment of a receiver of the Property, without regard for the adequacy of the security for the Obligations or a showing of insolvency, fraud or mismanagement on the part of Borrower. Any receiver so appointed has all powers permitted by law which may be necessary or usual in such cases for the protection, possession, control, management and operation of the Property. Borrower hereby irrevocably consents to the appointment of a receiver of the Property upon the occurrence and continuance of an Event of Default. At Administrative Agent's option, such receiver or trustee shall serve without any requirement of posting a bond.

(c) Administrative Agent may, at its option and to the extent permitted by Applicable Law, take possession of the Property and all books, records and accounts relating thereto and have, hold, manage, lease and operate the Property on such terms and for such period of time as Administrative Agent may deem proper and either with or without taking possession of the Property in its own name, demand, sue for or otherwise collect and receive all Rents and all sums due under all Lease Guaranties, including, without limitation, those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as Administrative Agent may deem proper.

(d) Administrative Agent may, at its option and to the extent permitted by Applicable Law, apply the Rents and sums received pursuant to any Lease Guaranties, after

deducting all costs of collection and administration expenses incurred by Administrative Agent, to the payment of the following in such order and proportion as Administrative Agent in its sole discretion may determine, any law, custom or use to the contrary notwithstanding: (a) all expenses of managing and securing the Property, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees or agents as Administrative Agent may deem necessary or desirable and all expenses of operating and maintaining the Property, including, without being limited thereto, all taxes, charges, claims, assessments, water charges, sewer rents and any other liens, and premiums for all insurance which Administrative Agent may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Property; and (b) the Obligations.

(e) Administrative Agent, at its option, may (1) complete all or any portion of any construction of the Improvements (as defined in the Loan Agreement) on the Property in such manner and form as Administrative Agent deems advisable, (2) exercise all rights and powers of Borrower under the Leases and Lease Guaranties, including, without limitation, the right to negotiate, execute, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents from the Property and all sums due under any Lease Guaranties; provided, however, that Administrative Agent shall in all such cases comply with the terms, conditions and provisions of the Resident Agreements, (3) either require Borrower to pay monthly in advance to Administrative Agent, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupancy of such part of the Property as may be in the possession of Borrower, or (4) require Borrower to vacate and surrender possession of the Property to Administrative Agent or to such receiver and, if in default thereof, Borrower may be evicted by summary proceedings or otherwise.

(f) Exercise any right or remedy available to it under the Utah UCC or under the Utah Act.

Section 3.2 Other Remedies. Nothing contained in this Assignment, and no act done or omitted by Administrative Agent pursuant to the power and rights granted to Administrative Agent hereunder, shall be deemed to be a waiver by Administrative Agent of its rights and remedies under the Loan Agreement or the other Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Administrative Agent under the terms thereof. The right of Administrative Agent to collect the Obligations and to enforce any other security therefor held by it may, subject to applicable law be exercised by Administrative Agent either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Borrower hereby absolutely, unconditionally and irrevocably waives any and all rights to assert any setoff, counterclaim or crossclaim of any nature whatsoever with respect to the Obligations of Borrower under this Assignment, the Loan Agreement, the Notes, the other Loan Documents or otherwise with respect to the Loan in any action or proceeding brought by Administrative Agent to collect same, or any portion thereof, or to enforce and realize upon the lien and security interest created by this Assignment, the Loan Agreement, the Notes, the Security Instrument, or any of the other Loan Documents (provided, however, that the foregoing shall not be deemed a waiver of Borrower's right to assert any compulsory counterclaim if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of Borrower's right to assert any claim which would constitute a defense, setoff,

counterclaim or crossclaim of any nature whatsoever against Administrative Agent in any separate action or proceeding).

Section 3.3 Other Security. Administrative Agent may take or release other security for the payment and performance of the Obligations, may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the payment and performance of the Obligations without prejudice to any of its rights under this Assignment.

Section 3.4 Non-Waiver. The exercise by Administrative Agent of any option granted it in **Section 3.1** of this Assignment, and the collection of the Rents and sums due under the Lease Guaranties and the application thereof as herein provided, shall not be considered a waiver of any Default or Event of Default. The failure of Administrative Agent to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Assignment. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (a) the failure of Administrative Agent to comply with any request of Borrower or any other party to take any action to enforce any of the provisions hereof or of the Loan Agreement, the Notes or the other Loan Documents, (b) the release regardless of consideration, of the whole or any part of the Property, or (c) any agreement or stipulation by Administrative Agent extending the time of payment or otherwise modifying or supplementing the terms of this Assignment, the Loan Agreement, the Security Instrument, the Notes or the other Loan Documents. Administrative Agent may resort for the payment and performance of the Obligations to any other security held by Administrative Agent in such order and manner as Administrative Agent, in its sole discretion, may elect. Administrative Agent may take any action permitted by the terms of the Loan Documents, at law or in equity, to recover the Obligations, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Administrative Agent thereafter to enforce its rights under this Assignment. The rights of Administrative Agent under this Assignment shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Administrative Agent shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

Section 3.5 Bankruptcy. (a) At any time after the occurrence and during the continuance of an Event of Default, Administrative Agent shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code, and Borrower, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Administrative Agent not less than ten (10) days' prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject such Lease. Administrative Agent shall have the right, but not the obligation, to serve upon Borrower within such ten (10) day period a notice stating that (i) Administrative Agent demands that Borrower assume and assign the Lease to Administrative Agent pursuant to Section 365 of the Bankruptcy Code and (ii) Administrative Agent covenants to cure or provide adequate assurance of future performance under the Lease. If Administrative Agent serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the

Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after Administrative Agent's notice shall have been given, subject to the performance by Administrative Agent of the covenant provided for in clause (ii) of the preceding sentence.

ARTICLE 4
NO LIABILITY, FURTHER ASSURANCES

Section 4.1 No Liability of Administrative Agent. This Assignment shall not be construed to bind Administrative Agent to the performance of any of the covenants, conditions or provisions contained in any Lease or Lease Guaranty or otherwise impose any obligation upon Administrative Agent. Administrative Agent shall not be liable for any loss sustained by Borrower resulting from Administrative Agent's failure to let the Property after an Event of Default or from any other act or omission of Administrative Agent in managing the Property after an Event of Default, unless such loss is caused by the gross negligence, willful misconduct or bad faith of Administrative Agent. Administrative Agent shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any Lease Guaranties or under or by reason of this Assignment and Borrower shall indemnify each Indemnitee for, and hold each Indemnitee harmless from, any and all liability, loss or damage which may or might be incurred under the Leases, any Lease Guaranties or under or by reason of this Assignment and from any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against any Indemnitee by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any Lease Guaranties. Should any Indemnitee incur any such liability, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured by this Assignment and by the Security Instrument and the other Loan Documents, and Borrower shall reimburse such Indemnitee therefor immediately upon demand and upon the failure of Borrower so to do Administrative Agent may, at its option, declare all sums secured by this Assignment and by the Security Instrument and the other Loan Documents immediately due and payable. This Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Administrative Agent (unless Administrative Agent dispossesses Borrower and its agents from the Property and takes actual possession of the Property), nor for the carrying out of any of the terms and conditions of the Leases or any Lease Guaranties; nor shall it operate to make Administrative Agent responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property including, without limitation, the presence of any Hazardous Materials, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. The provisions of this Section 4.1 shall survive any payment or prepayment of the Loan and any foreclosure or satisfaction of the Security Instrument

Section 4.2 No Mortgagee In Possession. Nothing herein contained shall be construed as constituting Administrative Agent a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Administrative Agent. In the exercise of the powers herein granted Administrative Agent, no liability shall be asserted or enforced against Administrative Agent, all such liability being expressly waived and released by Borrower.

Section 4.3 **Further Assurances.** Borrower will, at the cost of Borrower, and without expense to Administrative Agent, do, execute, acknowledge and deliver all and every such further acts, conveyances, assignments, notices of assignments, transfers and assurances as Administrative Agent shall, from time to time, require for the better assuring, conveying, assigning, transferring and confirming unto Administrative Agent the property and rights hereby assigned or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Administrative Agent, or for carrying out the intention or facilitating the performance of the terms of this Assignment or for filing, registering or recording this Assignment and, on demand, will execute and deliver and hereby authorizes Administrative Agent to execute in the name of Borrower to the extent Administrative Agent may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively, perfect, or continue the perfection of, the lien and security interest hereof in and upon the Leases.

ARTICLE 5 MISCELLANEOUS PROVISIONS

Section 5.1 **Conflict of Terms.** In case of any conflict between the terms of this Assignment and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Section 5.2 **No Oral Change.** This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure to act on the part of Borrower or Administrative Agent, but only by an agreement in writing signed by the Borrower and Administrative Agent, with such consent of Lenders (if any) required by the Loan Agreement.

Section 5.3 **General Definitions.** Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Assignment may be used interchangeably in singular or plural form and "Administrative Agent" shall mean Administrative Agent and its successors and assigns, the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or interest therein," the word "Lender" shall mean each Lender and any subsequent holder of the Notes", the word "Notes" shall mean "each Note and any other evidence of indebtedness secured by the Loan Agreement," the word "Property" shall include any portion of the Property and any interest therein, the phrases "attorneys' fees," "legal fees" and "counsel fees" shall include any and all reasonable attorney's, paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Administrative Agent in protecting its interest in the Property, the Leases, the Lease Guaranties and the Rents and enforcing its rights hereunder; whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 5.4 **Inapplicable Provisions.** If any provision of this Assignment is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Assignment, such provision shall be fully severable and this Assignment shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Assignment, and the remaining provisions of this Assignment shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from

this Assignment, unless such continued effectiveness of this Assignment, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

Section 5.5 Termination of Assignment. Upon payment and performance in full of the Obligations, termination of the Loan Agreement and release of the Security Instrument, this Assignment shall become and be void and of no effect, and thereafter Administrative Agent will execute a release of this Assignment upon written request of Borrower.

Section 5.6 Notices. All notices or other written communications hereunder shall be delivered in accordance with the Loan Agreement.

Section 5.7 Governing Law.

(a) The provisions of this Assignment regarding the creation, perfection and enforcement of the liens and security interests herein granted shall be governed by and construed under the laws of the state in which the Property is located. All other provisions of this Assignment shall be governed by the laws of the State of Georgia.

(b) Any legal suit, action or proceeding against Administrative Agent or Borrower arising out of or relating to this Assignment may, at Administrative Agent's option, be instituted in any Federal or state court in the United States District Court in the Northern District of Georgia or in the Business Case Division of the Fulton County Superior Court located in Atlanta, Georgia, and Borrower waives any objections which it may now or hereafter have based on venue and/or forum non conveniens of any such suit, action or proceeding, and Borrower hereby irrevocably submits to the jurisdiction of any such court in any suit, action or proceeding.

Section 5.8 WAIVER OF TRIAL BY JURY. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, BORROWER AND BY ITS ACCEPTANCE HEREOF, ADMINISTRATIVE AGENT, AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THIS ASSIGNMENT, THE NOTE, THE SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND BY ITS ACCEPTANCE HEREOF, ADMINISTRATIVE AGENT, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EITHER ADMINISTRATIVE AGENT OR IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER AND ADMINISTRATIVE AGENT.

Section 5.9 WAIVERS. THE WAIVERS BY THE PARTIES HERETO IN THIS ASSIGNMENT HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY BY SUCH PARTIES, AFTER EACH SUCH PARTY HAS BEEN

AFFORDED AN OPPORTUNITY TO BE INFORMED BY COUNSEL OF SUCH PARTY'S CHOICE AS TO POSSIBLE ALTERNATIVE RIGHTS. EACH PARTY'S EXECUTION OF THIS ASSIGNMENT SHALL BE CONCLUSIVE EVIDENCE OF THE MAKING OF SUCH WAIVERS AND THAT SUCH WAIVERS HAVE BEEN INVOLUNTARILY, INTELLIGENTLY AND KNOWINGLY MADE.

Section 5.10 Time is of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower under this Assignment.

Section 5.11 Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of Borrower and Administrative Agent and their respective successors and permitted assigns forever. Administrative Agent may sell, assign, pledge, participate, delegate or transfer, as applicable, to one or more Persons, all or any portion of its rights under this Assignment in connection with any assignment of the Loan and the Loan Documents. Any assignee or transferee of Administrative Agent shall be entitled to all the benefits afforded to Administrative Agent under this Assignment. Borrower shall not have the right to assign, delegate or transfer its rights or obligations under this Assignment without the prior written consent of Administrative Agent, as provided in the Loan Agreement, and any attempted assignment, delegation or transfer without such consent shall be null and void.

Section 5.12 Headings, Etc. The headings and captions of the various paragraphs of this Assignment are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 5.13 Utah Uniform Assignment of Rents Act. Notwithstanding anything to the contrary herein, this Assignment is subject to the Utah Act and in the event of any conflict or inconsistency between the provisions of this Assignment and the provisions of the Utah Act, the provisions of the Utah Act shall control and Administrative Agent shall have all rights and remedies available under the Utah Act which rights and remedies shall be cumulative with all rights and remedies hereunder.

[Signatures appear on following page]

IN WITNESS WHEREOF, Borrower has executed this Assignment of Leases and Rents, under seal, the day and year first above written.

PROPCO BORROWER:

RSF AV ST. GEORGE IL VII, L.P.,
a Texas limited partnership

By: **RSF REIT VII AV 1 GP, LLC,**
a Texas limited liability company
Its: **General Partner**

By: **RSF REIT VII AV 1, LLC**
Its: **Managing Member**

By:  (SEAL)
Kurt C. Read
Vice President

State of Texas

ss.

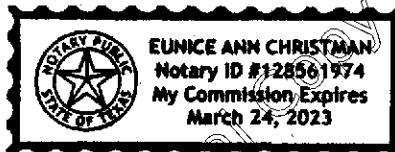
County of Dallas

On this 19 day of November, in the year 2019, before me Eunice Ann Christman, a notary public, personally appeared Kurt C. Read, the Vice President of RSF REIT VII AV 1, LLC, the Managing Member of RSF REIT VII AV 1 GP, LLC, a Texas limited liability company, the General Partner of RSF AV ST. GEORGE IL VII, L.P., a Texas limited partnership, on behalf of said limited partnership, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)




Notary Signature



OPCO BORROWER:

**SIENNA HILLS VILLAS OPERATIONS,
LLC, a Utah limited liability company**

By:  (SEAL)
K. Rickard Miller, Jr.
Manager

State of ~~Utah~~ Arizona
County of Clark ss.

On this 15 day of November, in the year 2019, before me Lawrence L. Lopardo, a notary public, personally appeared K. Rickard Miller, Jr., the Manager of SIENNA HILLS VILLAS OPERATIONS, LLC, a Utah limited liability company, on behalf of said limited liability company, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)


Notary Signature

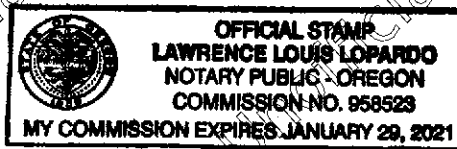


EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that lot or parcel of land situated in the County of Washington, State of Utah, and more particularly described as follows:

PARCEL 1:

Beginning at a point which is North 00°54'18" East 2212.95 feet along the center section line and North 90°00'00" East 395.90 feet from the South quarter corner of Section 13, Township 42 South, Range 15 West, Salt Lake Base and Meridian; said point also being a point on the Easterly right-of-way of Washington Parkway, recorded on July 5, 2006 as Document No. 20060029317 in the office of the Washington County Recorder, in said County, State of Utah and running thence along said Easterly Washington Parkway right-of-way North 04°36'52" West 267.62 feet to the point of curvature of a 25.00 foot radius curve concave to the right, said point also being a point on the Southerly right-of-way of Red Stone Road; thence along said Southerly right-of-way of Red Stone Road the following (3) three courses: Northeasterly 39.27 feet along the arc of said curve through a central angle of 89°59'59" to the point of tangency; thence North 85°23'06" East 309.67 feet to the point of curvature of a 235.00 foot radius curve concave to the left; thence Northeasterly 110.74 feet along the arc of said curve through a central angle of 26°59'55" to point of non-tangency; thence South 05°34'26" East 317.84 feet to a point on the arc of a 1786.48 foot radius curve concave to the right, the radius point of which bears North 05°51'45" West, said point also being on the Northerly right-of-way of Telegraph Road Phase II recorded on January 8, 2001 as Entry No. 706703 in Book 1391 at Page 247, in the office of the Washington County Recorder, in said County, State of Utah; thence along said Northerly right-of-way of Telegraph Road Phase II the following (2) two courses: Southwesterly 38.84 feet along the arc of said curve through a central angle of 01°14'45" to the point of tangency; thence South 85°23'00" West 407.83 feet to the point of beginning.

PARCEL 2:

The nonexclusive easements, appurtenant to Parcel 1 described herein, provided for in that certain Declaration of Covenants, Conditions, Restrictions, and Easements for Sienna Hills recorded January 27, 2006 as Entry No. 999848 in Book 1838 at Page 798, as amended by that certain First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Sienna Hills recorded March 8, 2010 as Entry No. 20100007553, and as amended, supplemented and/or otherwise affected by that certain Tract Declaration of Covenants, Conditions and Restrictions, dated June 12, 2019 and recorded June 28, 2019 as Entry No. 20190025529 among the official records of Washington County, Utah.

FOR INFORMATIONAL PURPOSES ONLY:

ADDRESS: 154 N. Red Stone Road, Units 1-25, Washington, UT 84780

TAX PARCEL NO: W-5-2-13-245

(End of Property Description)