

**Tax Serial Number:**  
66-170-0029

**RECORDATION REQUESTED BY:**

Zions Bancorporation, N.A. dba Zions First National Bank  
Western Idaho Corporate Banking  
800 West Main Street, Ste 700  
Boise, ID 83702

**WHEN RECORDED MAIL TO:**

Zions Bancorporation, N.A. dba Zions First National Bank  
Enterprise Loan Operations UT RDWG 1970  
PO Box 25007  
Salt Lake City, UT 84125-0007

126210 TTF

FOR RECORDER'S USE ONLY

## MODIFICATION OF DEED OF TRUST

THIS MODIFICATION OF DEED OF TRUST dated April 23, 2020, is made and executed between S3 Properties L.P., A Nevada Limited Partnership as to an undivided 74 1/2% interest, whose address is 2201 N 20th Street, 2nd Floor, Nampa, Idaho 83687 and WESMAR LAND CO., an Idaho corporation as to an undivided 25 1/2% interest, whose address is 616 N 3rd St. Ste 103, McCall, ID 83638 (individually, and collectively, "Trustor") and Zions Bancorporation, N.A. dba Zions First National Bank, whose address is Western Idaho Corporate Banking, 800 West Main Street, Ste 700, Boise, ID 83702 ("Lender").

**DEED OF TRUST.** Lender and Trustor have entered into a Deed of Trust dated November 28, 2014 (the "Deed of Trust") which has been recorded in Utah County, State of Utah, as follows:

Recorded December 12, 2014 as Entry No. 89715:2014.

**REAL PROPERTY DESCRIPTION.** The Deed of Trust covers the following described real property located in Utah County, State of Utah:

See the exhibit or other description document which is attached to this Modification and made a part of this Modification as if fully set forth herein.

The Real Property or its address is commonly known as 1410 N REDWOOD ROAD, Saratoga Springs, UT 84045. The Real Property tax identification number is 66-170-0029.

**MODIFICATION.** Lender and Trustor hereby modify the Deed of Trust as follows:

1) The following paragraph on page 1 of the Deed of Trust is hereby deleted in its entirety:

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF THE TRUSTOR UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE

**FOLLOWING TERMS:**

2) In place of the foregoing deleted paragraph, the following shall be inserted into the Deed of Trust:

**THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS, AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE HEDGING TRANSACTION DOCUMENTS, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NO TRUSTOR SHALL BE DEEMED TO HAVE GUARANTEED, BECOME JOINTLY AND SEVERALLY OBLIGATED FOR OR TO HAVE PLEDGED ASSETS IN SUPPORT OF A "SWAP," AS DEFINED IN SECTION 1A(47) OF THE COMMODITY EXCHANGE ACT ("CEA"), ENTERED INTO ON OR AFTER OCTOBER 12, 2012, IF AT THE TIME THAT SWAP IS ENTERED INTO, SUCH TRUSTOR IS NOT AN "ELIGIBLE CONTRACT PARTICIPANT" AS DEFINED IN SECTION 1A(18) OF THE CEA. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

3) The section in the Deed of Trust entitled "**Cross-Collateralization**" is deleted in its entirety and replaced with the following subsection:

**CROSS-COLLATERALIZATION.** In addition to the Note and the Hedging Transaction, this Agreement secures all obligations, debts and liabilities, plus interest thereon, of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note or the Hedging Transaction, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Borrower may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

4) The section in the Deed of Trust entitled "**Payment and Performance**" is deleted in its entirety and replaced with the following subsection:

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Deed of Trust, Trustor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Trustor's obligations under the Note, the Hedging Transaction Documents, this Deed of Trust, and the Related Documents.

5) The section in the Deed of Trust entitled "**Taxes**" under the section entitled "**Imposition of Taxes, Fees and Charges by Governmental Authorities**" is deleted in its entirety and replaced with the following subsection:

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Deed of Trust or upon all or any part of the Indebtedness secured by this Deed of Trust; (2) a specific tax on Trustor which Trustor is authorized or required to deduct from payments on the Indebtedness secured by this type of Deed of Trust; (3) a tax on this type of Deed of Trust chargeable against the Lender or the holder of the Note or assignee of Lender's interest in the Hedging Transaction; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Trustor.

6) The section in the Deed of Trust entitled "**Further Assurances**" under the section entitled "**Further Assurances; Attorney-in-Fact**" is deleted in its entirety and replaced with the following subsection:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Trustor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to

Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Trustor's obligations under the Note, the Hedging Transaction Documents, this Deed of Trust, and the Related Documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Trustor. Unless prohibited by law or Lender agrees to the contrary in writing, Trustor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

7) The section in the Deed of Trust entitled "**Compliance Default**" under the section entitled "**Events of Default**" is deleted in its entirety and replaced with the following subsection:

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note, the Hedging Transaction Documents or in any of the Related Documents.

8) The section in the Deed of Trust entitled "**Other Remedies**" under the section entitled "**Rights and Remedies on Default**" is deleted in its entirety and replaced with the following subsection:

**Other Remedies.** Trustee or Lender shall have any other right or remedy provided in this Deed of Trust, the Note, the Hedging Transaction Documents, or available at law or in equity.

9) The sections in the Deed of Trust entitled "**Guaranty**," "**Related Documents**" and "**Indebtedness**" under the section entitled "**Definitions**" are deleted in their entirety and replaced with the following definitions:

**Guaranty.** The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note and/or the Hedging Transaction.

**Indebtedness.** The word "Indebtedness" means and includes without limitation all Loans, together with all other obligations, debts and liabilities of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them; whether now or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated; whether Borrower may be liable individually or jointly with others; whether Borrower may be obligated as a guarantor, surety, or otherwise; whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations; and whether such indebtedness may be or hereafter may become otherwise unenforceable.

The word "Indebtedness" also includes any and all obligations of Borrower to Lender arising under or in connection with any Hedging Transaction, including without limitation the interest rate hedging transactions entered into pursuant to the Hedging Transaction Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for any of the foregoing.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, interest rate hedging transaction agreements, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness; except that the words do not mean any guaranty or environmental agreement, whether now or hereafter existing, executed in connection with the Indebtedness.

10 ) The following new definitions for "**Hedging Transaction Documents**" and "**Hedging Transaction**" are inserted immediately after the section entitled "**Hazardous Substances**"

under the section entitled "Definitions" as follows:

**Hedging Transaction Documents.** The words "Hedging Transaction Documents" mean and include any ISDA Master Agreement and Schedule thereto between Borrower and Lender, and all Confirmations (as such term is defined in such ISDA Master Agreement) between Borrower and Lender, executed in connection with any Hedging Transactions entered into between Borrower and Lender, now or in the future, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for any of the foregoing.

**Hedging Transaction.** The words "Hedging Transaction" mean and include any transaction now existing or hereafter entered into between Borrower and Lender which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures, including without limitation the interest rate hedging transactions entered into pursuant to the Hedging Transaction Documents.

**CONTINUING VALIDITY.** Except as expressly modified above, the terms of the original Deed of Trust shall remain unchanged and in full force and effect. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Deed of Trust as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Deed of Trust (the "Note"). It is the intention of Lender to retain as liable all parties to the Deed of Trust and all parties, makers and endorsers to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Deed of Trust does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

**DOCUMENT IMAGING.** Lender shall be entitled, in its sole discretion, to image or make copies of all or any selection of the agreements, instruments, documents, and items and records governing, arising from or relating to any of Borrower's loans, including, without limitation, this document and the Related Documents, and Lender may destroy or archive the paper originals. The parties hereto (i) waive any right to insist or require that Lender produce paper originals, (ii) agree that such images shall be accorded the same force and effect as the paper originals, (iii) agree that Lender is entitled to use such images in lieu of destroyed or archived originals for any purpose, including as admissible evidence in any demand, presentment or other proceedings, and (iv) further agree that any executed facsimile (faxed), scanned, or other imaged copy of this document or any Related Document shall be deemed to be of the same force and effect as the original manually executed document.

**TRUSTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF DEED OF TRUST AND TRUSTOR AGREES TO ITS TERMS. THIS MODIFICATION OF DEED OF TRUST IS DATED APRIL 23, 2020.**

TRUSTOR:

S3 PROPERTIES L.P.

K.G. SMITH L.P., General Partner of S3 Properties L.P.

SSI MANAGEMENT CORPORATION, General Partner of K.G. Smith L.P.

By: [Signature]  
Kirk G Smith, President of SSI Management Corporation

WESMAR LAND COMPANY

By: [Signature]  
Kirk G Smith, President of Wesmar Land Company

LENDER:

ZIONS BANCORPORATION, N.A. DBA ZIONS FIRST NATIONAL BANK

X [Signature]  
Authorized Officer

**PARTNERSHIP ACKNOWLEDGMENT**

STATE OF Idaho

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COUNTY OF Valley

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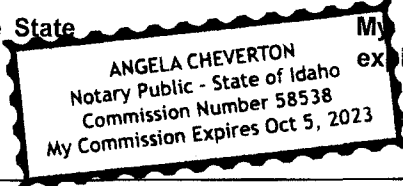
On this 23rd day of April, 20 20, before me, the undersigned Notary Public, personally appeared **Kirk G Smith, President of SSI Management Corporation, General Partner of K.G. Smith L.P., General Partner of S3 Properties L.P.**, and known to me to be a partner or designated agent of the partnership that executed the Modification of Deed of Trust and acknowledged the Modification to be the free and voluntary act and deed of the partnership, by authority of statute or its Partnership Agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Modification and in fact

executed the Modification on behalf of the partnership.

By Angela Cheverton

Residing at Adams

Notary Public in and for the State of Idaho



My commission expires 10-5-2023

**CORPORATE ACKNOWLEDGMENT**

STATE OF Idaho )

) SS

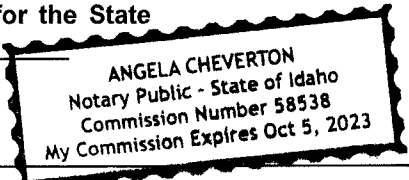
COUNTY OF Valley )

On this 23rd day of April, 20 20, before me, the undersigned Notary Public, personally appeared **Kirk G Smith, President of Wesmar Land Company**, and known to me to be an authorized agent of the corporation that executed the Modification of Deed of Trust and acknowledged the Modification to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Modification and in fact executed the Modification on behalf of the corporation.

By Angela Cheverton

Residing at Adams

Notary Public in and for the State of Idaho



My commission expires 10-5-2023

**LENDER ACKNOWLEDGMENT**

STATE OF Idaho )

) SS

COUNTY OF Valley )

On this 23rd day of April, 20 20, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ and known to me to be the \_\_\_\_\_, authorized agent for **Zions Bancorporation, N.A. dba Zions First National Bank** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of **Zions Bancorporation, N.A. dba Zions First National Bank**, duly authorized by **Zions Bancorporation, N.A. dba Zions First National Bank** through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and in fact executed this

executed the Modification on behalf of the partnership.

By \_\_\_\_\_

Residing at \_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_

My commission expires \_\_\_\_\_

**CORPORATE ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )

) SS

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, before me, the undersigned Notary Public, personally appeared **Kirk G Smith, President of Wesmar Land Company**, and known to me to be an authorized agent of the corporation that executed the Modification of Deed of Trust and acknowledged the Modification to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Modification and in fact executed the Modification on behalf of the corporation.

By \_\_\_\_\_

Residing at \_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_

My commission expires \_\_\_\_\_

**LENDER ACKNOWLEDGMENT**

STATE OF Idaho \_\_\_\_\_ )

) SS

COUNTY OF Ada \_\_\_\_\_ )

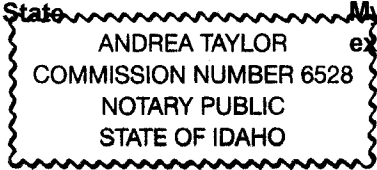
On this 27 day of April, 20 20, before me, the undersigned Notary Public, personally appeared Kelly Robertson and known to me to be the EVP, authorized agent for **Zions Bancorporation, N.A. dba Zions First National Bank** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of **Zions Bancorporation, N.A. dba Zions First National Bank**, duly authorized by **Zions Bancorporation, N.A. dba Zions First National Bank** through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and in fact executed this

said instrument on behalf of Zions Bancorporation, N.A. dba Zions First National Bank.

By Andrea Taylor

Residing at Boise ID

Notary Public in and for the State of Idaho



My commission expires 5-10-2024



## EXHIBIT A PROPERTY DESCRIPTION

### PARCEL 1:

Lot 2, SARATOGA TOWN CENTER, A SUBDIVISION, according to the official plat thereof, as recorded in the office of the Utah County Recorder.

LESS AND EXCEPTING THEREFROM a part of Lot 2, Saratoga Town Center, within the Northeast quarter of Section 14, Township 5 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Utah County, Utah as conveyed to City of Saratoga Springs by Quit Claim Deed recorded as Entry No. 73036:2007 in the official records of Utah County:

Beginning at the front lot corner common to Lots 1 and 2 of said Saratoga Towns Center located 1071.01 feet South 0° 36' 41" West along the quarter section line, and 58.37 feet South 89° 23' 19" East from the North quarter corner of said Section 14; and running thence South 89° 26' 15" East 3.00 feet along the lot line common to said Lots 1 and 2; thence Southerly along the arc of a 5,792.65 foot radius curve to the right, a distance of 199.71 feet (central angle equals 1° 58' 31" and long chord bears South 0° 55' 15" East 199.70 feet) along a line concentric with and being 3.00 feet radially distant Easterly from the Easterly Line of Redwood Road as it has been dedicated to 60.00 foot half-width to the Southwesterly line of said Lot 2; thence North 37° 01' 33" West 4.98 feet along said Southwesterly line to the Easterly line of said Redwood Road; thence Northerly along the arc of a 5,789.65 foot radius curve to the left, a distance of 195.77 (central angle equals 1° 56' 15" and long chord bears North 0° 56' 28" West 195.76 feet) along said Easterly line of Redwood Road as it has been dedicated to 60.00 foot half-width to the point of beginning.

### ALSO LESS AND EXCEPTING THEREFROM:

A parcel of land in fee for the purpose of constructing thereon a roadway known as Project No. 0068, being part of an entire tract of property situate in the NW1/4NE1/4 of Section 14, T. 5 S, R. 1 W, S.L.B.&M. The boundaries of said parcel of land are described as follows;

Beginning at Northwest corner of Lot 2, as per the Plat of SARATOGA TOWN CENTER SUBDIVISION, File Number 11899, on file in the office of the Utah County Recorder, Utah which point is 47.85 ft. N.89°51'45" E., along the north line of said NE1/4 and 1,072.54 ft., S.00°08'15" E., from the North Quarter corner of said Section 14; and running thence S.89°27'44" E., along the north line of said Lot 2, 13.15 ft. to a point 64.00 ft. perpendicularly distant easterly from the centerline of said project No. 0068, opposite Engineer Station 609+73.51, which is a point on a 4,314.00 ft. radius curve to the right, (Note: radius bears S. 89°04'17" W.); thence southerly along said curve 108.16 ft.; thence S.00°30'28" W., 97.87 ft.; thence S. 44°28'59" E., 46.74 ft.; thence S.89°28'25"E., 264.93 ft.; thence S. 85°39'30"E., 34.78 ft. to the east line of said Lot 2, which is 396.68 ft. perpendicularly distant easterly from the centerline of said project No. 0068, opposite Engineer Station 607+33.63; thence S. 00°32'16"W., along said east line, 1.62 ft.; thence N.89°27'46"W., 305.80 ft.; thence N. 37°03'02"W., 59.62 ft. to a point on a 5,789.41 ft. radius curve to the left, (Note: radius bears N.89°59'50"W.); thence northerly along said curve 195.77 ft. to the point of beginning.

### PARCEL 1A:

Non-exclusive easements for ingress, egress and utilities lines and facilities, appurtenant to PARCEL 1 described herein, as provided by "Declaration of Easements, Covenants, Conditions and Restrictions and Common Area Maintenance Agreement" recorded October 6, 2006, as Entry NO. 132916:2006, in the official records of Utah County.

LESS AND EXCEPTING FROM PARCELS 1 AND 1A described herein any and all outstanding oil and gas, mining and minerals rights, including, but not limited to, the oil, gas, petroleum, naphtha, other hydrocarbon substances and minerals of whatsoever kind and nature reserved by the Federal Land Bank of Berkeley in that certain Special Warranty Deed recorded December 12, 1945 as Entry No. 12574, in Book 435, at Page 573, of the

Official Records of the Utah County Recorder, and the minerals, coal, carbons, hydrocarbons, oil, gas, chemical elements and compounds whether in solid, liquid, or gaseous form, and all steam and other forms of thermal energy on, in, or under the above-described land, as reserved by the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, in that certain Special Warranty Deed recorded July 27, 1993 as Entry No. 49987, in Book 3204, at Page 387, of the Official Records of the Utah County Recorder, and in that certain Quit Claim Deed recorded July 27, 1993 as Entry No. 49988, in Book 3204, at Page 389, of the Official Records of the Utah County Recorder, and re-recorded October 26, 1993 as Entry No. 75849, in Book 3278, at Page 64, of the Official Records of the Utah County Recorder.

Tax Id No.: 66-170-0029