

When Recorded Return To:

Nicole C. Evans
Ballard Spahr LLP
201 South Main Street, Suite 800
Salt Lake City, UT 84111-2221

**ASSIGNMENT
OF PUBLIC FACILITIES REIMBURSEMENT AGREEMENT**

THIS ASSIGNMENT OF PUBLIC FACILITIES REIMBURSEMENT AGREEMENT (the "**Assignment**") is made and entered into effective as of the ___ day of July 2017, by **COTTONWOOD GENEVA, LLC**, a Delaware limited liability company ("**Assignor**"), in favor of **AMERICA FIRST FEDERAL CREDIT UNION** ("**Assignee**"), and is consented to by the **VINEYARD REDEVELOPMENT AGENCY**, a Utah body corporate established pursuant to the Utah Community Development and Renewal Agencies Act, as amended (the "**VRA**"), pursuant to that certain Consent attached hereto as Exhibit B ("**Consent**").

RECITALS

A. Assignor owns that certain real property located in Utah County, Utah (the "**Property**"), as more particularly described on Exhibit "A" attached hereto and made a part hereof. Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Construction Loan Agreement.

B. Assignor applied to Assignee for a loan (the "**Loan**") in the maximum principal amount of TWELVE MILLION AND 00/100 DOLLARS (\$12,000,000.00).

C. The proceeds of the Loan will be used by Assignor as construction financing for the completion of site work on roads and utilities at the Property and other design work and improvements constructed or to be constructed on the Property.

D. In connection with the Loan and to secure Assignor's obligations under the Note, Assignor has executed and delivered a Construction Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing by Assignor, as trustor, in favor of First American Title Insurance Company, as trustee, in favor of Assignee, as beneficiary, (the "**Deed of Trust**"), and the other Loan Documents. All instruments, agreements and certificates governing, evidencing, guaranteeing or securing the Loan, as the same may be amended, modified, supplemented, extended, or renewed from time to time, are referred to in this Assignment as the "**Loan Documents**."

E. Assignor and the VRA have entered into that certain Public Facilities Reimbursement Agreement, dated November 9, 2016 (the "**Reimbursement Agreement**"), whereby, *inter alia*, the VRA has agreed to reimburse Assignor for the construction of certain improvements in the Project, as further described therein.

F. Assignee requires, as a condition precedent to the making of the Loan, that Assignor execute and deliver to Assignee an assignment of Assignor's interest in the Reimbursement Agreement, and that the VRA consent to said assignment on the terms and conditions contained in the attached Consent.

NOW, THEREFORE, in consideration of Assignee making the Loan to Assignor, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment: Security Interest.

(a) Assignment and Security Interest. Assignor hereby grants, transfers, sets over and assigns to Assignee all of Assignor's right, title, interest, privileges, benefits and remedies in, to and under the Reimbursement Agreement and all amounts to be paid thereunder. It is expressly understood and agreed by Assignor and VRA, by its execution of the attached VRA consent, that Assignee does not hereby assume any of Assignor's obligations or duties concerning the Reimbursement Agreement, unless and until Assignee exercises its rights hereunder and under the Reimbursement Agreement.

(b) Direct Payment to Assignee Upon Default. Upon the occurrence and during the continuance of an Event of Default under the Loan Agreement or any other Loan Documents, Assignee may give written notice to the VRA of such or Event of Default and upon receipt of such notice, the VRA shall make all payments due and owing to Assignor under the Reimbursement Agreement directly to Assignee and not to Assignor at such address as Assignee shall specify. Payment to Assignee of any such amount shall constitute payment under the Reimbursement Agreement for all purposes. Once given to VRA, such notice and payment instructions shall be revoked, modified or amended only by Assignee (which, by its acceptance hereof, Assignee agrees to do at such time as an Event of Default is no longer continuing).

2. Definitions. For purposes of this Assignment, terms which are denoted in this Assignment by the first letter of each word being capitalized, but which are not otherwise defined in this Assignment, shall have the respective meanings assigned to such terms in the Loan Agreement

3. Actions by Assignee. Assignee shall not exercise its rights under this Assignment unless an Event of Default (as defined in the Loan Agreement) under the Loan Documents has occurred and is continuing. Upon the occurrence and during the continuance of such an Event of Default, Assignee may, at its option, upon written notice to the VRA expressly stating its intention to exercise its rights under this Assignment and to satisfy all of Assignor's obligations under the Reimbursement Agreement, exercise any or all of the rights and remedies granted to Assignor under the Reimbursement Agreement as if Assignee had been an original party to the Reimbursement Agreement. Upon giving such notice expressly stating its intention to exercise its rights under this Assignment and to satisfy all of Assignor's obligations under the Reimbursement Agreement, Assignee shall satisfy all obligations of Assignor, including all defaults of Assignor under the Reimbursement Agreement occurring prior to the time Assignee gives such notice to the VRA; provided, however, in the event a default by Assignor is not reasonably curable by Assignee within any time limitations or deadlines under the

Reimbursement Agreement, Assignee shall have such longer period of time as may be reasonably necessary to effect such cure, so long as Assignee promptly cures such defaults and at all times diligently pursues such cure. Any notice given by Assignee to the VRA under this Assignment shall be given in the same manner and at the same address for the VRA as set forth in the Reimbursement Agreement.

4. Power of Attorney. Upon the occurrence and continuation of an Event of Default, Assignee shall have the right (and Assignor hereby irrevocably constitutes and appoints Assignee as its attorney-in-fact, which power is coupled with an interest, to do so) to demand, receive and enforce Assignor's rights with respect to the Reimbursement Agreement, to give appropriate receipts, releases and satisfactions for and on behalf of Assignor, and to do any and all acts in the name of Assignor in the name of Assignee with the same force and effect as Assignor could do if this Assignment had not been made.

5. Representations, Warranties and Covenants of Assignor. Assignor hereby certifies, represents, warrants and covenants to Assignee as follows:

- (a) The Reimbursement Agreement is in full force and effect.
- (b) Assignor has full title and right to assign its interest in the Reimbursement Agreement to Assignee pursuant to this Assignment.
- (c) No consent or approval of any person is required for the execution and delivery of this Assignment, except as that which has been obtained prior to the date hereof.
- (d) Assignor has delivered to Assignee a true and complete copy of the executed counterpart of the Reimbursement Agreement, together with all amendments and modifications thereto.
- (e) Except for this Assignment, no other assignment of all or any part of any interest of Assignor in and to the Reimbursement Agreement has been made which remains in effect.
- (f) There exists no monetary default under the Reimbursement Agreement, nor, to the best knowledge of Assignor, any non-monetary default or any event or conditions which, with notice or the passage of time or both, would constitute such a monetary or non-monetary default or would result in a breach of the Reimbursement Agreement or would give any party thereto the right to terminate the Reimbursement Agreement.
- (g) No offsets, credits or defenses to the payment or performance of any obligation under the Reimbursement Agreement exist.
- (h) Assignor shall not assign, transfer or hypothecate (other than to Assignee) the whole or any part of its interest under the Reimbursement Agreement.
- (i) Assignor shall obtain the prior written consent of Assignee, before entering into any agreement that amends, alters, modifies or terminates the Reimbursement Agreement. Assignee shall not unreasonably withhold or delay its consent to an amendment or

modification of the Reimbursement Agreement, so long as Assignor shall have consented to such amendment or modification and as long as such amendment or modification does not materially and adversely affect Assignee's security for the Loan or the rights and benefits of Assignor under the Reimbursement Agreement.

(j) Assignor agrees to perform and comply in all respects with all the terms, conditions, covenants and requirements by it to be performed or observed in this Assignment and the Loan Documents.

6. Performance by Assignor. Assignor shall at all times diligently enforce its rights in, under and to the Reimbursement Agreement, unless otherwise directed by Assignee in writing, and shall, at Assignor's sole cost and expense, appear in and defend Assignee in any action or proceeding in any way connected with the Reimbursement Agreement, and shall pay all reasonable out of pocket costs and expenses, including, without limitation, attorneys' fees, which Assignee may incur in connection with Assignee's appearance, voluntarily or otherwise, in any such action or proceeding in any way connected with the Reimbursement Agreement.

7. Indemnification by Assignor. Assignor hereby agrees to pay and protect, defend, and indemnify and hold Assignee harmless from, for and against, any and all claims, demands, liabilities, losses, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys' fees) to which Assignee may become exposed, or which Assignee may incur, in connection with the Reimbursement Agreement exercising its rights under this Assignment.

8. Limitation on Liability. Nothing in this Assignment shall be deemed to be or construed to be an agreement by Assignee to perform any covenant of Assignor under the Reimbursement Agreement unless and until it obtains title to the Project by power of sale or judicial foreclosure or deed in lieu thereof or obtains possession of the Project pursuant to the terms of the Deed of Trust or otherwise.

9. Waiver. No course of dealing on the part of Assignee and no delay or failure by Assignee to exercise any right which Assignee may have hereunder shall be deemed a waiver thereof or otherwise prejudice any of its respective rights, remedies or powers hereunder unless so agreed in writing by Assignee, and the waiver by Assignee of a default by Assignor hereunder shall not constitute a continuing waiver or any other default or of the same default on any other occasion.

10. Cumulative Remedies. The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, any other rights or remedies which Assignee may have under the Loan Agreement or the other Loan Documents at law, or otherwise.

11. Severability. If any term or provision of this Assignment is, to any extent, determined by a court of competent jurisdiction to be void, voidable or unenforceable, such void, voidable or unenforceable term or provision will not affect or impair the validity, legality and enforceability of any other term or provision of this Assignment or of the other Loan Documents.

This Assignment shall be governed by and construed in accordance with the laws of the State of Utah, and venue for any action relating to this Assignment shall be in Utah County, Utah.

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EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B
FORM OF CONSENT

[See Attached.]

CONSENT TO ASSIGNMENT

The undersigned, **VINEYARD REDEVELOPMENT AGENCY**, a Utah body corporate established pursuant to the Utah Community Development and Renewal Agencies Act, as amended (the "VRA") acknowledges to **AMERICA FIRST FEDERAL CREDIT UNION** ("Assignee"), that the VRA is party to that certain Public Facilities Reimbursement Agreement, dated November 9, 2016 (as the same may be amended, modified, supplemented, extended, or renewed from time to time, the "Reimbursement Agreement") with **COTTONWOOD GENEVA, LLC**, a Delaware limited liability company (the "Assignor"), with respect to certain rights under the Reimbursement Agreement, and that Assignor's rights, title and interests in and to the Reimbursement Agreement have been, or will be, further assigned by Assignor to the Assignee pursuant to an Assignment of Public Facilities Reimbursement Agreement of approximately even date herewith (as the same may be amended, modified, supplemented, extended, or renewed from time to time, the "Assignment of Reimbursement Agreement") by and between Assignor and Assignee, the VRA hereby consents to such assignment to Assignee. Capitalized terms used herein without definition shall have the meanings given to such terms in the Assignment of Reimbursement Agreement.

In connection with the Loan and the assignment of the Reimbursement Agreement by Assignor to the Assignee, the VRA hereby covenants to the Assignee that:

1. Covenants of VRA. The VRA hereby gives consent to the Assignment of Reimbursement Agreement and covenants to Assignee that:

(a) Whenever the VRA shall deliver any notice or demand to Assignor with respect to the Reimbursement Agreement, the VRA, shall, at the same time, deliver to Assignee a copy of such notice or demand.

(b) In the event of a breach or a default by Assignor under the Loan Documents and the subsequent foreclosure of the Project or acceptance of a deed in lieu thereof by Assignee, Assignee, upon satisfying all of Assignor's obligations under the Reimbursement Agreement shall be entitled to all of the rights and benefits of Assignor under the Reimbursement Agreement. It is expressly understood and agreed that Assignee does not hereby assume any of Assignor's obligations or duties concerning the Reimbursement Agreement, unless and until Assignee exercises its rights hereunder and under the Reimbursement Agreement.

(c) The VRA shall comply with the direct payment provisions set forth in Section 1(b) of the Assignment of Reimbursement Agreement.

(d) The VRA represents that this Consent to Assignment has been duly authorized, is legal and binding upon the VRA, and is enforceable in accordance with its terms against Reimbursement Agreement

2. Notices. Except as otherwise provided in this Assignment or in any other document evidencing or securing the Loan, whenever Assignee or Assignor desire to give or serve any notice, demand, request or other communication with respect to this Assignment or any such other document, each such notice shall be in writing and shall be effective only if the

notice is delivered by personal service, by nationally-recognized overnight courier, or by mail, postage prepaid, addressed as follows:

If to Assignee, to: America First Federal Credit Union
4646 South 1500 West, Suite 130
Riverdale, Utah 84405
Attn: Commercial Real Estate Department

If to Assignor, to: Cottonwood Geneva, LLC
2750 E Cottonwood Parkway, Suite 560
Cottonwood Heights, Utah 54121
Attn: John L. West

Any notice delivered personally or by courier shall be deemed to have been given when delivered. Any notice sent by mail shall be presumed to have been received five (5) business days after deposit in the United States mail, with postage prepaid and properly addressed. Any party may change its address by giving notice to the other party of its new address in the manner provided above.

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The terms of this Consent to Assignment shall supersede and control over any inconsistent provisions in the Reimbursement Agreement

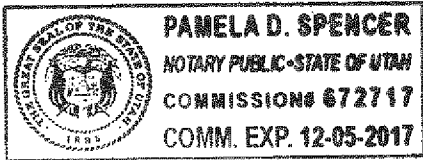
Dated: July 12, 2017.

VINEYARD REDEVELOPMENT AGENCY

By: [Signature]
Name: Randy Farnworth
Title: Chairperson

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 12 day of July, 2017, by Randy Farnworth, the Chairperson of **VINEYARD REDEVELOPMENT AGENCY**, a Utah body corporate established pursuant to the Utah Community Development and Renewal Agencies Act, as amended, on behalf of such body



[Signature]
NOTARY PUBLIC
Residing at Salt Lake County

**EXHIBIT A
LEGAL DESCRIPTION**

Lots 1, 2, 3, 4, 5, 6, 7 and 10, THE FORGE PLAT A, according to the official plat thereof, as recorded in the Office of the Utah County Recorder, Utah.

The following is shown for information purposes only: Tax ID / Parcel No. 39:258:0001, 0002, 0003, 0004, 0005, 0006, 0007, 0010