



W3128316

E# 3128316 PG 1 OF 7
Leann H. Kiltz, WEBER COUNTY RECORDER
22-Feb-21 0234 PM FEE \$40.00 DEP PCV
REC FOR: MOUNTAIN VIEW TITLE - OGDEN
ELECTRONICALLY RECORDED

WHEN RECORDED MAIL TO:
Beneficiary
3800 South 1900 West
Suite 166
Roy, Utah 84067

192619

TRUST DEED
With Assignment of Rents

THIS TRUST DEED, made by and between, **DNCRE Development LLC, a Utah Limited Liability Company**, hereinafter, **Trustor**, whose address is **1399 Fairway Lane—Farmington, Utah 84025**, in favor of **Mountain View Title & Escrow, Inc., a Utah Corporation**, hereinafter, **Trustee**, whose address is **5732 South 1475 East—Suite 100—Ogden, Utah 84403**, and **CC Partnership Roy, a Utah General Partnership**, hereinafter, **Beneficiary**, whose address is **3800 South 1900 West—Suite 166—Roy, Utah 84067**.

WITNESSETH: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property, the “Property”, located in **Weber County, State of Utah**, more particularly described as follows:

**See Legal Description of Subject Property on attached Exhibit “A”
Tax Parcel Number 08-622-0001**

Together with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, privileges and appurtenances thereunto belonging, now or hereafter used or enjoyed with said property, or any part thereof, SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits;

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by a **Promissory Note in the face amount of \$525,000.00**, executed by the Trustor as Borrower, in favor of the Beneficiary as Lender, at the times, in the manner and with interest therein set forth, and any extensions and/or renewals or modifications thereof; (2) the performance of each agreement of Trustor herein contained; (3) the payment of such additional loans or advances as hereafter may be made to Trustor, or their successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Trust Deed; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES:

1. To keep said property in good condition and repair, not to remove or demolish any buildings or improvements thereon, with the exception of, the South portion of the building, located on the Subject Property, which demolition is a part of the Trustors Redevelopment Strategy. The area of the building which is to be demolished has been reviewed by the Trustor and the Beneficiary, is accepted and approved by both the Trustor and the Beneficiary, and is more particularly described within the body of other documentation reviewed and accepted by both the Trustor and the Beneficiary. The demolition of that portion of the building, will not constitute a default by the Trustor, of the terms and conditions of this Deed of Trust, provided that any demolition is done in accordance with permits and licenses obtained by the Trustor, prior to any such demolition, from the applicable governmental authority. To comply with all laws, covenants and restrictions which effect the "Property" which are of public record or required by local or state law. To not commit or permit waste thereon, suffer or permit any act upon said property in violation of law; to do all other acts which from the character or use of the "Property" may be reasonably necessary, the specific enumerations herein not excluded the general; and, if the loan secured hereby or any part hereof is being obtained for the purpose of financing construction of improvements on the "Property", Trustor further agrees not to commence with any construction on the "Property" until such time that this Deed of Trust is recorded of record and when recorded to proceed with the construction of the improvements on the "Property" in accordance with the plans and specifications approved by the lender in conjunction with the loan being made to the Trustor by the Beneficiary. Beneficiary may inspect the "Property" at times, during the course of the loan made by Beneficiary to Trustor, provided the Beneficiary, provides Borrower, with a notice of inspection and acknowledgement of receipt by the Trustor. Trustee, upon presentation to the Borrower, of an affidavit signed by Beneficiary, setting forth facts showing a default to Trustor, under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

2. To provide and maintain insurance, of such type or types and amounts as Beneficiary may require, on the improvements now existing or hereafter erected or placed on said property. Such insurance shall be carried in companies approved by Beneficiary with loss payable clause in favor of and in form acceptable to Beneficiary. In event of loss, Trustor shall give immediate notice to Beneficiary, who may make proof of loss, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged.

3. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

4. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary of Trustee.

5. To pay at least 10 days before delinquency all taxes, homeowners associations fees, if any and assessments affecting said property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest, on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust.

6. Should Trustor fail to comply with any term, condition or stipulation of the agreement, which the real property described herein is serving as collateral, the Beneficiary or Trustee, but without obligation to do so and without notice or demand upon Trustor and without releasing Trustor from any obligation hereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; commence, appear in and defend any action or proceeding purported to affect the security hereof or the rights of powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, in cur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including cost of evidence of title, employ counsel, and pay their reasonable fees.

IT IS MUTUALLY AGREED THAT:

7. Should said property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefore and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting there from all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignment of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

8. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of said property. The grantee in any reconveyance may be described as "the person or persons entitled thereto", and the recitals therein of any matters or facts shall be conclusive proof of truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

9. As additional security, Trustor hereby assigns to the Beneficiary, during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Trust Deed and of any personal property located thereon. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable. If Trustor shall default as aforesaid, Trustor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, not an assumption of liability under, nor a subordination of the lien or charge of this Trust Deed to any such tenancy, lease or option.

10. Upon any default by Trustor hereunder, Beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue for or otherwise collect said rents, issues, and profits, including those past due and unpaid and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other of subsequent default.

13. Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the note and all documents evidencing expenditures secured hereby.

14. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause they deem expedient, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale provided, if the sale is postponed for longer than one day beyond the day designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or fact shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not repaid, with accrued interest as stated in the promissory note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the County in which the sale took place.

15. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto, including a reasonable attorney's fee in such amount as shall be fixed by the court. In the event that any party to this Deed of Trust should bring suit for the purpose of enforcing or construing the Promissory Note and this Deed of Trust, in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or litigation, the prevailing party shall be entitled to receive from the other party or parties to such action reimbursement for all reasonable attorney's fees and all reasonable costs, including but not limited to service of process, filing fees, court costs, investigative costs, expert witness fees and the cost of any bonds, whether taxable or not, (collectively "Costs"), and that such reimbursement shall be included in any judgment or final order issued in that proceeding.

16. Beneficiary may appoint a Successor Trustee, at any time, by recording a Substitution of Trustee in the office of the County Recorder of each county in which the "Property" or some part thereof is situated. From the time the substitution is filed for record, the new trustee shall succeed to all powers, duties, authorities, and title of the trustee named herein or of any successor trustee.

17. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder of the note secured hereby. In this Trust Deed, whenever the context requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.


18. Trustee accepts this Trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Trust Deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

19. Trustor will not allow or permit the Subject Property to be sold, assigned, transferred conveyed, included within any wrap contract or mortgage, or assumed by any party or entity, either voluntarily or involuntarily, directly, or indirectly, by operation of law, or otherwise, without the advance, written consent of the Lender, which consent may be withheld, conditioned or delayed, for any reason or no reason, in Lender's sole discretion. Any such action or failure to obtain the required written consent of the Lender, will constitute a default under the terms, conditions and stipulations of the Promissory Note and this Trust Deed.

20. This Trust Deed shall be construed according to the laws of the State of Utah and any action taken shall be performed in the exclusive jurisdiction of the courts of the State of Utah. With respect to any suit, action or proceeding relating to the Promissory Note and Deed of Trust the parties waive, to the fullest extent permitted by applicable law, any claim that such suit, action, or proceeding has been brought to an inconvenient forum. Subject to applicable law the parties agree that a final judgment against it in any legal action or proceeding arising out of or relating to the Promissory Note and Deed of Trust shall be conclusive and may be enforced in any other jurisdiction with the United States by suit on the judgment, a certified copy of which judgment shall be conclusive evidence and the amount of the indebtedness, or by other such means provided by law.

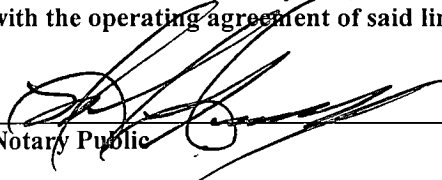
21. The undersigned Trustor request that a copy of any notice of default and of any notice of sale hereunder be mailed to the same at the address herein set forth.

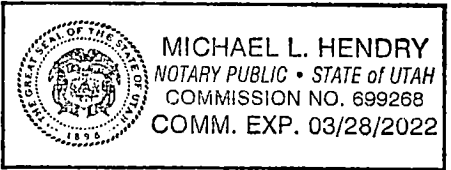
DNCRE Development LLC, a Utah Limited Liability Company

By:  2-19-21
Dell Nichols--Manager Date

State of Utah
County of Weber

On this the 19 day of February 2021, Dell Nichols and Manager of DNCRE Development LLC, a Utah Limited Liability Company, acknowledged to me, a Notary Public in the State of Utah, that this document was executed by him, in the capacity stated, on the date stated herein, and in accordance with the operating agreement of said limited Liability company.


Notary Public



REQUEST FOR FULL RECONVEYANCE

(To be used only when indebtedness secured hereby has been paid in full)

TO: TRUSTEE.

The undersigned is the legal owner and holder of the note and all other indebtedness secured by the within Trust Deed. Said note, together with all other indebtedness secured by said Trust Deed has been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Trust Deed, to cancel said note above mentioned, and all other evidences of indebtedness secured by said Trust Deed delivered to you herewith, together with the said Trust Deed, and to reconvey, without warranty, to the parties designated by the terms of said Trust Deed, all the estate now held by you thereunder.

Dated:

EXHIBIT "A"
LEGAL DESCRIPTION

File No.: 182619

ALL OF LOT 1, NYE SUBDIVISION, ROY CITY, WEBER COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF.

SUBJECT TO A NON EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE FOLLOWING PARCEL OF LAND: BEGINNING AT A POINT ON THE NORTH LINE OF 4000 SOUTH STREET, SAID POINT BEING NORTH 89°52'03" EAST 164.10 FEET AND NORTH 00°41'19" EAST 33.00 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 1; (BASIS OF BEARING BEING THE LINE BEARING NORTH 00°18'33" EAST BETWEEN THE SOUTHWEST CORNER AND THE NORTHWEST CORNER OF SAID SECTION); AND RUNNING THENCE SOUTH 89°52'03" WEST 32.00 FEET ALONG NORTH LINE OF 4000 SOUTH STREET; THENCE NORTH 00°07'57" WEST 82.07 FEET; THENCE SOUTH 89°18'43" EAST 33.17 FEET TO THE WEST LINE OF LOT "A" SHOWN HEREINABOVE; SOUTH 00°41'19" WEST 81.60 FEET TO THE NORTH LINE OF SAID 4000 SOUTH STREET AND THE POINT OF BEGINNING. (E#1730630 2095-709)