



W3289510

WHEN RECORDED PLEASE
RETURN TO:

LENDINCO LLC
600 University Street
Suite 2401
Seattle, WA 98101

E# 3289510 PG 1 OF 6
Leann H. Kilts, WEBER COUNTY RECORDER
05-Jul-23 0452 PM FEE \$40.00 DEP DAC
REC FOR: COTTONWOOD TITLE INSURANCE AGENCY, I
ELECTRONICALLY RECORDED

Tax Parcel I.D. NOS. 05-107-0006,
05-108-0040, and
05-107-0004
05-108-0039

159210-RCP

RIGHT OF FIRST REFUSAL AGREEMENT

THIS RIGHT OF FIRST REFUSAL AGREEMENT (this "Agreement") is made effective as of June 30, 2023 ("Effective Date") by and between Ville 3306, LLC, a Utah limited liability company and Keith Holmes Warburton, an individual, (collectively, jointly and severally, the "Borrower"), and LENDINCO LLC, a Washington limited liability company (the "Lender").

WITNESSETH:

WHEREAS, Borrower owns certain improved real property located in Weber County, Utah, known as the 3306 Washington Boulevard, Ogden, Utah 84401, in Weber County, as more particularly described in Exhibit A attached hereto (the "Property");

WHEREAS, Lender desires to have a right of first refusal with respect to additional financing or refinancing of the Property; and

WHEREAS, Borrower has agreed to grant Lender such a right of first refusal.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Right of First Refusal.** Borrower hereby grants to Lender an option and first right of refusal to provide any refinancing, additional financing or new financing (collectively, "New Financing") with regards to the Property or any improvements thereon, subject to the terms and conditions set forth herein ("Right of First Refusal").

2. **Terms of Right of First Refusal.**

(a) Upon receipt of a *bona fide* commitment from a third party lender to provide New Financing that Borrower intends to accept (an "Acceptable Offer"), Borrower shall promptly deliver to Lender notice of the same, including all relevant terms thereof (the "Offer Notice").

(b) Lender shall have thirty (30) days after receipt of the Offer Notice to reject or elect to provide New Financing under substantially similar terms and conditions as those set forth in the Acceptable Offer. If within such thirty (30) day period Lender delivers to Borrower written notice that Lender elects to provide New Financing, Borrower and Lender shall proceed to consummate such financing. Failure of Lender to timely elect to provide the New Financing shall be deemed to be a rejection.

(c) If Lender rejects the New Financing, Borrower may proceed with the New Financing without regard to this Right of First Refusal, provided such is in accordance with the Acceptable Offer and is funded within six months of the Offer Notice.

3. **Notices.** Each notice shall be in writing and shall be deemed to have been properly given by the deposit with the United States Postal Service, designated as registered or certified mail, return receipt requested, bearing adequate postage and addressed as hereinafter provided. Each notice shall be effective upon being so deposited and shall be deemed to have been received five (5) business days from and after such deposit. Each notice may also be served by personal service addressed as hereinafter provided. By giving to each other party at least ten (10) days' written notice thereof, each party shall have the right from time to time to change the notice address(es).

(a) To Borrower:
Ville 3306, LLC
c/o Keith Holmes Warburton
244 East Stonebridge Drive
Draper, Utah 84020

(b) To Lender:
LENDINCO LLC
600 University Street, Suite 2401
Seattle, WA. 98101
Attn: Theresa Kenyon

4. **Recording.** Lender may, at its expense, record this Agreement in the official records of the Weber County Recorder.

5. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. There are no promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Agreement may be amended only in a writing signed by each of the parties hereto.

EXHIBIT A

PARCEL 1:

PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S SURVEY: BEGINNING AT A POINT ON THE EAST LINE OF WASHINGTON BOULEVARD IN OGDEN CITY, 1848.37 FEET NORTH 0°58' EAST FROM THE SOUTH LINE OF SAID QUARTER SECTION; THENCE NORTH 0°58' EAST ALONG THE EAST LINE OF SAID WASHINGTON BOULEVARD A DISTANCE OF 322.02 FEET; THENCE IN AN EASTERLY DIRECTION ALONG A LINE BEARING SOUTH 89°15' EAST A DISTANCE OF 301.88 FEET; THENCE IN A SOUTHERLY DIRECTION ALONG A LINE BEARING SOUTH 0°58' WEST A DISTANCE OF 92.98 FEET; THENCE IN AN EASTERLY DIRECTION ALONG A LINE BEARING SOUTH 89°02' EAST A DISTANCE OF 66 FEET; THENCE IN A NORTHERLY DIRECTION ALONG A LINE BEARING NORTH 0°58' EAST A DISTANCE OF .49 FEET; THENCE IN AN EASTERLY DIRECTION ALONG A LINE BEARING SOUTH 89°15' EAST A DISTANCE OF 24 FEET; THENCE IN A SOUTHERLY DIRECTION ALONG A LINE BEARING SOUTH 0°58' WEST A DISTANCE OF 229.53 FEET; THENCE IN A WESTERLY DIRECTION A DISTANCE OF 391.88 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE BOUNDS OF THE FOLLOWING:

PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY: BEGINNING 1948.37 FEET NORTH 0°58' EAST AND 222 FEET SOUTH 89°15' EAST OF THE POINT WHERE THE SOUTH LINE OF SAID QUARTER SECTION INTERSECTS THE EAST LINE OF WASHINGTON BOULEVARD, AND RUNNING THENCE SOUTH 89°15' EAST 18.64 FEET; THENCE SOUTH 85 FEET; THENCE EAST 20 FEET; THENCE SOUTH 81 FEET; THENCE WEST 18.64 FEET; THENCE NORTH 66 FEET; THENCE WEST 20 FEET; THENCE NORTH 100 FEET TO THE BEGINNING.

PARCEL 2:

PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING 1948.37 FEET NORTH 0°58' EAST AND 222 FEET SOUTH 89°15' EAST OF A POINT WHERE THE SOUTH LINE OF SAID QUARTER SECTION INTERSECTS THE EAST LINE OF WASHINGTON AVENUE, AND RUNNING THENCE SOUTH 89°15' EAST 18.64 FEET; THENCE SOUTH 85 FEET; THENCE EAST 20 FEET; THENCE SOUTH 81 FEET; THENCE WEST 18.64 FEET; THENCE NORTH 66 FEET; THENCE WEST 20 FEET; THENCE NORTH 100 FEET TO THE BEGINNING.

PARCEL 3:

PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT 1848.37 FEET NORTH 0°58' EAST ALONG THE EAST LINE OF WASHINGTON BOULEVARD AND 260.64 FEET SOUTH 89°12'49" EAST FROM THE INTERSECTION OF THE EAST LINE OF WASHINGTON BOULEVARD AND THE SOUTH LINE OF SAID QUARTER SECTION; SAID POINT IS ALSO 317.06 FEET NORTH 0°58' EAST ALONG THE EAST LINE OF WASHINGTON BOULEVARD AND 260.64 FEET SOUTH 89°12'49" EAST FROM THE INTERSECTION OF THE EAST LINE OF WASHINGTON BOULEVARD AND THE NORTH LINE OF 34TH STREET; AND RUNNING THENCE SOUTH 89°12'49" EAST 131.24

FEET; THENCE NORTH 0°58' EAST 229.53 FEET TO THE SOUTH LINE OF LOT 19, BLOCK 1, STEPHEN'S FIRST ADDITION TO OGDEN CITY; THENCE SOUTH 89°15' EAST 125.19 FEET ALONG SAID SOUTH LINE; THENCE SOUTH 0°33' WEST 111.21 FEET; THENCE SOUTH 89°15' EAST 27.60 FEET; THENCE SOUTH 0°58' WEST 122.19 FEET; THENCE NORTH 89°02' WEST 153.00 FEET; THENCE SOUTH 0°58' WEST 63.12 FEET; THENCE NORTH 89°02' WEST 131.84 FEET; THENCE NORTH 0°58' EAST 66.00 FEET TO THE POINT OF BEGINNING.

Parcel Identification Numbers: 05-107-0006, 05-108-0039, 05-108-0040 and 05-107-0004

4840-4342-8681, v. 1