

LINCOLN COUNTY, NV

2020-158222

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03/31/2020 09:27 AM

FA NV DIRECT TITLE

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OFFICIAL RECORD

AMY ELMER, RECORDER

APN: 013-160-46

When Recorded Please Mail To:

Gary C. Carrigan, Successor Trustee
5C Living Trust, dated April 20, 1995

1235 MT HWY 56

NOXON, MT 59853

Mail Tax Statements To:

John Hess

132 NICOLA WAY

RED FEATHER LAKES, CO 80545

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

2583210

DEED OF TRUST WITH ASSIGNMENT OF RENTS

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, hereinafter referred to as the "Deed of Trust" made and entered into this 20th day of March, 2020 by and between John Hess, an unmarried man, whose address is 132 NICOLA WAY, RED FEATHER LAKES, CO 80545, hereinafter referred to as the "Debtor", Gary C. Carrigan, Successor Trustee of the 5C Living Trust, dated April 20, 1995, whose address is 1235 MT HWY 56, NOXON, MT 59853, hereinafter referred to as "Beneficiary", and Western Title, hereinafter referred to as "Trustee", hereby agree as follows:

DEED OF TRUST WITH ASSIGNMENT OF RENTS

WITNESSETH

WHEREAS, Debtor is indebted to Beneficiary evidenced by a Promissory Note of even date herewith in favor of the Beneficiary, providing for payment of attorney's fees for collection if not paid according to the terms thereof and being due and payable as set forth below:

Promissory Note in the amount of SIXTEEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$16,500.00) payable with the full amount being due and payable on March 31, 2030.

WHEREAS, Debtor executed the Promissory Note for the purpose of providing lending to be secured against the property described below in "Exhibit A".

WHEREAS Debtor desire to secure prompt payment of:

- a. the indebtedness described above according to its terms and any extensions thereof,
- b. any additional and future advances with interest thereon which the Beneficiary may make to Debtor as provided in Section 1,
- c. any other indebtedness which Debtor may now or hereafter owe to the Beneficiary as provided in Section 2 and
- d. any advances with interest which the Beneficiary may make to protect the Property herein conveyed as provided in Sections 3, 4, 5 and 6 all being herein referred to as the "Indebtedness".

NOW THEREFORE, In consideration of the indebtedness herein recited, Debtor hereby conveys and warrants unto Trustee the Property described below in "Exhibit A" situated in Lincoln, State of Nevada together with all improvements and appurtenances now or hereafter erected on, and all fixtures of any and every description now or hereafter attached to, all being herein referred to as the "Property".

THIS CONVEYANCE, HOWEVER, IS IN TRUST (subject to the covenants, stipulations and conditions below), to secure prompt payment of all existing and future Indebtedness due by Debtor to Beneficiary under the provisions of this Deed of Trust. If Debtor shall pay said indebtedness promptly when due and shall perform all covenants made by Debtor, then this conveyance shall be void and of no effect. If Debtor shall be in default as provided in Section 9 then, in that event, the entire Indebtedness, together with all interest accrued thereon, shall, at the option of Beneficiary, be and become at once due and payable without notice to Debtor, and Trustee shall, at the request of Beneficiary, sell the Property conveyed, or a sufficiency thereof, to satisfy the Indebtedness in accordance with the laws of Nevada in which the Property is located.

Should Beneficiary be a corporation or an unincorporated association, then any officer thereof may declare Debtor to be in default as provided in Section 9 and request Trustee to sell the Property. Beneficiary shall have the same right to purchase the Property at the foreclosure sale, as would a purchaser who is not a party to this Deed of Trust.

From the proceeds of the Trustee sale shall first pay all costs of the sale including reasonable compensation to the Trustee; then the Indebtedness due Beneficiary by Debtor, including accrued interest and attorney's fees due for collection of the debt; and then, lastly, any balance remaining to Debtor.

IT IS AGREED that this conveyance is made subject to the covenants, stipulations and conditions set forth below which shall be binding upon all parties hereto.

1. This Deed of Trust shall also secure all future and additional advances which Beneficiary may make to Debtor from time to time upon the security herein conveyed. Such advances shall be optional with Beneficiary and shall be on such terms as to amount, maturity and rate of interest as may be mutually agreeable to both Debtor and Beneficiary. Any such advance may be made to any one of the Debtors should there be more than one, and if so made, shall be secured by this Deed of Trust to the same extent as if made to all Debtors. However, on all transactions covered by Truth in Lending, when Debtor's notes, debts, obligations and liabilities to

Beneficiary (in any form) arising out of existing, concurrent and future credit granted by Beneficiary are secured by this Deed of Trust, it will be so indicated on the document that evidences the transaction. Therefore this Deed of Trust will in no way secure any form of credit governed by the Truth in Lending Act unless the document which evidences the Credit Transaction indicates by proper disclosure that the Transaction is secured by this Deed of Trust.

2. This Deed of Trust shall also secure any and all other indebtedness of Debtor due to Beneficiary with interest thereon as specified, or of any one of the Debtors should there be more than one, whether direct or contingent, primary or secondary, sole, joint or several, now existing or hereafter arising at any time before cancellation of this Deed of Trust. Such Indebtedness may be evidenced by note, open account, overdraft, endorsement, and guaranty or otherwise. However, on all transactions covered by Truth in Lending, when Debtor's notes, debts, obligations and liabilities to Beneficiary (in any form) arising out of existing, concurrent and future credit granted by Beneficiary are secured by this Deed of Trust, it will be so indicated on the document that evidences the transaction. Therefore this Deed of Trust will in no way secure any form of credit governed by the Truth in Lending Act unless the document which evidences the Credit Transaction indicates by proper disclosure that the Transaction is secured by this Deed of Trust.
3. Debtor shall keep all improvements on the Property herein conveyed insured against fire, all hazards included within the term "extended coverage", flood in areas designated by the U. S. Department of Housing and Urban Development as being subject to overflow and such other hazards as Beneficiary may reasonable require in such amounts as Debtor may determine but for not less than the indebtedness secured by this Deed of Trust. All policies shall be written by reliable insurance companies acceptable to Beneficiary, shall include standard loss payable clauses in favor of Beneficiary and shall be delivered to Beneficiary, Debtor shall promptly pay when due all premiums charged for such insurance, and shall furnish Beneficiary the premium receipts for inspection. Upon Debtor's failure to pay the premiums, Beneficiary shall have the right, but not the obligation, to pay such premiums. In the event of a loss covered by the insurance in force, Debtor shall promptly notify Beneficiary who may make proof of loss

if timely proof is not made by Debtor. All loss payments shall be made directly to Beneficiary as loss payee who may either apply the proceeds to the repair or restoration of the damaged improvements or to the indebtedness of Debtor, or release such proceeds in whole or in part to Debtor.

4. Debtor shall pay all taxes and assessments, general or special, levied against the Property or upon the Interest of Trustee or Beneficiary therein, during the term of this Deed of Trust before such taxes or assessments become delinquent, and shall furnish Beneficiary the tax receipts for inspection. Should Debtor fail to pay all taxes and assessments when due, Beneficiary shall have the right, but not the obligation, to make these payments.
5. Debtor and Owner shall keep the Property in good repair and shall not permit or commit waste, impairment or deterioration thereof. Debtor and Owner shall use the Property for lawful purposes only. Beneficiary may make or arrange to be made entries upon and inspections of the Property after first giving Debtor or Owner notice prior to any inspection specifying a just cause related to Beneficiary's interest in the Property. Beneficiary shall have the right, but not the obligation, to cause needed repairs to be made to the Property after first affording Debtor and Owner a reasonable opportunity to make the repairs. Should the purpose of the primary indebtedness for which this Deed of Trust is given as security is for construction of improvements on the Property herein conveyed, Beneficiary shall have the right to make or arrange to be made entries upon the Property and inspections of the construction in progress. Should Beneficiary determine that Debtor is failing to perform such construction in a timely and satisfactory manner, Beneficiary shall have the right, but not the obligation, to take charge of and proceed with the construction at the expense of Debtor after first affording Debtor a reasonable opportunity to continue the construction in a manner agreeable to Beneficiary.
6. Any sums advanced by Beneficiary for Insurance, taxes, repairs or construction as provided in Sections 3, 4 and 5 shall be secured by this Deed of Trust as advances made to protect the Property and shall be payable by Debtor to Beneficiary, with interest at the rate specified in the note representing the primary indebtedness, within THIRTY (30) days following written

demand for payment sent by Beneficiary to Debtor by certified mail. Receipts for insurance premiums, taxes and repair or construction costs for which Beneficiary has made payment shall serve as conclusive evidence thereof.

7. As additional security Debtor hereby assigns to Beneficiary all rents accruing on the Property. Debtor shall have the right to collect and retain the rents as long as Debtor is not in default as provided in Section 9. In the event of default, Beneficiary in person, by an agent or by a judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and collect the rents. All rents so collected shall be applied first to the costs of managing the Property and collecting the rents, including fees for a receiver and an attorney, commissions to rental agents, repairs and other necessary related expenses and then to payments on the indebtedness.
8. This Deed of Trust may not be assumed by any buyer from Debtor. Any attempted transfer of any interest in this Property (including, but not limited to possession) will constitute a default and Beneficiary may accelerate the entire balance of the indebtedness. If Beneficiary elects to exercise the option to accelerate, Beneficiary shall send Debtor notice of acceleration by certified mail. Such notice shall provide a period of THIRTY (30) days from the date of mailing within which Debtor may pay the indebtedness in full. If Debtor fails to pay such indebtedness prior to the expiration of THIRTY (30) days, Beneficiary may, without further notice to Debtor or Owner, invoke any remedies set forth in this Deed of Trust.
9. Debtor shall be in default under the provisions of the Deed of Trust if Debtor:
 - a. shall fail to comply with any of Debtor's covenants or obligations contained herein,
 - b. shall fail to pay any of the indebtedness secured hereby, or any installment thereof or interest thereon, as such indebtedness, installment or interest shall be due by contractual agreement or by acceleration,
 - c. shall cause all or party of the Property, to be sold or otherwise transferred (other than by devise or descent) and the grantee or purchaser is not approved by Beneficiary prior thereto,
 - d. shall become bankrupt or insolvent or be placed in receivership,

- e. shall, if a corporation, a partnership or an unincorporated association be dissolved voluntarily or involuntarily, or
 - f. if Beneficiary in good faith deems itself insecure and its prospect of repayment seriously impaired.
10. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other takings of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Beneficiary to the extent the full amount of the indebtedness that remains unpaid under the Note. The Beneficiary shall apply such proceeds to the reduction of the indebtedness under the Note, first to any delinquent amounts, and then to prepayment of the principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the payments as provided for in the Note, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note shall be paid to the entity legally entitled thereto.
11. Beneficiary may at any time, without giving formal notice to the original or any successor Trustee, or to Debtor, and without regard to the willingness or inability of any such Trustee to execute this trust, appoint another person or succession of persons to act as Trustee, and such appointee in the execution of this trust shall have all the powers vested in and obligations imposed upon Trustee. Should Beneficiary be a corporation or an unincorporated association, then any officer thereof may make such appointment.
12. If Beneficiary requires immediate payment in full under Section 9, Beneficiary may invoke the power of sale, including the right to accelerate full payment of the note, and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all expense incurred in pursuing the remedies provided in this Deed of Trust and the Note, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Beneficiary invokes the power of sale, Beneficiary shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Beneficiary's election to cause the Property to be sold, and shall cause such notice to be rendered in the county in which any

part of the Property is located. Lender shall mail copies of the notice as prescribed by applicable law to Debtor and to the persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the time required by applicable law, trustee, without demand on Debtor, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Beneficiary or its designee may purchase the property at any sale.

Trustee shall deliver to the purchaser, a Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it.

13. Beneficiary or its assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by this Deed of Trust or other conveyance under the terms of this Deed of Trust. Upon the recording of such appointment of a substitute trustee, the substitute trustee shall be vested with all title, interest, powers, duties and trust in the premises vested in or conferred upon the original Trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the Beneficiary, and all his acts thereunder shall be deemed to be the acts of all trustees, and the recital in any conveyance executed by such request shall be conclusive evidence thereof, and all of the authority of such sole trustee to act.

14. Each privilege, option or remedy provided in this Deed of Trust to Beneficiary is distinct from every other privilege, option or remedy contained herein or afforded by law or equity, and may be exercised independently, concurrently, cumulatively or successively by Beneficiary or by any other owner or holder of the indebtedness. Forbearance by Beneficiary in exercising any

privilege, option or remedy after the right to do so has accrued shall not constitute a waiver of Beneficiary's right to exercise such privilege, option or remedy in event of any subsequent accrual.

15. Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing debt secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Beneficiary may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under applicable law.
16. The words "Debtor" or "Beneficiary" shall each embrace one individual, two or more individuals, a corporation, a partnership or an unincorporated association, depending on the recital herein of the parties to this Deed of Trust. The covenants herein contained shall bind, and the benefits herein provided shall inure to, the respective legal or personal representatives, successors or assigns of the parties hereto subject to the provisions of Section 8. If there be more than one Debtor, then Debtor's obligations shall be joint and several. Whenever in this Deed of Trust the context so requires, the singular shall include the plural and the plural the singular. Notices required herein from Beneficiary to Debtor shall be sent to the address of Debtor shown in the Deed of Trust.
17. The following covenants, Nos. 1, 2, 3, 5, 6, 6, 7, 8, and 9, of NRS 107.030 are hereby adopted and made part of this deed of trust.
18. If any provision of this deed of trust shall be declared invalid, the intent of the parties is that the remaining provisions shall remain in full force and effect and shall be enforced.
19. This deed of trust shall be governed by the laws of the State of Nevada.

EXHIBIT A

COPY



EXHIBIT 'A'

THAT PORTION OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 67 EAST, M.D.B. & M., LINCOLN COUNTY, NEVADA, DESCRIBED AS FOLLOWS:

PARCEL NO. 3 AS SHOWN ON AMENDED SUBSEQUENT PARCEL MAP FOR GARY A. CARRIGAN RECORDED MAY 18, 1999 IN BOOK B, PAGE 223 OF PLATS AS FILE NO. 112819, LINCOLN COUNTY, NEVADA,

EXCEPTING THEREFROM THAT PORTION LYING WITHIN CARRIGAN AVENUE AND PAULINE CIRCLE AS CONVEYED TO THE COUNTY OF LINCOLN, STATE OF NEVADA BY DEED RECORDED JUNE 13, 2002 IN BOOK 164, PAGE 335 AS DOCUMENT NO. 118315.