

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: TLMA – Code Enforcement Department

403 B

SUBMITTAL DATE:
April 24, 2014

SUBJECT: Abatement of Public Nuisance [Substandard Structure]
Case No: CV13-02621 [CALHOUN]
Subject Property: 73590 Armand Way, Thousand Palms; APN:694-071-016
District: 4/4 [\$0]

RECOMMENDED MOTION: That the Board of Supervisors move that:

1. The substandard structure (dwelling) on the real property located at 73590 Armand Way, Thousand Palms, Riverside County, California, APN: 694-071-016 be declared a public nuisance and a violation of Riverside County Ordinance No. 457 which does not permit a substandard structure on the property.
2. Michael A. Calhoun and Patricia Jo Calhoun, the owners of the subject real property, be directed to abate the substandard structure on the property by rehabilitating, removing, and/or demolishing the same from the real property, including the removal and disposal of all structural debris and materials within ninety (90) days.

Greg Flannery
GREG FLANNERY
Code Enforcement Official

(Continued)

FINANCIAL DATA	Current Fiscal Year	Next Fiscal Year	Total Cost	Ongoing Cost	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	

SOURCE OF FUNDS _____ Budget Adjustment: _____
For Fiscal Year: _____

C.E.O. RECOMMENDATION:
APPROVE
BY: *Tina Grande*
County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: May 6, 2014
xc: TLMA/CED, Sheriff

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.: _____ District: 4/4 Agenda Number: _____

9-6

FORM APPROVED COUNTY COUNSEL
BY: *Alexandra Fong* 3/11/14 DATE
L. ALEXANDRA FONG

Departmental Concurrence

- A-30
- Positions Added
- 4/5 Vote
- Change Order

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FORM 11: Abatement of Public Nuisance [Substandard Structure]

Case No: CV13-02621 [CALHOUN]

Subject Property: 73590 Armand Way, Thousand Palms; APN: 694-071-016

District: 4/4

DATE: April 24, 2014

PAGE: 2 of 3

RECOMMENDED MOTION (continued):

3. The owners or whoever has possession or control of the property be ordered to ascertain the existence or non-existence of asbestos containing materials in said structure by survey and materials sample testing through the Industrial Hygiene Specialist of the County Health Department, Division of Special Services; and prior to the abatement ordered in paragraph number two (2) above, to secure the removal and disposal of all asbestos containing materials discovered through such survey and testing by contract with a duly certified and licensed contractor for the handling of such materials to avoid citations and/or fines imposed by the South Coast Air Quality Management District (SCAQMD) pursuant to SCAQMD Rule No. 1403.

4. If the owners or whoever has possession or control of the real property do not take the above described actions within ninety (90) days of the date of the Board's Order to Abate, that representatives of the Code Enforcement Department, Sheriff's Department, and/or a contractor, upon consent of the owners or receipt of a Court Order authorizing entry onto the real property when necessary under applicable law, may abate the substandard structure and contents therein, by removing the same from the real property.

5. The reasonable costs of abatement, after notice and an opportunity for hearing, shall be imposed as a lien on the real property, which may be collected as a special assessment against the real property pursuant to Government Code Section 25845 and Riverside County Ordinance No. 725.

6. County Counsel be directed to prepare the necessary Findings of Fact and Conclusions that the substandard structure on the real property is declared to be in violation of Riverside County Ordinance No. 457 and constitutes a public nuisance. Further, County Counsel shall prepare an Order to Abate for approval by the Board.

BACKGROUND:

1. An initial inspection was made on the subject property by Senior Code Enforcement Officer Hector Herrera on June 19, 2013. The inspection revealed a substandard structure (dwelling) on the subject property in violation of Riverside County Ordinance No. 457. The substandard conditions of the structure included, but were not limited to the following: Hazardous plumbing, hazardous wiring, faulty weather protection, general dilapidation or improper maintenance, public and attractive nuisance – abandoned/vacant.

2. Follow up inspections on the above-described real property on July 19, 2013, July 24, 2013, September 4, 2013, September 11, 2013, October 31, 2013 and January 29, 2014, revealed the property continues to be in violation of Riverside County Ordinance No. 457.

3. Staff and the Code Enforcement Department have complied with the notice requirements set forth in the appropriate laws of this jurisdiction pertaining to the administrative abatement proceedings for substandard structure.

Impact on Citizens and Businesses

Failure to abate will have a negative impact on citizens or business due to health and safety hazards, nuisance and potential impact on real estate values.

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FORM 11: Abatement of Public Nuisance [Substandard Structure]

Case No: CV13-02621 [CALHOUN]

Subject Property: 73590 Armand Way, Thousand Palms; APN: 694-071-016

District: 4/4

DATE: April 24, 2014

PAGE: 3 of 3

SUPPLEMENTAL:

Additional Fiscal Information

N/A

Contract History and Price Reasonableness

N/A

ATTACHMENTS

**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

IN RE ABATEMENT OF PUBLIC NUISANCE)
[SUBSTANDARD STRUCTURE]; APN: 694-071-) CASE NO. CV 13-02621
016, 73590 ARMAND WAY, THOUSAND PALMS,)
COUNTY OF RIVERSIDE, STATE OF) DECLARATION OF CODE
CALIFORNIA; MICHAEL A. CALHOUN AND) ENFORCEMENT OFFICER
PATRICIA JO CALHOUN, OWNERS.) HECTOR HERRERA
[RCO No. 457]

I, Hector Herrera, declare that the facts set forth below are personally known to me except to the extent that certain information is based on information and belief which I believe to be true, and if called as a witness, I could and would competently testify thereof under oath:

1. I am currently employed by the Riverside County Code Enforcement Department as a Senior Code Enforcement Officer. My current official duties as a Senior Code Enforcement Officer include inspecting property for violations and enforcement of the provisions of Riverside County Ordinances.

2. On June 19, 2013, I conducted an initial inspection of the real property described as 73590 Armand Way, Thousand Palms, Riverside County, California, and further described as Assessor's Parcel Number 694-071-016 (hereinafter described as "THE PROPERTY"). A true and correct copy of a Thomas Brothers map page indicating the location of THE PROPERTY is attached hereto and incorporated herein by reference as Exhibit "A."

3. A review of County records and documents disclosed that THE PROPERTY is owned by Michael A. Calhoun and Patricia Jo Calhoun (hereinafter referred to as "OWNERS"). A certified copy of the County Equalized Assessment Roll for the 2013-2014 tax year and a copy of the report generated from the County Geographic Information System ("GIS") is attached hereto and incorporated herein by reference as Exhibit "B."

4. Based on the Lot Book Report from RZ Title Service dated June 17, 2013 and updated on December 31, 2013, it is determined that other parties may potentially hold a legal interest in THE PROPERTY, to wit: Shenandoah Springs, LLC, Shenandoan Development Company, Inc., RDR Springs,

1 LLC, Fidelity National Title Company, State of California Franchise Tax Board and The Internal Revenue
2 Service, (hereinafter referred to as "INTERESTED PARTIES"). True and correct copies of the Lot Book
3 Reports are attached hereto and incorporated herein by reference as Exhibit "C."

4 5. On June 19, 2013, I conducted an initial inspection of the open and accessible property. I
5 entered and observed the following conditions as described below which caused the single family
6 residence to be substandard and THE PROPERTY to constitute a public nuisance in violations of the
7 provisions set forth in Riverside County Ordinance ("RCO") No. 457.

8 Dwelling:

- 9 1) Hazardous plumbing;
10 2) Hazardous wiring;
11 2) Faulty weather protection;
12 3) General dilapidation or improper maintenance;
13 4) Public and attractive nuisance -- abandoned/vacant.

14 6. On June 19, 2013, a Notice of Violation, Notice of Defects and "Danger Do Not Enter"
15 signs were posted on THE PROPERTY.

16 7. On July 15, 2013 and September 9, 2013, Notices of Violation and Notices of Defects
17 were mailed to OWNERS and INTERESTED PARTIES, by certified mail with return receipt requested.

18 8. A site plan and photographs depicting the conditions of THE PROPERTY are attached
19 hereto and incorporated herein by reference as Exhibit "D."

20 9. True and correct copies of each Notice issued in this matter and other supporting
21 documentation are attached hereto and incorporated herein by reference as Exhibit "E."

22 10. Follow up inspections of the above described real property on July 19, 2013, July 24,
23 2013, September 4, 2013, September 11, 2013, October 31, 2013 and January 29, 2014, revealed the
24 structure remains on THE PROPERTY and continues to be in violation of RCO No. 457.

25 11. Based upon my experience, knowledge and visual observations, it is my determination
26 that the substandard structure (dwelling) on THE PROPERTY creates an extreme health, safety, fire and
27 structural hazard to the neighbors and general public.

28 12. A recent inspection showed THE PROPERTY remained in violation and constitutes a
public nuisance in violation of the provisions set forth of RCO No. 457.

1 13. A Notice of Pendency of Administrative Proceedings was recorded in the Office of the
2 County Recorder, County of Riverside, State of California, on July 22, 2013, as Instrument Number
3 2013-0351072, a true and correct copy of which is attached hereto and incorporated herein by reference
4 as Exhibit "F."

5 14. A Notice to Correct County Ordinance Violations and Abate Public Nuisance, providing
6 notification of the Board of Supervisors' hearing was mailed to OWNERS and INTERESTED PARTIES
7 by first class mail and was posted on THE PROPERTY. True and correct copies of the Notice, together
8 with Proof of Service and the Affidavit of Posting of Notice are attached hereto and incorporated herein
9 as Exhibit "G."

10 15. Significant rehabilitation, removal and/or demolition of the substandard structure and
11 removal and disposal of all structural materials, rubbish and debris are required to abate the public
12 nuisance and bring THE PROPERTY into compliance with RCO No. 457, the Health and Safety, Uniform
13 Housing, Administrative and Abatement of Dangerous Buildings Codes.

14 16. Accordingly, the following findings and conclusions are recommended:

15 (a) the structure (dwelling) be condemned as a substandard building, public and
16 attractive nuisance;

17 (b) the OWNERS, or whoever has possession or control of THE PROPERTY, be
18 required to rehabilitate or demolish said structure, including the removal and disposal of all structural
19 debris and materials, on THE PROPERTY in accordance with the provisions of RCO No. 457;

20 (c) the OWNERS, or whoever has possession or control of THE PROPERTY, be
21 ordered to ascertain the existence or non-existence of asbestos containing materials in said structure by
22 survey and materials sample testing through the Industrial Hygiene Specialist of the County Health
23 Department, Division of Special Services; and, prior to the abatement ordered in subsection (b) above, to
24 secure the removal and disposal of all asbestos containing materials discovered through such survey
25 and testing by contract with a duly certified and licensed contractor for the handling of such materials to
26 avoid citations and/or fines by South Coast Air Quality Management District ("SCAQMD") pursuant to
27 SCAQMD Rule NO. 1403;

28 (d) if the substandard structure is not razed, removed and disposed of, or

1 reconstructed in strict accordance with all Riverside County Ordinances, including but not limited to RCO
2 No. 457, within ninety (90) days of the date of the Board's Order to Abate, the substandard structure and
3 contents therein may be abated by representatives of the Riverside County Code Enforcement
4 Department, a contractor or the Sheriff's Department upon receipt of an owner's consent or a Court
5 Order where necessary under applicable law authorizing entry onto THE PROPERTY;

6 (e) that reasonable costs of abatement, after notice and opportunity for hearing, shall
7 be imposed as a lien on THE PROPERTY, which may be collected as a special assessment against
8 THE PROPERTY pursuant to Government Code Section 25845 and RCO Nos. 457 and 725.

9 I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct.

11 Executed this 10TH day of MARCH, 2014, at PALM DESERT, California.

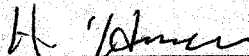
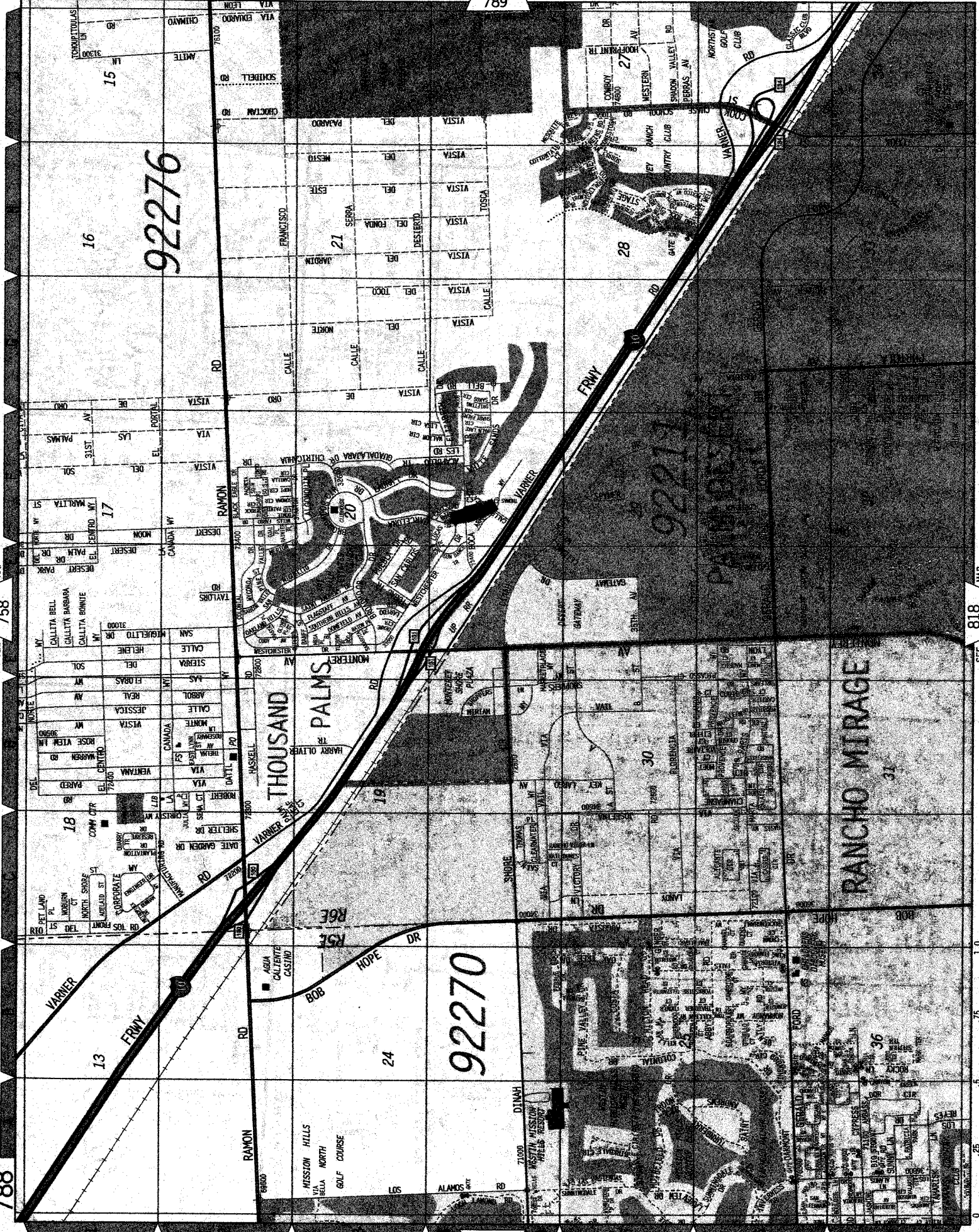
12
13 
14 _____
15 HECTOR HERRERA
16 Senior Code Enforcement Officer
17 Code Enforcement Department
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “A”

788

SEE 758 MAP

SEE 818 MAP



1.0 miles
0.75
0.5
0.25
1 in. = 2400 ft.

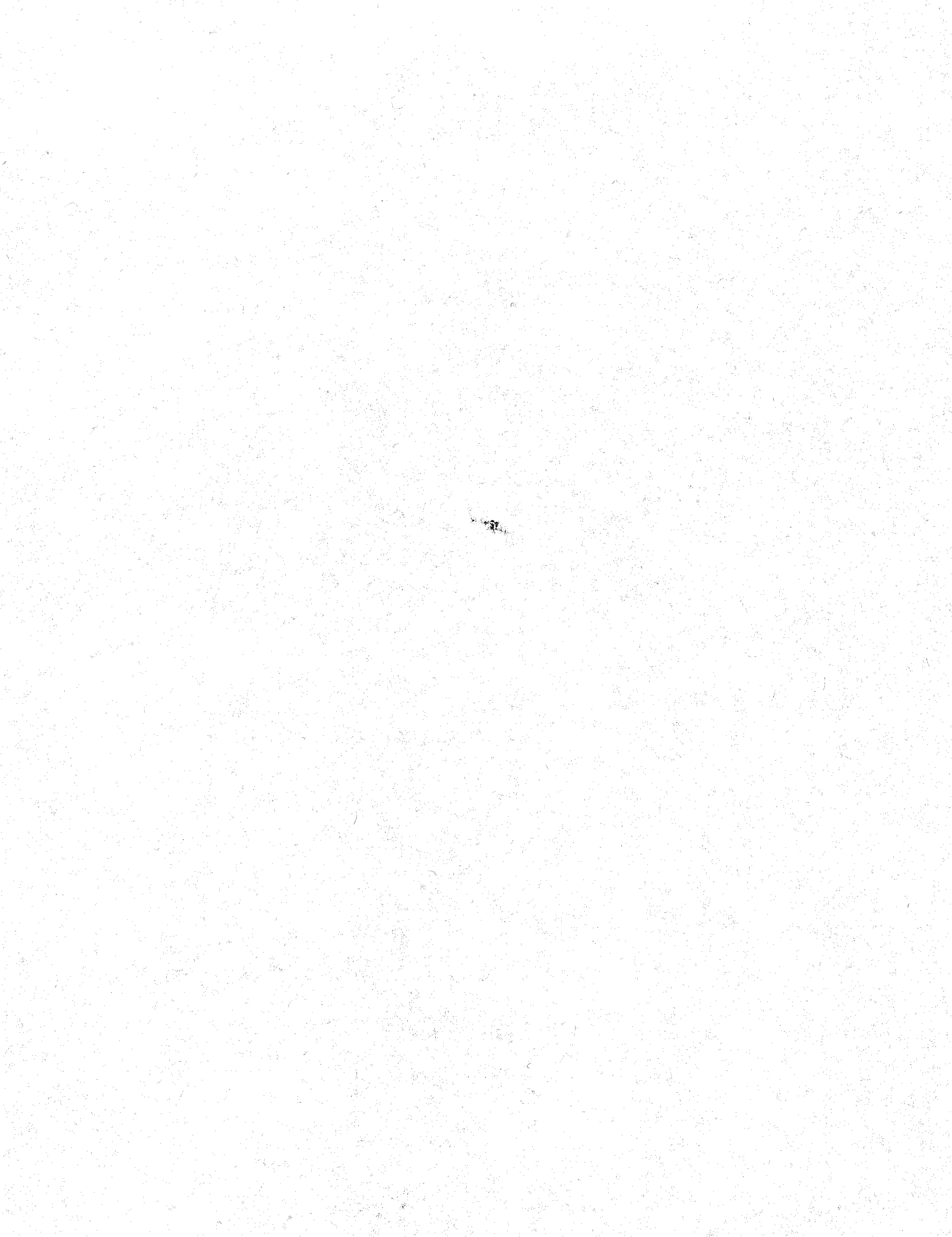


EXHIBIT “B”

Assessment Roll For the 2013-2014 Tax Year as of January 1, 2013

Assessment #694071016-6		Parcel # 694071016-6	
Assessee:	CALHOUN MICHAEL A	Land	53,000
Assessee:	CALHOUN PATRICIA JO	Structure	212,000
Mail Address:	P O BOX 2653	Full Value	265,000
City, State Zip:	APTOS CA 95001	Total Net	265,000
Real Property Use Code:	R1		
Base Year	2009		
Conveyance Number:	0377157		
Conveyance (mm/yy):	7/2008		
PUI:	R010012		
TRA:	61-186		
Taxability Code:	0-00		
ID Data:	Lot 25 MB 392/071 TR 29151-1		
Situs Address:	73590 ARMAND WAY THOUSAND PLMS CA 92276		



RIVERSIDE COUNTY GIS



Selected parcel(s):
694-071-016

IMPORTANT

Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

STANDARD REPORT

APNs

694-071-016-6

OWNER NAME / ADDRESS

MICHAEL A CALHOUN
PATRICIA JO CALHOUN
73590 ARMAND WAY
THOUSAND PLMS, CA. 92276

MAILING ADDRESS

(SEE OWNER)
P O BOX 2653
APTOS CA. 95001

LEGAL DESCRIPTION

RECORDED BOOK/PAGE: MB 392/71
SUBDIVISION NAME: TR 29151-1
LOT/PARCEL: 25, BLOCK: NOT AVAILABLE
TRACT NUMBER: 29151

LOT SIZE

RECORDED LOT SIZE IS 0.24 ACRES

PROPERTY CHARACTERISTICS

WOOD FRAME, 1671 SQFT., 3 BDRM/ 2 BATH, 1 STORY, ATTACHED GARAGE(457 SQ. FT), CONST'D 2008TILE, ROOF, CENTRAL HEATING,
CENTRAL COOLING

THOMAS BROS. MAPS PAGE/GRID

PAGE: 788 GRID: F4

CITY BOUNDARY/SPHERE

NOT WITHIN A CITY
CITY SPHERE: CATHEDRAL CITY
ANNEXATION DATE: JAN. 27, 2011
LAFCO CASE #: 2011-03-4
PROPOSALS: NOT APPLICABLE

MARCH JOINT POWERS AUTHORITY

NOT IN THE JURISDICTION OF THE MARCH JOINT POWERS AUTHORITY

INDIAN TRIBAL LAND

NOT IN A TRIBAL LAND

SUPERVISORIAL DISTRICT 2011 (ORD. 813)

JOHN BENOIT, DISTRICT 4

SUPERVISORIAL DISTRICT (2001 BOUNDARIES)

ROY WILSON, DISTRICT 4

TOWNSHIP/RANGE

T4SR6E SEC 29

ELEVATION RANGE

192/192 FEET

PREVIOUS APN

NO DATA AVAILABLE

PLANNING

LAND USE DESIGNATIONS

MHDR

SANTA ROSA ESCARPMENT BOUNDARY

NOT IN THE SANTA ROSA ESCARPMENT BOUNDARY

AREA PLAN (RCIP)

WESTERN COACHELLA VALLEY

COMMUNITY ADVISORY COUNCILS

THOUSAND PALMS (CC)

GENERAL PLAN POLICY OVERLAYS

NOT IN A GENERAL PLAN POLICY OVERLAY AREA

GENERAL PLAN POLICY AREAS

NONE

ZONING CLASSIFICATIONS (ORD. 348)

R-4 (CZ 6479)

ZONING DISTRICTS AND ZONING AREAS

THOUSAND PALMS DISTRICT

ZONING OVERLAYS

NOT IN A ZONING OVERLAY

HISTORIC PRESERVATION DISTRICTS

NOT IN AN HISTORIC PRESERVATION DISTRICT

NOT WITHIN A SPECIFIC PLAN

AGRICULTURAL PRESERVE

NOT IN AN AGRICULTURAL PRESERVE

REDEVELOPMENT AREAS

NOT IN A REDEVELOPMENT AREA

AIRPORT INFLUENCE AREAS

NOT IN AN AIRPORT INFLUENCE AREA

AIRPORT COMPATIBILITY ZONES

NOT IN AN AIRPORT COMPATIBILITY ZONE

ENVIRONMENTAL

CVMSHCP (COACHELLA VALLEY MULTI-SPECIES HABITAT CONSERVATION PLAN) CONSERVATION AREA

NOT IN A CONSERVATION AREA

CVMSHCP FLUVIAL SAND TRANSPORT SPECIAL PROVISION AREAS

NOT IN A FLUVIAL SAND TRANSPORT SPECIAL PROVISION AREA

WRMSHCP (WESTERN RIVERSIDE COUNTY MULTI-SPECIES HABITAT CONSERVATION PLAN) CELL GROUP

NOT IN A CELL GROUP

WRMSHCP CELL NUMBER

NOT IN A CELL

HANS/ERP (HABITAT ACQUISITION AND NEGOTIATION STRATEGY/EXPEDITED REVIEW PROCESS)

NONE

VEGETATION (2005)

NO DATA AVAILABLE

FIRE

HIGH FIRE AREA (ORD. 787)

NOT IN A HIGH FIRE AREA

FIRE RESPONSIBILITY AREA

NOT IN A FIRE RESPONSIBILITY AREA

DEVELOPMENT FEES

CVMSHCP FEE AREA (ORD. 875)

WITHIN THE COACHELLA VALLEY MSHCP FEE AREA

WRMSHCP FEE AREA (ORD. 810)

NOT WITHIN THE WESTERN RIVERSIDE COUNTY MSHCP FEE AREA

ROAD & BRIDGE DISTRICT

NOT IN A DISTRICT

EASTERN TUMF (TRANSPORTATION UNIFORM MITIGATION FEE ORD. 673)

IN OR PARTIALLY WITHIN A TUMF FEE AREA. SEE MAP FOR MORE INFORMATION.

In EAST

WESTERN TUMF (TRANSPORTATION UNIFORM MITIGATION FEE ORD. 824)

NOT WITHIN THE WESTERN TUMF FEE AREA

DIF (DEVELOPMENT IMPACT FEE AREA ORD. 659)

WESTERN COACHELLA VALLEY

SKR FEE AREA (STEPHEN'S KANGAROO RAT ORD. 663.10)

NOT WITHIN AN SKR FEE AREA.

DEVELOPMENT AGREEMENTS

NOT IN A DEVELOPMENT AGREEMENT AREA

TRANSPORTATION

CIRCULATION ELEMENT ULTIMATE RIGHT-OF-WAY
NOT IN A CIRCULATION ELEMENT RIGHT-OF-WAY

ROAD BOOK PAGE
187A

TRANSPORTATION AGREEMENTS
NOT IN A TRANSPORTATION AGREEMENT

CETAP (COMMUNITY AND ENVIRONMENTAL TRANSPORTATION ACCEPTABILITY PROCESS) CORRIDORS
NOT IN A CETAP CORRIDOR.

HYDROLOGY

FLOOD PLAIN REVIEW
WITHIN AREAS OF FLOODING SENSITIVITY. CONTACT THE COACHELLA VALLEY WATER DISTRICT AT (760) 398-2651 FOR INFORMATION

WATER DISTRICT
CVWD

FLOOD CONTROL DISTRICT
COACHELLA VALLEY WATER DISTRICT

WATERSHED
WHITEWATER

GEOLOGIC

FAULT ZONE
NOT IN A FAULT ZONE

FAULTS
NOT WITHIN A 1/2 MILE OF A FAULT

LIQUEFACTION POTENTIAL
MODERATE

SUBSIDENCE
SUSCEPTIBLE

PALEONTOLOGICAL SENSITIVITY
LOW POTENTIAL.
FOLLOWING A LITERATURE SEARCH, RECORDS CHECK AND A FIELD SURVEY, AREAS MAY BE DETERMINED BY A QUALIFIED VERTEBRATE PALEONTOLOGIST AS HAVING LOW POTENTIAL FOR CONTAINING SIGNIFICANT PALEONTOLOGICAL RESOURCES SUBJECT TO ADVERSE IMPACTS.

MISCELLANEOUS

SCHOOL DISTRICT
PALM SPRINGS UNIFIED

COMMUNITIES
THOUSAND PALMS

COUNTY SERVICE AREA
IN OR PARTIALLY WITHIN
BERMUDA DUNES #121 -
STREET LIGHTING

LIGHTING (ORD. 655)
ZONE B, 41.61 MILES FROM MT. PALOMAR OBSERVATORY

2010 CENSUS TRACT
044505

FARMLAND
LOCAL IMPORTANCE

- 061186
- CITRUS PEST CONTROL 2
- COACH VAL CO WTR STORM WTR UNIT
- COACHELLA VAL IMP DST 58
- COACHELLA VAL IMP DST 81
- COACHELLA VALLEY COUNTY WATER
- COACHELLA VALLEY REC AND PARK
- COACHELLA VALLEY RESOURCE CONSER
- COUNTY FREE LIBRARY
- COUNTY SERVICE AREA 121*
- COUNTY STRUCTURE FIRE PROTECTION
- COUNTY WASTE RESOURCE MGMT DIST
- CSA 152
- CV MOSQ & VECTOR CONTROL
- CVC WTR IMP DST 1 DEBT SV
- DESERT COMMUNITY COLLEGE
- DESERT HOSPITAL
- GENERAL
- GENERAL PURPOSE
- PALM SPRINGS PUBLIC CEMETERY
- PALM SPRINGS UNIF B & I 1992-A
- PALM SPRINGS UNIFIED SCHOOL
- RIV CO REG PARK & OPEN SPACE
- RIV. CO. OFFICE OF EDUCATION
- SUPERVISORIAL ROAD DISTRICT 4

SPECIAL NOTES

NO SPECIAL NOTES

CODE COMPLAINTS

Case #	Description	Start Date
CV1302621	NEIGHBORHOOD ENFORCEMENT	Jun. 18, 2013

REPORT PRINTED ON...Tue Jan 28 15:23:22 2014
Version 131127

EXHIBIT “C”



P.O. Box 1193
 Whittier, CA 90609
 Tel # (562) 325-8351
 Fax # (714) 783-3038

Updated Lot Book

Customer:
 RIVERSIDE COUNTY TLMA-CODE INFORCEMENT

Order Number: **30600**

4080 Lemon Street
 Riverside CA 92501

Order Date: 1/3/2014
Dated as of: 12/31/2013

Attn: Brent Steele
Reference: CV13-02621/Regina Keyes
IN RE: CALHOUN, MICHAEL

County Name: Riverside

FEE(s):
Report: \$60.00

Property Address: 73590 Armand Way
 Thousand Palms CA 92276

RZ Title Reporting Service hereby reports, as disclosed by the Official Records of the Recorder of said County as of the date shown above, that subsequent to the date of the original report that (i) No document in the chain of title to said land has been recorded purporting to convey the fee title to said land, and (ii) No encumbrances affecting said land have been recorded nor has a homestead been executed on said land, and (iii) No encumbrances affecting said land on the date of the original report have been released or reconveyed.

All exceptions are as follows:

Assessor's Parcel No. : 694-071-016-6

Assessments:	Land Value:	\$53,000.00
	Improvement Value:	\$212,000.00
	Exemption Value:	\$0.00
	Total Value:	\$265,000.00

Property Taxes for the Fiscal Year	2013-2014
First Installment	\$1,903.51
Penalty	\$0.00
Status	PAID (PAID THRU 01/31/2014)
Second Installment	\$1,903.51
Penalty	\$0.00
Status	OPEN NOT-PAID (DUE DATE 04/10/2014)

A Notice of Administrative Proceedings by the
 City of Thousand Palms
 County of Riverside
 Recorded 07/22/2013



P.O. Box 1193
Whittier, CA 90609
Tel # (562) 325-8351
Fax # (714) 783-3038

Order Number: 30600

Reference: CV13-02621/Regi

Document No.

2013-0351072

NO OTHER EXCEPTIONS

When recorded please mail to:
 Riverside County Code Enforcement Department
 (District 4 Office)
 38686 El Cerrito Rd, Palm Desert, CA 92211
 Mail Stop No. 4016

DOC # 2013-0351072

07/22/2013 08:45A Fee:NC

Page 1 of 1

Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder



S	R	U	PAGE	SIZE	DA	MISC	LONG	RFD	COPY
1			1						
M	A	L	465	426	PCOR	NCOR	SMF	(NCH)	EXAM
Nchg CC						T:	CTY	UNI	815

2
C
 815

NOTICE OF PENDENCY OF ADMINISTRATIVE PROCEEDINGS

In the matter of the public nuisance or other code violation(s) on Property of)

Case No.: CV13-02621

Michael A Calhoun & Patricia Calhoun)

And DOES I through X, owners

NOTICE IS HEREBY GIVEN to all persons, pursuant to Section 14 of Ordinance Number 725 of the County of Riverside, State of California, that administrative proceedings have been commenced with respect to the structure or land located upon the following described real property in the County of Riverside:

ADDRESS: 73590 Armand Way, Thousand Palms, Ca 92276

PARCEL #: 694-071-016

LEGAL DESCRIPTION: .24 Acres M/L IN Lot 25 MB 392/071 TR 29151-1 Sec 29 T4SR6E

VIOLATIONS: RCO 457: RCC 15.16.020 Substandard Structure, RCO 541: RCC 8.120.010 Accumulated Rubbish

that such proceedings are based upon the noncompliance of such structure or land with the requirements of Ordinances (Riverside County Codes) listed above that every owner of said real property waives his right to hearing on such proceedings unless he makes a proper request in the form and within the time prescribed by the Code cited; and that failure to comply with the lawful orders of the Code Enforcement Director and/or authorized agents of the County of Riverside heretofore and hereafter issued relative to the above matter may result in demolition of the offending structure, abatement of the public nuisance or other available legal remedies and assessment of the costs, expenses, and administrative costs thereof to the property heretofore described as a tax and special assessment lien on such property; that any purchaser, his heirs, or assigns acquiring said property subsequent to the recording of the Notice with the County Recorder shall have such interest subject and subordinate to said tax and assessment lien.

Notice is Further Given in accordance with §17274 and §24436.5 of the California Revenue and Taxation Code, that a tax deduction may not be allowed for interest, taxes, depreciation or amortization paid or incurred in the taxable year affected by these proceedings.

COUNTY OF RIVERSIDE
 DEPARTMENT OF CODE ENFORCEMENT

By: [Signature]
 Dave Lawless, Code Enforcement Department

Dated: July 17, 2013

ACKNOWLEDGEMENT

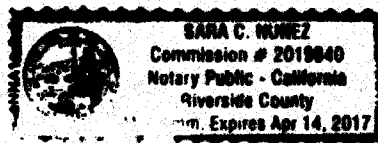
State of California)
 County of Riverside)

On 7-17-13 before me, Sara C. Nunez, Notary Public, personally appeared Dave Lawless who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s); or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Commission # 2019040 Comm. Expires April 14, 2017





P.O. Box 1193
Whittier, CA 90609
Tel # (562) 325-8351
Fax # (714) 783-3038

Lot Book Report

Order Number: **29021**

Customer:

RIVERSIDE COUNTY TLMA-CODE INFORCEMENT

4080 Lemon Street

Riverside

CA 92501

Attn:

Brent Steele

Reference:

CV13-02621 / SNunez/Herrera

IN RE:

CALHOUN, MICHAEL A.

Order Date: 6/20/2013

Dated as of: 6/17/2013

County Name: Riverside

FEE(s):

Report: \$120.00

Property Address: 73590 Armand Way

Thousand Palms

CA 92276

Assessor's Parcel No. : 694-071-016-6

Assessments:

Land Value:	\$51,000.00
Improvement Value:	\$206,000.00
Exemption Value:	\$0.00
Total Value:	\$257,000.00

Tax Information

Property Taxes for the Fiscal Year	2012-2013
Total Annual Tax	\$3,557.88
Status: Paid through	06/30/2013

Property Vesting

The last recorded document transferring title of said property

Dated 07/03/2008

Recorded 07/10/2008



P.O. Box 1193
Whittier, CA 90609
Tel # (562) 325-8351
Fax # (714) 783-3038

Order Number: 29021
Reference: CV13-02621 / SN

Document No.	2008-0377157
D.T.T.	\$655.60
Grantor	RDR Springs, LLC a California limited liability company
Grantee	Michael A. Calhoun and Patricia Jo Calhoun, husband and wife as joint tenants

Deeds of Trust

Position No.	1st
A Deed of Trust Dated	12/30/2005
Recorded	02/03/2006
Document No.	2006-0088784
Amount	\$4,972,449.88
Trustor	Shenandoah Springs Development Company, Inc., a California corporation
Trustee	Lawyers Title Company, a California corporation
Beneficiary	Shenandoah Springs, LLC, a California limited liability company

Affects Property in Question and Other Property

Position No.	2nd
A Deed of Trust Dated	03/14/2007
Recorded	04/04/2007
Document No.	2007-0229153
Amount	\$2,600,000.00
Trustor	RDR Springs, LLC, a California limited liability company
Trustee	First American Title Company
Beneficiary	Sterling Bank and Trust, FSB, a federal savings bank

Notice of Default Recorded	07/10/2009
Document No.	2009-0358375

Affects Property in Question and Other Property

Substitution of Trustee Recorded	10/29/2009
Document No.	2009-0560447





P.O. Box 1193
Whittier, CA 90609
Tel # (562) 325-8351
Fax # (714) 783-3038

Order Number: 29021
Reference: CV13-02621 / SN

Trustee

Fidelity National Title Company

Additional Information

A Notice of Pending Action filed in the Superior Court of California, County of Riverside
Case No. INC 081094
Recorded 10/22/2008
Document No. 2008-0564964
Plaintiff Teserra
Defendant Shenandoah Springs Development, Inc., RA
Wasserman Construction, Inc., RDR, LLC, Sterling Bank
and Trust FSB, 1st Centennial Bank, Shenandoah
Springs, LLC, et al

A Notice of Administrative Proceedings by the
City of Thousand Palms
County of Riverside
Recorded 09/07/2012
Document No. 2012-0426369

Abstract of Judgment Filed in the Superior Court of California, County of Riverside - Indio
Branch
Case No. INC087805
Recorded 02/17/2010
Document No. 2010-0069712
Amount \$7,234.47
Debtor Michael W. Calhoun aka Michael Calhoun, and dba
Michael W. Calhoun, DDS
Creditor Union Bank, N.A.

Abstract of Support Judgment Filed in the Superior Court of California, County of Riverside - Hemet
Court
Case No. HEK004448
Recorded 04/20/2010
Document No. 2010-0181303
Debtor Michael Wayne Calhoun, Jr
Creditor Riverside County Department of Child Support Services



P.O. Box 1193
Whittier, CA 90609
Tel # (562) 325-8351
Fax # (714) 783-3038

Order Number: 29021
Reference: CV13-02621 / SN

Abstract of Judgment Filed in the Superior Court of California, County of Los Angeles -
Norwalk Courthouse
Case No. VC056668
Recorded 10/25/2010
Document No. 2010-0510126
Amount \$34,083.20
Debtor Douglas Lawheed aka Douglas L. Lawheed, et al
Creditor Gildred Building Company, a California Corporation dba
Painter Business Park

A Notice of State Tax Lien Recorded 05/20/2011
Document No. 2011-0224182
Amount \$3,113.24
Account No. 2663708000
Certificate No. 11131602238
Debtor Michael W. Calhoun, D.D.S., INC.
Creditor: State of California, Franchise Tax Board

A Federal Tax Lien Recorded 06/07/2012
Document No 2012-0262047
Amount \$106,334.90
Debtor Michael W Calhoun
ID No. XXX - XX - 2471
Creditor Internal Revenue Service

A Federal Tax Lien Recorded 09/10/2012
Document No 2012-0429066
Amount \$85,942.36
Debtor Michael W Calhoun
ID No. XXX - XX - 2471
Creditor Internal Revenue Service

Abstract of Judgment Filed in the Superior Court of California, County of Riverside
Case No. BAM037852
Recorded 12/13/2012
Document No. 2012-0606640





P.O. Box 1193
Whittier, CA 90609
Tel # (562) 325-8351
Fax # (714) 783-3038

Order Number: 29021
Reference: CV13-02621 / SN

Amount	\$2,510.00
Debtor	Michael Wayne Calhoun Jr
Creditor	Superior Court of California, County of Riverside/Enhanced Collections Division
A Bankruptcy filed by	Michael Warren Calhoun
Social Security Number(s)	568-17-2471
Date filed	07/23/2003
Case No.	21035
A Bankruptcy filed by	Michael Scott Calhoun
Social Security Number(s)	None Shown
Date filed	07/21/2010
Case No.	32759

Legal Description

THE LAND REFERRED TO IN THIS REPORT IS LOCATED IN AND IS DESCRIBED AS FOLLOWS:

LOT 25, OF TRACT NO. 29151-1, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 392 PAGES 71 THROUGH 75 OF MAPS, RECORDS FROM THE COUNTY RECORDER OF SAID COUNTY.

694-07
653-83

1" = 100'
ANGLE = 0

T.R.A. 061-165

POR.NE 29 T.4S.,R.6E

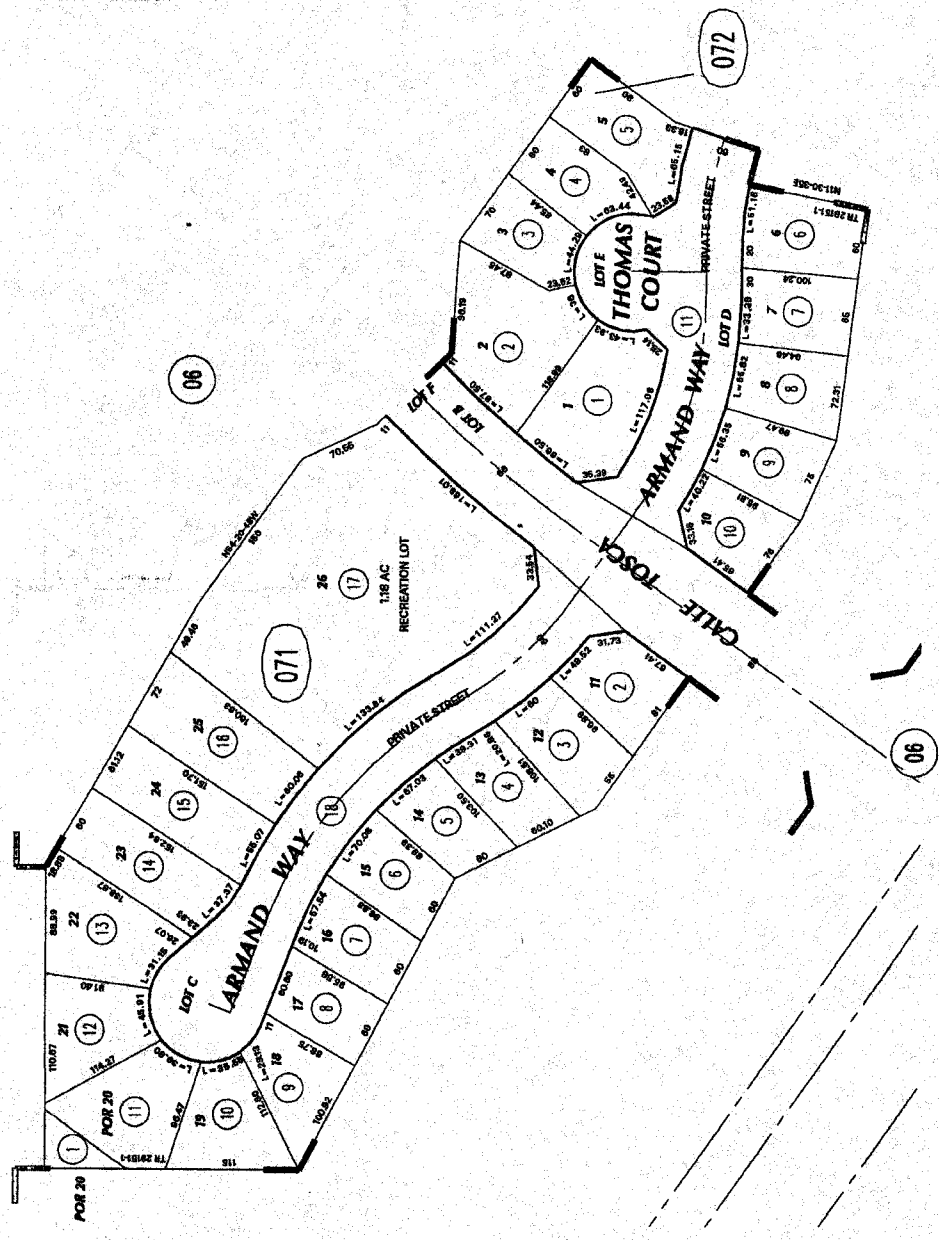
Aug 2007

MB 392/71-75 TRACT NO 29151-1

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE SHOWN PROPERTY PARCELS. ANY PART COMPL. WITH LOCAL LO-SPLIT OR BUILDING SITE ORDINANCES.

OCT 10 2007

ASSESSOR'S MAP BK694 PG.07
Riverside County, Calif.





6011

DOC # 2008-0377157
07/10/2008 08:00A Fee:15.00
Page 1 of 3 Doc T Tax Paid
Recorded in Official Records
County of Riverside
Larry W. Ward
Assessor, County Clerk & Recorder

RECORDING REQUESTED BY:
FIRST AMERICAN TITLE COMPANY - NHS

AND WHEN RECORDED MAIL THIS DOCUMENT AND
TAX STATEMENTS TO:

Michael A. Calhoun and Patricia Jo Calhoun
99 Paseo Drive
Watsonville, CA 95076



Order No.: 3089284 - 22
Escrow No.: PD13816-CM
A.P.N.: 653-830-018-2
TRA 061-165

S	R	U	PAGE	SIZE	DA	MISC	LONG	RFD	COPY			
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M	A	L	485	426	F	COR	N	COR	SMF	N	CHG	EXAM
						T: 101	CTY	UNI				

GRANT DEED

15-



THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX IS \$655.60

- computed on full value of property conveyed, or
- computed on full value less value of liens or encumbrances remaining at time of sale.
- unincorporated area of Thousand Palms

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
RDR Springs, LLC a California limited liability company

hereby GRANT(S) to Michael A. Calhoun and Patricia Jo Calhoun, husband and wife as joint tenants

the following described real property in the County of Riverside, State of California

See Exhibit "A" attached to and made a part of

Dated: July 3, 2008

STATE OF CALIFORNIA
COUNTY OF Riverside

} ss.

On July 7, 2008 before me
Colleen M. Yost
a Notary Public, personally appeared
Ron Sabren

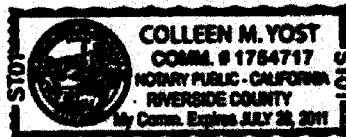
RDR Springs, LLC a California limited liability company
[Signature]
By: Ron Sabren, President

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Colleen M. Yost
Signature of Notary



(This area for official notary seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

GARY L. ORSO
COUNTY OF RIVERSIDE
ASSESSOR-COUNTY CLERK RECORDER

NOTARY CLARITY

UNDER THE PROVISION OF GOVERNMENT CODE 27361.7, I CERTIFY
UNDER THE PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE
DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS
FOLLOWS:

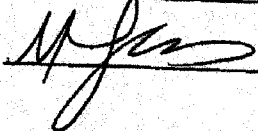
NAME OF NOTARY: Colleen M Jost

COMMISSION #: 1754717

PLACE OF EXECUTION: Riverside

DATE COMMISSION EXPIRES: July 28, 2011

DATE: 7-10-08

SIGNATURE: 

ACR 186F-AS4RE0(EST. 05/2003)



Title Order Number:

File Number: NHRV-3089284

Exhibit "A"

Real property in the unincorporated area of the County of Riverside, State of California, described as follows:

LOT 25, OF TRACT NO. 29151-1, AS SHOWN BY MAP ON FILE IN BOOK 392 PAGES 71 THROUGH 75 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 653-830-016-2

**Recording Requested By
First American Title NHS**

**RECORDING REQUESTED BY
First American Title Company
AND WHEN RECORDED MAIL TO:
Shenandoah Springs, LLC
7266 Edinger Avenue
Suite L
Huntington Beach, CA 91647**

**DOC # 2006-0088784
02/03/2006 08:00A Fee:48.00
Page 1 of 11
Recorded in Official Records
County of Riverside
Larry W. Ward
Assessor, County Clerk & Recorder**



**APN: 653-250-009-4 TRA: 061-165
Escrow No: 09600350-906-1LC
Title No: NHRV-2194061**

M	S	U	PAGE	SIZE	DA	POOR	NOCOR	SMF	MISC.
✓	2		10						
A	R	L				COPY	LONG	REPLND	NCHG EXAM



2194061-22

**DEED OF TRUST WITH ASSIGNMENT OF RENTS (SHORT FORM)
DOCUMENT TITLE**

SEPARATE PAGE - PURSUANT TO GOVERNMENT CODE 27361.6



RECORDING REQUESTED BY
First American Title Company
AND WHEN RECORDED MAIL TO:
Shenandoah Springs, LLC
7266 Edinger Avenue
Suite L
Huntington Beach, CA 92647

APN: 653-250-009-4 TRA: 061-165
Escrow No: 09600350-906-1LC
Title No: NHRV-2194061

Space above this line for Recorder's use

DEED OF TRUST WITH ASSIGNMENT OF RENTS (SHORT FORM)

This DEED OF TRUST, made December 30, 2005 , between Shenandoah Springs Development Company, Inc., a California corporation, herein called TRUSTOR, whose address is: 7266 Edinger Avenue, Suite L, Huntington Beach, CA 92647 LAWYERS TITLE COMPANY, a California corporation, herein called TRUSTEE, and Shenandoah Springs, LLC, a California limited liability company herein called BENEFICIARY, Trustor Irrevocably grants, transfers and assigns to Trustee in Trust, with Power of Sale, that property in the City of County of Riverside, California, described as:

See Exhibit "A" attached hereto and incorporated herein by this reference.

Individual Lot Release - The parties agreed that this Second Deed of Trust does allow for individual lot releases on a par value.

Commonly known as: 98SFLts/Tr29151-1;TTM-2,ptn-3, Thousand Palms, CA

Together with the rents, issues and profits 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 sum of ~~\$4,972,449.88~~ with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof; (2) the performance of each agreement of Trustor incorporated by reference or contained herein or reciting it is so secured; (3) Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

Public Record

Escrow No.: 09600350-906-1LC

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A of that certain Fictitious Deed of Trust referenced herein, and it is mutually agreed that all of the provisions set forth in subdivision B of that certain Fictitious Deed of trust recorded in the book and page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

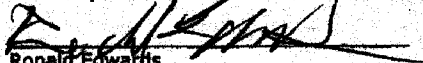
COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Kings	838	713	Placer	1028	379	Sierra	38	187
Alpine	3	130-31	Lake	437	110	Plumas	165	1307	Sikeyou	505	762
Amador	133	438	Lassen	192	367	Riverdale	3788	347	Solano	1287	621
Butte	1330	513	Los Angeles	T-3878	874	Sacramento	71-10-25	615	Sonoma	2067	427
Calaveras	185	338	Madera	911	136	San Benito	300	405	Stanislaus	1970	56
Colusa	323	391	Marin	1849	122	San Bernardino	6213	768	Sutter	655	585
Contra Costa	4684	1	Mariposa	90	453	San Francisco	A-804	596	Tehama	457	183
Del Norte	101	549	Mendocino	667	99	San Joaquin	2835	283	Trinity	168	595
El Dorado	704	635	Merced	1660	753	San Luis Obispo	1311	137	Tulare	2838	188
Fresno	5052	623	Modoc	191	93	San Mateo	4788	175	Tuolumne	177	160
Glenn	468	76	Mono	68	302	Santa Barbara	2055	881	Ventura	2807	237
Humboldt	801	83	Monterey	357	239	Santa Clara	6626	664	Yale	769	16
Imperial	1189	701	Napa	704	742	Santa Cruz	1638	607	Yuba	398	693
Inyo	165	672	Nevada	363	94	Shasta	800	633			
Kern	3756	690	Orange	7182	18	San Diego	SERIES 5 Book 1964, Page 149774				

Said agreements, terms and provisions contained in said subdivision A and B, (Identical in all counties are printed on the reverse side hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed the maximum allowed by laws.

The foregoing assignment of rents is absolute unless initialed here, in which case, the assignment serves as additional security.

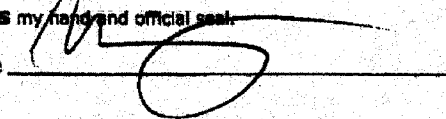
The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at this address hereinbefore set forth.

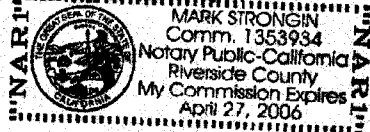
Shenandoah Springs Development Company, Inc., a California corporation

By: 
 Ronald Edwards
 Its: President

STATE OF CALIFORNIA }
 COUNTY OF Riverside } ss: Mark Strongin
 On 7-1-01 before me,
 a Notary Public, personally appeared Ronald Edwards

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
 Signature 



(This area for official notarial seal)



The following is a copy of Subdivision A and B of the fictitious Deed of Trust recorded in each county in California as stated in the foregoing Deed of Trust and incorporated by reference is said Deed of Trust as being a part thereof as if set forth at length therein.

A. To protect the security of this Deed of Trust, Trustor agrees:

(1) To keep said property in good condition and repair not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon, not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

(4) To pay: at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to 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; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or 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, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

(1) That any award of damages in connection with any condemnation for public use or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(3) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: receive any part of said property; consent to the making of any map or plat thereon; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(4) That upon written request of beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then hereunder. The recitals in such reconveyance of any matter or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

(5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, 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 his own name sue for or otherwise collect such 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. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(6) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing encumbrances secured hereby.

After the lapse of such time as may then be required by law following the recording of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the persons legally entitled thereto.

(7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgee, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(9) That Trustor accepts this Trust when this 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 Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

REQUEST FOR FULL RECONVEYANCE

TO LAWYERS TITLE COMPANY, TRUSTEE:

The undersigned is the legal owner and holder of the note or notes, and of all other indebtedness secured by the foregoing Deed of Trust. Said note or notes, together with all other indebtedness secured by said Deed of Trust, have 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 Deed of Trust, to cancel said note or notes above mentioned, and all other evidences of indebtedness secured by said Deed of Trust delivered to you herewith, together with the said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you under the same.

Dated 2-20-06

Signature must be notarized

[Handwritten Signature]

Please mail Deed of Trust, Note and Reconveyance to _____

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures. Both must be delivered to the Trustee for cancellation before reconveyance will be made.

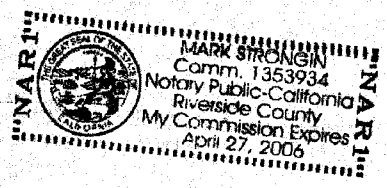
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Riverside } ss.

On 2-1-06 before me, Mark Strongin
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Ronald Edwards
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
 - Corporate Officer -- Title(s): _____
 - Partner -- Limited General
 - Attorney-in-Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: _____





LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Riverside, State of California, described as follows:

PARCEL A:

LOTS 1 THROUGH 27, TOGETHER WITH LETTERED LOTS A THROUGH F OF TRACT NO. 29151-1, AS SHOWN BY MAP ON FILE IN BOOK 392 PAGE(S) 71 THROUGH 75, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL B:

TENTATIVE TRACT NO. 29151-2, BEING A SUBDIVISION OF A PORTION OF THE FOLLOWING:

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 4 SOUTH, RANGE 6 EAST, SAN BERNARDINO BASE AND MERIDIAN, WHICH LIES NORTHERLY OF THE NORTHEASTERLY LINE OF THE PORTION CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED OCTOBER 27, 1958 IN BOOK 2354 PAGE 13 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PORTION;

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTHERLY ON THE WESTERLY LINE OF SAID NORTHEAST QUARTER TO THE NORTHEASTERLY LINE OF THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED OCTOBER 27, 1958 IN BOOK 2354 PAGE 113 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; THENCE SOUTHEASTERLY ON SAID NORTHEASTERLY LINE, 260 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID NORTHEASTERLY LINE, TO THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE WESTERLY ON THE NORTH LINE OF SAID NORTHEAST QUARTER TO THE POINT OF BEGINNING.

PARCEL C:

TENTATIVE TRACT NO. 29151-3, BEING A SUBDIVISION OF A PORTION OF THE FOLLOWING:

PARCEL 1: (653-250-009)

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 4 SOUTH, RANGE 6 EAST, SAN BERNARDINO BASE AND MERIDIAN, WHICH LIES NORTHERLY OF THE NORTHEASTERLY LINE OF THE PORTION CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED OCTOBER 27, 1958 IN BOOK 2354 PAGE 13 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PORTION;

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTHERLY ON THE WESTERLY LINE OF SAID NORTHEAST QUARTER TO THE NORTHEASTERLY LINE OF THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED OCTOBER 27, 1958 IN BOOK 2354 PAGE 113 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; THENCE SOUTHEASTERLY ON SAID NORTHEASTERLY LINE,

First American Title

260 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID NORTHEASTERLY LINE, TO THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE WESTERLY ON THE NORTH LINE OF SAID NORTHEAST QUARTER TO THE POINT OF BEGINNING;

ALSO EXCEPTING THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS AND MINERALS OF WHATEVER NATURE, AS RESERVED BY PHILLIP EISON, A SINGLE MAN, AND MAX ALTMAN, A WIDOWER, IN DOCUMENT RECORDED JUNE 8, 1960 AS INSTRUMENT NO. 60247 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL 2: (653-270-001)

INTENTIONALLY DELETED.

PARCEL D:

INTENTIONALLY DELETED.

APN: 653-250-009 and ~~653-170-034~~ and ~~653-270-001~~

First American Title



CERTIFICATION

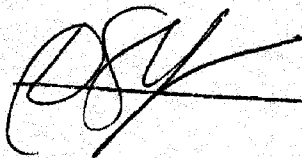
Under the provisions of Government Code 27361.71 I certify under the penalty of perjury that the following is a true copy of illegible wording found in the attached document.

(Print or Type the page number(s) and Wording below) :

" See Attached Document For Clarity "

DATE : FEB 03 2006

SIGNATURE :

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, written over a horizontal line.

RECORDING REQUESTED BY:
First American Title Company
AND WHEN RECORDED MAIL TO:
Shenandoah Springs, LLC
7266 Edinger Avenue
Suite L
Huntington Beach, CA 92647

Attached for clarity

APN: **653-250-009-4** TRA: **061-165**
Escrow No: **09600350-906-1LC**
Title No: **NHRV-2194061**

Space above this line for Recorder's use

DEED OF TRUST WITH ASSIGNMENT OF RENTS (SHORT FORM)

This DEED OF TRUST, made December 30, 2005 , between Shenandoah Springs Development Company, Inc., a California corporation, herein called TRUSTOR, whose address is: 7266 Edinger Avenue, Suite L, Huntington Beach, CA 92647 LAWYERS TITLE COMPANY, a California corporation, herein called TRUSTEE, and Shenandoah Springs, LLC, a California limited liability company herein called BENEFICIARY, Trustor irrevocably grants, transfers and assigns to Trustee in Trust, with Power of Sale, that property in the City of County of Riverside, California, described as:

See Exhibit "A" attached hereto and incorporated herein by this reference.

Individual Lot Release - The parties agreed that this Second Deed of Trust does not allow for individual lot releases on a par value basis.

Commonly known as: 98SFLts/Tr29151-1;TTM-2,ptn-3, Thousand Palms, CA

Together with the rents, issues and profits 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 sum of ~~\$4,972,449.88~~ with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof; (2) the performance of each agreement of Trustor incorporated by reference or contained herein or reciting it is so secured; (3) Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

Escrow No.: 09600350-906-1LC

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A of that certain Fictitious Deed of Trust referenced herein, and it is mutually agreed that all of the provisions set forth in subdivision B of that certain Fictitious Deed of trust recorded in the book and page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Kings	858	713	Placer	1028	379	Sierra	38	187
Alpine	3	130-31	Lake	437	110	Plumas	166	1307	Siskiyou	506	762
Amador	133	438	Lassen	192	367	Riverside	3788	347	Solano	1287	621
Butte	1330	513	Los Angeles	T-3878	874	Sacramento	71-10-26	615	Sonoma	2067	427
Calaveras	185	338	Madera	911	136	San Benito	300	405	Stanislaus	1970	56
Colusa	323	391	Marin	1849	122	San Bernardino	6213	768	Sutter	655	585
Contra Costa	4684	1	Mariposa	90	453	San Francisco	A-804	596	Tehama	457	183
Del Norte	101	549	Mendocino	667	99	San Joaquin	2855	283	Trinity	108	595
El Dorado	704	635	Merced	1660	753	San Luis Obispo	1311	137	Tulare	2530	108
Fresno	5052	623	Modoc	191	93	San Mateo	4788	175	Tuolumne	177	180
Glenn	469	76	Mono	69	302	Santa Barbara	2065	881	Ventura	2607	237
Humboldt	801	83	Monterey	357	239	Santa Clara	6626	664	Yolo	769	16
Imperial	1189	701	Napa	704	742	Santa Cruz	1838	607	Yuba	398	693
Inyo	165	672	Nevada	363	94	Shasta	800	633			
Kern	3756	690	Orange	7182	18	San Diego	SERIES 5 Book 1964, Page 149774				

Said agreements, terms and provisions contained in said subdivision A and B, (identical in all counties are printed on the reverse side hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed the maximum allowed by laws.

The foregoing assignment of rents is absolute unless initialed here, in which case, the assignment serves as additional security.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at this address hereinbefore set forth.

Shenandoah Springs Development Company, Inc., a California corporation

By: _____
 Ronald Edwards
 Its: President

STATE OF CALIFORNIA }
 COUNTY OF _____ } SS:

On _____, before me, _____,
 a Notary Public, personally appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

(This area for official notarial seal)

PENALTY OF PERJURY FOR NOTARY SEAL

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the Notary Seal on the document to which this statement is attached reads as follows:

Name of Notary MARK STRONGIN

State where Bond is filed California

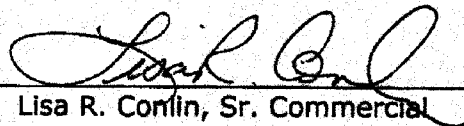
County where Bond is filed, if applicable Riverside County

Commission Number, if applicable 1353934

Commission Expiration, if applicable April 27, 2006

Place of Execution of this Declaration State of California, County of San Bernardino

Date February 3, 2006



Lisa R. Conlin, Sr. Commercial
Escrow Officer
LandAmerica Commercial Services
(Lawyers/Commonwealth)

Signature (Firm name if any)

Recording Requested By
First American Title NHS

DOC # 2007-0229153
04/04/2007 08:00A Fee:145.00
Page 1 of 35
Recorded in Official Records
County of Riverside
Larry W. Ward
Assessor, County Clerk & Recorder

RECORDING REQUESTED BY AND WHEN
RECORDED RETURN TO:

Kirkpatrick & Lockhart Preston Gates Ellis LLP
10100 Santa Monica Boulevard, 7th Floor
Los Angeles, California 90067
Attn: William Bernfeld, Esq.



27/6706-22

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**CONSTRUCTION DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

NOTICE: THIS CONSTRUCTION DEED OF TRUST SECURES AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND AND IS A "CONSTRUCTION MORTGAGE" WITHIN THE MEANING OF CALIFORNIA COMMERCIAL CODE SECTION 9334(h). THIS INSTRUMENT SECURES A CONSTRUCTION LOAN WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTION 3097(j) AND CONSTITUTES A CONSTRUCTION TRUST DEED WITHIN THE MEANING OF THAT SECTION. THIS DOCUMENT IS ALSO BEING RECORDED AS A FIXTURE FILING UNDER CALIFORNIA UNIFORM COMMERCIAL CODE SECTION 9502 AND, AS SUCH, COVERS ANY GOODS THAT ARE OR ARE TO BECOME FIXTURES RELATED TO THE REAL PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO. THIS INSTRUMENT IS TO BE FILED FOR RECORD IN THE RECORDS OF THE COUNTY WHERE DEEDS OF TRUST ON REAL PROPERTY ARE RECORDED AND SHOULD BE INDEXED AS BOTH A CONSTRUCTION DEED OF TRUST AND AS A FINANCING STATEMENT COVERING FIXTURES. THE ADDRESSES OF TRUSTOR (DEBTOR) AND BENEFICIARY (SECURED PARTY) ARE SPECIFIED IN THE FIRST PARAGRAPH OF THIS INSTRUMENT.

This CONSTRUCTION DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (the "Construction Deed of Trust"), dated as of March 14, 2007, is made by **RDR SPRINGS, LLC**, a California limited liability company, as Trustor, having an address at 52050 Industrial Way, Coachella, CA 92236, in favor of **FIRST AMERICAN TITLE COMPANY**, as Trustee, having an address at 3625 Fourteenth Street, Riverside, CA 92501, Attn: Matt Hooks - Title Officer, for the benefit of **STERLING BANK AND TRUST, FSB.**, a federal savings bank, as Beneficiary, having an address at One Towne Square, 17th Floor, Southfield, MI 48076.

LA-163093 v5

Public Record

NOW, THEREFORE, for valuable consideration (the receipt and sufficiency of which is acknowledged), Trustor irrevocably and unconditionally undertakes and agrees for the benefit of Trustee and Beneficiary as follows:

1. DEFINITIONS AND CONSTRUCTION.

1.1 Definitions. As used herein:

"Bankruptcy Code" means Title 11 of the United States Code.

"Chattels" means all Goods (including Equipment, Inventory, Fixtures, appliances, building materials, and chattels) and other articles of Personal Property (other than any of the foregoing which is or at any time becomes a Hazardous Substance) now or at any time hereafter affixed to, attached to, or used in any way in connection with the Property and all replacements thereof.

"Construction Deed of Trust" means this Construction Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (with all exhibits and schedules attached hereto) and all permitted alterations, amendments, changes, extensions, modifications, renewals, or supplements hereto or hereof.

"Construction Loan" means the loan of Two Million Six Hundred Thousand Dollars and No Cents (\$2,600,000.00) made by Beneficiary to Trustor pursuant to the Construction Loan Documents.

"Construction Loan Agreement" means that certain Loan Agreement of even date herewith, as may be amended from time to time, which terms and conditions are incorporated into the Construction Deed of Trust by reference.

"Construction Loan Commitment" means that certain Construction Loan Commitment dated February 8, 2007, which terms and conditions are incorporated into the Construction Deed of Trust by reference.

"Construction Loan Documents" means the Construction Loan Agreement, the Note, the Construction Loan Commitment, the Construction Deed of Trust, the Guaranty, if any, and all other documents executed by Trustor or any guarantor in connection with the Construction Loan, including any guaranty executed by a guarantor, and all permitted alterations, amendments, changes, extensions, modifications, renewals, or supplements to or of any of the foregoing.

"Default" shall mean any event or circumstance not yet constituting an Event of Default but which, with the giving of any notice or the lapse of any period of time or both, would become an Event of Default.

"Environmental Activity or Condition" means the presence, use, generation, manufacture, production, processing, storage, release, threatened release, discharge, disposal, treatment or transportation of any Hazardous Material on, onto, in (or within), under, over or



from the Property, or within any Improvement on the Property, or the violation of any Environmental Law because of the condition of, or activity on, the Property.

"Environmental Laws" means any and all federal, state or local law whether common law, court or administrative decision, ordinance, regulation, rule, court order or decree, or administrative order or any administrative policy or guideline concerning action levels of a governmental authority relating to the environment, public health, any Hazardous Material (as hereinafter defined) or any Environmental Activity or Condition (as hereinafter defined) on, under or about the Property, in effect from time to time, including, but not limited to: (i) the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.); (ii) the Resource Conservation and Recovery Act, as amended (42 U.S.C. §6901 et seq.); (iii) the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. §9601 et seq.); (iv) the Federal Clean Air Act, as amended (42 U.S.C. §7401 et seq.); (v) the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. §136 et seq.); (vi) the Toxic Substances Control Act, as amended (15 U.S.C. §2601 et seq.); (vii) the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. §11001 et seq.); (viii) the Occupational Safety and Health Act, as amended (29 U.S.C. §650 et seq.); (ix) all regulations or guidelines promulgated pursuant to all of the foregoing, as same may be amended from time to time; (x) Chapter 6 of the California Health and Safety Code; California Health and Safety Code §§ 25100 et seq. and §§ 25280 et seq.; (xi) the Safe Drinking Water and Toxic Enforcement Act of 1986, as amended (Proposition 65); and (xii) Title 22 of the California Code of Regulations (Division 4, Chapter 30).

"Equipment" has the meaning set forth in the UCC.

"Fixtures" has the meaning set forth in the UCC.

"Goods" has the meaning set forth in the UCC.

"Guarantor" means any guarantor of all or a portion of the Secured Obligations.

"Guaranty" shall mean separate instruments, if any, entitled "Guaranty of Loan" of even date herewith executed for the benefit of Beneficiary.

"Hazardous Substances" means any hazardous or toxic material, substance, pollutant, allergen, irritant, contaminant or waste, or similar terms, defined by or regulated as such under any Environmental Laws, including, but not limited to, petroleum and petroleum products, but shall not include (i) supplies for cleaning and maintenance in commercially reasonable amounts required for use in the ordinary course of business, provided such items are incidental to the use of the Property and are stored and used in compliance with all Environmental Laws, (ii) standard office supplies in commercially reasonable amounts required for use in the ordinary course of business, provided such items are incidental to the use of the Property and are stored and used in compliance with all Environmental Laws, or (iii) de minimis amounts of Hazardous Substances, the type of which is customarily present in the ordinary course of business of an industrial property for use in cleaning, maintenance and general use incidental to the operation of the Property, provided such Hazardous Substances are stored and used in compliance with all Environmental Laws.

"Improvements" means all buildings, structures, and improvements of any kind and nature now or hereafter erected or located on the Land.

"Land" means the real property described on Exhibit A hereto, including all easements, rights, privileges, tenements, hereditaments, appurtenances, access, air and development rights, minerals and oil and gas and other hydrocarbon substances belonging or pertaining in any way thereto, including all ways, waters, water courses, water rights and powers, liberties, privileges, sewers, pipes, conduits, wires, and other facilities furnishing utility or other services to such property.

"Leases" means all of Trustor's right, title and interest as lessor in and to all leases, occupancy or rental agreements, written or oral, now or hereafter affecting the Property or any part thereof and all of Trustor's rights to enter into any lease, occupancy agreement or rental agreement, written or oral.

"Lien" means, with respect to any asset: (a) any deed of trust, mortgage, lien, pledge, charge, security interest, or encumbrance of any kind in respect of such asset (or any agreement to give any of the foregoing, whether or not contingent on the occurrence of any future event); or (b) any undertaking (whether or not contingent) by a Person to grant any deed of trust, mortgage, lien, pledge, charge, security interest, or encumbrance to another Person on such asset.

"Material Adverse Change" means any event that would have a material and adverse effect upon (a) the business or the financial position or results of operation of Trustor, (b) the ability of Trustor to timely perform, or of Beneficiary to enforce, any of the Construction Loan Documents, or (c) the value of the Mortgaged Property taken as a whole.

"Mortgaged Property" means all of Trustor's right, title, interest, claim, demand, reversion, or remainder of any kind and nature whatsoever, either at law or in equity, whether in possession or expectancy, and whether now owned or hereafter acquired, in, to, and upon the following: (a) the Property; (b) all land lying in the bed of any street, road, highway, or avenue in front of or adjoining the Property; (c) all Chattels; (d) all awards made at any time by any governmental authority respecting the Property and arising from the exercise of the right of eminent domain, the alteration of the grade of any street, or any other injury to or decrease in the value of the Property; (e) all Leases of the Property or the Chattels or any part of either of the foregoing now or hereafter entered into and all cash, security deposits, advance rent, late charges, utilities charges, common area maintenance charges or other securities deposited thereunder to secure performance by the lessees of their obligations thereunder (whether such cash or securities are to be held until the expiration of the terms of such leases or applied to one or more of the installments of rent coming due immediately prior to the expiration of such terms); (f) all rights to insurance proceeds and unearned premiums arising from or relating to the Property or the Chattels; (g) all rights and easements now or hereafter existing pertaining to the use and enjoyment of the Property or the Chattels; (h) all declarations of covenants, conditions, and restrictions affecting or relating to the Property; (i) all sales agreements, deposit receipts, escrow agreements, and other ancillary documents and agreements entered into respecting the sale to any Person(s) of all or any part of the Property and all deposits and other proceeds thereof; (j) all permits, plans, licenses, specifications, drawings, deposits, accounts, subdivision rights, tentative

tract maps, final tract maps, security interests, contracts, contract rights, certificates, variances, consents or other rights affecting or relating to the Property; (k) all Rents; (l) all proceeds and products of any kind and nature of any of the foregoing; (m) all escrow and deposit accounts held by Trustor; and (n) all monies and other property which may from time to time become subject to the Lien of this Construction Deed of Trust or which may come into the possession or be subject to the control of Trustee or Beneficiary, it being the intention of Trustor that all property required to be subjected to the Lien of this Construction Deed of Trust or intended to be so subjected shall immediately be included as "Mortgaged Property" upon the acquisition thereof by Trustor as if such property was now owned by Trustor and specifically described in this Construction Deed of Trust, Beneficiary being authorized to receive all such property as and for additional security for the payment in full of the Secured Obligations and all other sums secured or intended to be secured hereby; provided that "Mortgaged Property" shall not include any Hazardous Substance.

"Note" means that certain Promissory Note, executed concurrently herewith (the same date as the Construction Deed of Trust), executed by Trustor in favor of Beneficiary, and all permitted alterations, amendments, changes, extensions, modifications, renewals, or supplements to or any of the foregoing. The terms and the amount of Trustor's indebtedness on said Note are incorporated herein by reference.

"Permitted Liens" means the liens on the Property and other title matters contained in that certain Preliminary Title Report, dated March 7, 2007, from First American Title Company, that have been approved by Beneficiary or its counsel in writing.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, syndicate, joint venture, or governmental authority.

"Personal Property" means all Mortgaged Property that does not constitute real property under the laws of the State of California.

"Property" means, collectively, the Land and the Improvements.

"Remediation" means the investigation of the environmental condition of the Mortgaged Property, the preparation of any feasibility studies, reports, or remedial plans regarding Hazardous Substances relating to the Mortgaged Property, and the performance of any cleanup, abatement, removal, remediation, containment, operation, maintenance, monitoring, or restoration work, whether on or off of the Mortgaged Property, relating to the Mortgaged Property.

"Rents" means all present and future rents, issues, profits, revenues, income, royalties, receipts, earnings, option payments (including oil, gas and mineral royalties) and other benefits to which Trustor may now or hereafter be entitled from, or receive in connection with the use of, the Property or the Chattels.

"Secured Obligations" means all obligations, indebtedness, and liabilities of Trustor of every kind and character owed to Beneficiary arising under:

(a) the Construction Loan Documents (including without limitation, the Note and this Construction Deed of Trust); or

(b) any other evidence of any such obligations, indebtedness, and liabilities if such evidence provides that such obligations, indebtedness, and liabilities are secured hereby (or are expressly endorsed by mutual agreement of Trustor and Beneficiary to so provide); or

(c) any funds later advanced by Beneficiary to or for the benefit of Trustor under any provision of any of the Construction Loan Documents;

(d) any amendment, modification, extension, rearrangement, restatement, renewal, substitution or replacement of any of the foregoing; and including such obligations, indebtedness, and liabilities arising under successive transactions renewing, increasing, extending or continuing any of the foregoing, changing the interest rate or other terms thereof, or creating new or additional obligations, indebtedness, and liabilities after prior obligations, indebtedness, or liabilities have been in whole or in part satisfied, and further including all such obligations, indebtedness, and liabilities however arising, whether for principal, interest (including interest that, but for the filing of a petition under the Bankruptcy Code with respect to Trustor, would have accrued on any such obligations, indebtedness, or liabilities), letter of credit reimbursement obligations, fees, costs, expenses, premiums, charges, attorneys' fees, or indemnity obligations, whether heretofore, now, or hereafter made, incurred or created, whether absolute or contingent, whether liquidated or unliquidated, whether Trustor may be liable individually or jointly with others, and whether made, incurred, or created before or after any entry of an order for relief with respect to Trustor in a case under the Bankruptcy Code. Secured Obligations shall include all amounts disbursed to Trustor under the Construction Loan Documents. Any funds that are disbursed after the date of recording of this Construction Deed of Trust shall be treated as if they were disbursed prior to this Construction Deed of Trust and shall be superior to all other Liens or encumbrances against the Property.

"Trustee" means the Person identified as the trustee in the introduction to this Construction Deed of Trust and any successor or assign in such capacity.

"Trustor" means the Persons identified as the Trustor in the introduction to this Construction Deed of Trust, and any successor or assign of such Person (whether by operation of law or otherwise), including any "Trustee" (as defined in the Bankruptcy Code) or debtor-in-possession, and any successor or assign arising out of any merger or reorganization involving such Person, whether such Person is the surviving or disappearing Person.

"UCC" means the California Commercial Code.

1.2 Construction. Unless the context of this Construction Deed of Trust clearly requires otherwise: (a) references to the plural include the singular and to the singular include the plural; (b) references to any gender include any other gender; (c) the part includes the whole; (d) the terms "include" and "including" are not limiting; and (e) the term "or" has the inclusive meaning represented by the phrase "and/or." The terms "hereof," "herein," "hereby," and "hereunder," and other similar terms in this Construction Deed of Trust, refer to this



Construction Deed of Trust as a whole and not to any particular provision of this Construction Deed of Trust. References in this Construction Deed of Trust to any "determination," or any matter being "determined," by Beneficiary include good faith estimates (in the case of quantitative determinations) and good faith beliefs (in the case of qualitative determinations) by Beneficiary and mean that any such determination so made shall be conclusive absent manifest error. Unless otherwise specified, section, subsection, exhibit, and schedule references are to this Construction Deed of Trust. Any exhibit or schedule attached hereto is incorporated herein by this reference. Any reference to any statute, law, rule, or regulation shall include all amendments, modifications, and supplements thereto or thereof.

2. THE SECURITY.

2.1 Grant of Security Interests and Liens. To secure the prompt payment and performance in full of all Secured Obligations, Trustor irrevocably and unconditionally: (a) GRANTS, CONVEYS, TRANSFERS, HYPOTHECATES, AND ASSIGNS to Trustee in trust WITH POWER OF SALE, for the benefit and security of Beneficiary, all of the Mortgaged Property other than Personal Property; and (b) grants to Beneficiary a continuing security interest in, to, and upon the Personal Property.

2.2 Assignment of Leases and Rents. Trustor hereby assigns to Beneficiary all its right, title and interest in all Leases, present and future, of the Mortgaged Property or any portion thereof and all Rents. This assignment is a present, absolute and complete assignment from Trustor to Beneficiary and is not merely the granting of a security interest. The parties hereto further intend that the Rents (and any payments made in lieu of rents) be hereby absolutely assigned, so that such Rents are no longer the property of Trustor during the term of this Construction Deed of Trust and do not constitute any of the assets of any estate of Trustor as defined by 11 USC §541 of the U.S. Bankruptcy Code and that such Rents will not constitute collateral, cash or otherwise, of Beneficiary. The acceptance of this assignment of Leases by Beneficiary is subject to the following: so long as there shall exist no Event of Default, Trustor shall have a revocable license from Beneficiary to collect, when due, all Rents and to retain and use the same (subject first to payment of any installment then due under the Note and any other payments then due under any of the other Loan Documents). Upon the occurrence of an Event of Default, Trustor's license shall automatically terminate without regard to the adequacy of Beneficiary's other security for the Secured Obligations and without notice to or demand upon Trustor. Beneficiary shall not exercise any of the rights or powers conferred upon it under this Section until an Event of Default shall occur and be continuing, but upon the occurrence and during the continuance of any such Event of Default, Beneficiary shall be entitled to all Rents and other amounts then due under the Leases and thereafter accruing, and this assignment shall constitute a direction to and full authority to the subject lessees and each of them, to pay all such amounts to Beneficiary without proof of the Event of Default relied upon. Said lessees are hereby irrevocably authorized to rely upon and comply with any notice or demand by Beneficiary for the payment to Beneficiary of any rental or other sums which may be or thereafter become due under the Leases, or for the performance of any of said lessee's undertakings under the Leases and shall have no right or duty to inquire as to whether any Event of Default has actually occurred or is continuing.

Notwithstanding anything contained herein to the contrary, in no event shall this assignment be deemed to reduce the Secured Obligations by an amount in excess of the actual amount of cash received by Trustor under the Leases, whether before, during or after the occurrence of an Event of Default, and Trustor acknowledges that in no event shall the Secured Obligations be reduced by the value from time to time of the rents, income and profits of or from the Mortgaged Property. In addition, Beneficiary reserves the right, at any time, whether before or after the occurrence of an Event of Default, to recharacterize this assignment as merely constituting security for the Secured Obligations of Trustor to Beneficiary, which recharacterization shall be made by written notice delivered to Trustor. Trustor's receipt of any rents, issues, and profits pursuant to this assignment after the institution of foreclosure proceedings, either by court action or by the private power of sale contained in any deed of trust now or hereafter securing the Note, shall not cure an Event of Default, or affect such proceedings or sale. THIS ASSIGNMENT SHALL NOT CONSTITUTE OR EVIDENCE ANY PAYMENT WHATSOEVER ON ACCOUNT OF THE SECURED OBLIGATIONS, AND THE SECURED OBLIGATIONS SHALL BE REDUCED BY AMOUNTS IN THE COLLECTION ACCOUNT ONLY IF AND TO THE EXTENT THAT SUCH AMOUNTS ARE ACTUALLY PAID TO BENEFICIARY AND APPLIED BY BENEFICIARY IN REDUCTION OF THE UNPAID PRINCIPAL BALANCE OF THE SECURED OBLIGATIONS.

This Construction Deed of Trust constitutes and evidences the irrevocable consent of Trustor to the entry upon and taking possession of the Mortgaged Property by Beneficiary pursuant to the foregoing assignment, whether or not sale or foreclosure proceedings have been instituted. The assignment of Rents included in Section 2.2 shall continue in effect until the Secured Obligations have been indefeasibly repaid in full. Neither the exercise of any rights under this Section 2.2 by Beneficiary nor the application of any Rents to the Secured Obligations shall cure or waive any Default or notice of Default hereunder or invalidate any act done pursuant hereto.

2.3 Construction Deed of Trust as Financing Statement. This Construction Deed of Trust, among other things, constitutes a financing statement under the provisions of the UCC. This Construction Deed of Trust may be filed as a financing statement in such office or offices as financing statements are or shall be permitted to be filed and the filing of this Construction Deed of Trust or a copy hereof shall constitute the filing of a financing statement under the terms, conditions and provisions of the UCC. The execution or filing hereof does not imply that any item of Personal Property is or will become a Fixture. As a fixture filing, this Construction Deed of Trust is intended to protect the parties hereto from unwarranted assertions by third Persons.

2.4 Further Security. Trustor hereby assigns to Beneficiary, as further security for the indebtedness secured hereby, Trustor's interest in all agreements, contracts (including contracts for the lease or sale of the Property or any portion thereof), licenses and permits affecting the Property and any and all of Trustor's bank accounts, if any, currently held or deposited or deposited in the future with Beneficiary including, but not limited to, savings accounts, checking accounts, certificates of deposit, and money market accounts. Such assignment shall not be construed as consent by Beneficiary to any agreement, contract, license, or permit so assigned, or to impose upon Beneficiary any obligations with respect thereto. Trustor shall not cancel or amend any of the agreements, contracts, licenses and permits hereby assigned (nor permit any of the same to terminate if they are necessary or desirable for the operation of the Property or are



additionally bargained for security between Beneficiary and Trustor), without first obtaining, on each occasion, the written approval of Beneficiary, which approval shall not be unreasonably withheld or delayed. This Section 2.4 shall not be applicable to any agreement, contract, license or permit that terminates if it is assigned without the consent of any party thereto (other than Trustor) or issuer thereof, unless such consent has been obtained or this assignment is ratified by such party or issuer; nor shall this paragraph be construed as a present assignment of a contract, license or permit that Trustor is required by law to hold in order to operate the Mortgaged Property for the purposes intended.

2.5 Security Agreement. This instrument is also a security agreement under the UCC for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the UCC, whether acquired now or in the future, and all products and cash and non-cash proceeds thereof (collectively, "UCC Collateral"), and Trustor hereby grants to Beneficiary a security interest in the UCC Collateral to secure payment of the Secured Obligations and to secure the due, prompt and complete observance and performance of each and every obligation and agreement of Trustor contained herein and/or in any of the other Loan Documents. Trustor shall execute and deliver to Beneficiary, upon Beneficiary's request, financing statements, continuation statements, renewals and amendments, in such form as Beneficiary may require to perfect or continue the perfection of this security interest and will pay the cost of filing the same in all public offices wherever filing is deemed by Beneficiary to be necessary or desirable. Trustor shall pay all filing costs and all costs and expenses of any record searches for financing statements that Beneficiary may require. Without the prior written consent of Beneficiary, Trustor shall not create or permit to exist any other lien or security interest in any of the UCC Collateral. If an Event of Default has occurred and is continuing, Beneficiary shall have the remedies of a secured party under the UCC, in addition to all remedies provided by this Construction Deed of Trust or existing under applicable law. In exercising any remedies, Beneficiary may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of Beneficiary's other remedies.

3. REPRESENTATIONS AND WARRANTIES OF TRUSTOR.

Trustor represents and warrants as follows (which representations and warranties shall be true, correct, and complete at all times):

3.1 Existence and Power. Trustor, if other than natural persons: (a) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (b) has all powers and all necessary governmental licenses, authorizations, consents, and approvals required to carry on its business as now conducted, except if the failure to comply with any of the foregoing could not, in the aggregate, reasonably be expected to result in a Material Adverse Change; (c) is duly licensed, registered or qualified to do business in each jurisdiction where licensing is required by the nature of Trustor's business, or the character and location of their property, business, or customers, except if the failure so to be licensed, registered or qualified to do business could not, in the aggregate, reasonably be expected to result in a Material Adverse Change; and (d) is licensed, registered or qualified to do business in the state where the Property is located.

3.2 No Contravention; No Default. The execution, delivery, and performance by Trustor of this Construction Deed of Trust do not and will not: (a) conflict with or result in any breach or contravention of, or the creation of any Lien under, any contractual obligation to which Trustor is a party or any order, injunction, writ, or decree of any governmental authority to which Trustor or its properties are subject; or (b) violate any law, rule, or regulation of any governmental authority.

3.3 Binding Effect. This Construction Deed of Trust constitutes the legal, valid, and binding obligation of Trustor, enforceable against Trustor in accordance with its terms.

3.4 Use of Hazardous Substances. Trustor is not using and neither Trustor nor, to the best of Trustor's knowledge, any prior owner, occupant, or operator of the Property has used Hazardous Substances at or upon, or in any way affecting, the Property in any manner which violates or violated any Environmental Law if such violation could, individually or in the aggregate, reasonably be expected to have a material adverse effect on the Mortgaged Property or to result in a Material Adverse Change. To the best of Trustor's knowledge, (a) there is no Hazardous Substances at, on or in the Property, or within any Improvement on the Property, or immediate or adjoining properties (which such immediate or adjoining properties contribute to or have contributed to environmental risks at, on or in the Property), nor have any Hazardous Substances been discharged from the Property or penetrated any surface or subsurface rivers or streams crossing or adjoining the Property or the aquifer underlying the Property; (b) Trustor has not received any notice of non-compliance or alleged non-compliance with respect to Hazardous Substances from any authority having jurisdiction over the Property; (c) to the best of Trustor's knowledge, the Property under its ownership and previous ownership was not used as a dump site or storage facility for Hazardous Substances; (d) except as otherwise disclosed in writing to Beneficiary prior to the date hereof, the Mortgaged Property has not been designated as Border Zone Property under the provisions of California Health and Safety Code Section 25220 et seq. or any regulation adopted in accordance therewith; and (e) there has been no occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property that is reasonably likely to cause the Property or any part thereof to be designated as Border Zone Property.

3.5 Condition and Operation of the Mortgaged Property. Trustor shall do all reasonable things necessary to the satisfaction of Beneficiary, based on the character and nature of use of the Mortgaged Property, to: (a) keep the Mortgaged Property (including all landscaping) in good condition and repair and to prevent any waste and deterioration thereof; (b) operate the Mortgaged Property in a first class manner for the purpose for which it is constructed; (c) keep all Improvements free of termites, dry rot, wood borers and all similar destructive pests; (d) prevent any change to, or in the use of, the Mortgaged Property which will in any way increase the risk of fire or other hazard arising from the use thereof; and (e) prevent, except with Beneficiary's prior written consent, any material changes in the nature of the occupancy or use of the whole or any part of the Mortgaged Property, from such nature for which the Mortgaged Property or such part is intended on the date hereof.

4. COVENANTS OF TRUSTOR

4.1 Title to Property and Chattels. Trustor shall at all times possess good and marketable title to and an indefeasible fee estate in the Property, free and clear of all Liens other than Permitted Liens. Trustor shall at all times hold good and marketable title to the Personal Property, free and clear of all Liens other than Permitted Liens.

4.2 Preservation of Existence. Trustor shall do all things necessary to preserve and keep in full force and effect its existence, franchises, rights, and privileges as a business under the laws of the state of its formation.

4.3 Further Assurances. Trustor shall, at its sole cost and expense, perform, execute, acknowledge, or deliver all acts, deeds, conveyances, deeds of trust, assignments, notices of assignments, transfers, and assurances as Trustee or Beneficiary may from time to time reasonably require for purposes of better assuring, conveying, assigning, pledging, mortgaging, warranting, or confirming unto Trustee all or any portion of the Mortgaged Property, the property and rights conveyed or assigned hereunder or which Trustor must hereafter convey or assign to Trustee, or for carrying out the intention or facilitating the performance of the terms of this Construction Deed of Trust.

4.4 Taxes, Assessments, and Insurance. Subject to applicable law or to a written waiver by Beneficiary, Trustor shall pay to Beneficiary, on the day monthly payments are due under the Note, until the Note is paid in full, an amount equal to one-twelfth (1/12) of:

(a) yearly real estate taxes, assessments or other governmental charges that may be assessed, levied, imposed or attain priority under this Construction Deed of Trust; and

(b) yearly insurance premiums.

4.5 Escrow Waiver. Should Beneficiary waive Trustor's obligation to pay taxes, assessments, and insurance pursuant to Section 4.4 and Trustor thereafter defaults in the payment of any such taxes, assessments, other governmental charges or insurance or in making necessary repairs to the Property, Beneficiary may pay such taxes, assessments, other governmental charges or insurance and make such repairs, and the monies so paid by it shall be a further lien on the Property, payable forthwith, with interest at the rate of two percent (2.0%) greater than the Applicable Interest Rate (as such term is defined in the Note). Beneficiary may make advances pursuant to this Section 4.5 or pursuant to Section 4.16, without curing Trustor's Default and without waiving Beneficiary's right of foreclosure or any other right or remedy of Beneficiary under this Construction Deed of Trust. Beneficiary's right to make advances pursuant to this Section 4.5 shall be at its option, and not obligatory. Beneficiary shall not be liable in any case for failure to exercise such right or for failure to continue exercising such right once having exercised it. In the event of Beneficiary's waiver of Trustor's obligations under Section 4.4, Trustor's failure to pay taxes, assessments and/or other governmental charges assessed against the Property, or any installment thereof, or any insurance premium upon policies covering the Property or any part thereof, shall constitute waste (although the meaning of the term waste shall not necessarily be limited to such nonpayment) and shall entitle Beneficiary to all remedies provided for herein.

4.6 Mechanic's Liens. Trustor shall pay when the same shall become due all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a Lien on the Mortgaged Property or any portion thereof. Notwithstanding the foregoing, Trustor shall have the right to provide a bond in an amount required by the California Civil Code to release any mechanic's lien of record in the event Trustor disputes amount of such lien.

4.7 Insurance.

(a) Insurance Policies and Premiums. Trustor shall obtain and maintain: (i) insurance of the type necessary to insure the Improvements and Chattels, for the lesser of (1) the full replacement cost thereof, or (2) the unpaid principal balance of the Construction Loan, against any loss by fire, lightning, windstorm, hail, explosion (subject to certain exceptions), aircraft, smoke damage, vehicle damage, and other risks from time to time included under "extended coverage" policies, but in any event in amounts sufficient to prevent Trustor from becoming a co-insurer under such policies; (ii) combined single limit bodily injury and property damage insurance against any loss, liability, or damage on, about or relating to the Property, in an amount reasonably acceptable to Beneficiary; (iii) flood insurance in an amount satisfactory to Beneficiary if the Property is located in a designated flood hazard area; (iv) all insurance required by the Construction Loan Agreement; and (v) such other reasonable insurance as Beneficiary may require, including, but not limited to, insurance coverage for rental and/or business interruption in an amount sufficient to cover the gross rental from the Property for a period of at least six (6) months after Trustor has executed its initial lease of the Property. Such insurance shall be in form, content, and written by an insurer satisfactory to Beneficiary, shall with respect to hazard insurance and such other insurance as Beneficiary shall specify, name as the loss payee thereunder Trustor and Beneficiary, as their interests may appear, and shall contain a California Form 438 BFU (NS) Mortgagee endorsement or its local equivalent. All required policies will provide for at least thirty (30) days' written notice to Beneficiary prior to the effective date of any cancellation or material amendment, which term shall include any reduction in the scope or limits of coverage and written notice to Beneficiary no later than ten (10) days following Trustor's failure to pay a premium that is due and payable. Trustor shall furnish to Beneficiary the original of each required insurance policy, or a certified copy thereof together with a certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. As security for the Secured Obligations, Trustor hereby assigns to Beneficiary all required insurance policies, together with all proceeds thereof, rights thereto and all unearned premiums returnable upon cancellation. Trustor shall give Beneficiary prompt notice of any loss covered by such insurance and Beneficiary shall have the right to join Trustor in adjusting any loss. Any monies received as payment for any loss under any such insurance shall be paid over to Beneficiary to be applied at the option of Beneficiary either to the prepayment of the Secured Obligations, without premium, in such order as Beneficiary may elect, or shall be disbursed to Trustor under staged payment terms reasonably satisfactory to Beneficiary for application to the cost of repairs, replacements, or restorations (collectively, "Restorations") of any Improvement or Chattel damaged or destroyed, provided that if, at the time such monies are received by Beneficiary there shall not then exist an Event of Default, such monies shall, upon the written request of Trustor, be disbursed to Trustor under staged payment terms reasonably satisfactory to Beneficiary for application to the cost of Restorations of any Improvement or Chattel damaged or destroyed. All Restorations shall be



effected with reasonable promptness and shall be of a value at least equal to the value (prior to such damage or destruction) of the Improvement or Chattel damaged or destroyed. Upon the occurrence and during the continuation of an Event of Default, all prepaid premiums or portions thereof allocable to the Mortgaged Property shall be the sole and absolute property of Beneficiary to be applied by Beneficiary to the payment of the Secured Obligations in such order as Beneficiary shall elect.

(b) Separate Insurance. Trustor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 4.7, unless Beneficiary is included thereon as a named insured with loss payable to Beneficiary under a standard California 438 BFU (NS) Mortgagee endorsement, or its local equivalent. Trustor shall immediately notify Beneficiary whenever any such separate insurance is taken out, specifying the insurer thereunder and full particulars as to the policy or policies evidencing the same.

4.8 Further Encumbrances. Trustor shall not, except in accordance with the Construction Loan Commitment further encumber any interest in or all or any portion of the Mortgaged Property. ANY LIEN, OR OTHER ENCUMBRANCE MADE IN CONTRAVENTION OF THIS SECTION SHALL BE AN EVENT OF DEFAULT. Notwithstanding the foregoing, Beneficiary may, in its reasonable discretion, consent to any such prohibited transaction; provided that Beneficiary's consent may be made subject to a condition or conditions, including an increase in the interest rate applicable to all or any portion of the Secured Obligations, a modification of any other terms respecting the Secured Obligations, or the payment of a fee.

4.9 Compliance with Laws. Trustor shall cause the Mortgaged Property to comply with all applicable laws, restrictive covenants, zoning and subdivision ordinances and building codes, regulations, rules, requirements, directions, orders, and notices of violations issued by any governmental agency relating to or affecting the Property or the business or activity being conducted thereon, whether by Trustor or by any occupant thereof.

4.10 Repairs and Replacements. Trustor shall at all times maintain the Improvements and the Chattels in good order and condition and shall promptly make all repairs, renewals, replacements, additions, and improvements in connection therewith that are necessary or desirable to such end. No Improvements shall be removed, demolished, or materially altered, nor shall any Chattels be removed from the Property; provided that, if an Event of Default has not occurred, Trustor may make appropriate replacements of Chattels, free of all Liens (other than Permitted Liens), so long as such replacements are immediately made and are of a value at least equal to the value of the Chattels removed.

4.11 Condemnation Proceedings; Awards. Trustor shall immediately notify Beneficiary of any proceeding involving the condemnation or taking by eminent domain of all or any portion of the Mortgaged Property. Trustee and Beneficiary, or any designee or representative thereof, may participate in any such proceeding and Trustor shall deliver to Beneficiary all instruments requested by it to permit any such participation. Beneficiary shall be under no obligation to question the amount of any award and may accept the same in the amount paid but shall have no right to bind Trustor or to make settlement of Trustor's claim, except to

the extent of the interest of Trustee and Beneficiary. The proceeds of any award received, after reimbursement of any expenses incurred by Beneficiary or Trustee in connection with such proceedings, shall, at Beneficiary's sole option, be applied to the repayment of the Secured Obligations in such order as Beneficiary may in its sole discretion elect (regardless of interest payable on the award by the condemning authority) or to the cost of restoration of the Improvement or the Chattel so taken on such terms as shall be satisfactory to Beneficiary.

4.12 Leases and Rents. Trustor shall not execute a Lease or an assignment of Leases or Rents or any portion thereof except with the express prior written consent of the Beneficiary, which consent may be withheld in the sole and absolute discretion of the Beneficiary. Moreover, Trustor shall not in any other manner impair, in the reasonable opinion of Beneficiary, the value of all or any substantial portion of the Mortgaged Property or the security of the Trustee or Beneficiary for the payment of the Secured Obligations.

4.13 Use of Beneficiary's Name. Trustor shall not use Beneficiary's name or the name of any Person controlling, controlled by, or under common control with Beneficiary in connection with any of Trustor's activities, except as such use may be required by applicable law or regulation of any governmental authority.

4.14 Post-Default Obligation for Rent. Upon the occurrence and during the continuation of any Event of Default, but subject to the exercise by Trustee or Beneficiary of either's right to exclude Trustor from all or any part of the Property, Trustor shall, in the event that Trustor in fact occupies the Property, pay the fair and reasonable rental value for the use and occupancy of the Mortgaged Property for such period and, upon default of any such payment, shall vacate and surrender possession of the Property to Trustee or Beneficiary or to any duly appointed receiver, if any, and may be evicted by any summary action or proceeding for the recovery or possession of the Property for non-payment of rent, however designated.

4.15 Environmental Matters.

(a) Hazardous Substances. Trustor shall not permit the Property to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, produce, or process Hazardous Substances, except in compliance with all applicable Environmental Laws. In addition, Trustor shall require and use its best efforts to ensure compliance by all operators and occupants of the Property with all applicable Environmental Laws. If Trustor tenders a deed in lieu of foreclosure to Beneficiary, Trustor shall deliver the Property to Beneficiary (or its designee) free of all Hazardous Substances. Notwithstanding anything to the contrary contained in Sections 4.15 or 4.17 of this Construction Deed of Trust, Trustor's failure to comply with any of the provisions contained in Sections 4.15 or 4.17 of this Construction Deed of Trust shall not constitute an Event of Default if such failure results solely from facts and circumstances that were disclosed in writing and in all material respects to Beneficiary prior to the execution and delivery of this Construction Deed of Trust.

(b) Hazardous Substance Investigations; Environmental Site Assessments and Environmental Audit Reports. Trustor shall, upon the reasonable request of Beneficiary, conduct and complete all reasonably appropriate investigations, studies, samplings and testings relative to Hazardous Substances at or affecting the Mortgaged Property. Trustor shall, promptly upon the



request of Beneficiary, provide Beneficiary, at Trustor's sole cost and expense, with an environmental site assessment or environmental audit report, or an update of such assessment or report, by an environmental engineering firm acceptable to Beneficiary. Such assessment, report, or update shall be in form, scope and content satisfactory to Beneficiary and shall address such issues as Beneficiary may require.

(c) Remediation. Notwithstanding the obligation of Trustor to indemnify Beneficiary pursuant to this Construction Deed of Trust or otherwise, Trustor shall, upon demand of Beneficiary, and at Trustor's sole cost and expense, promptly take all actions to effect a Remediation of all Hazardous Substances at or related to the Mortgaged Property if Remediation is required by applicable Environmental Laws or is reasonably necessary to mitigate a violation of any Environmental Law or to allow full economic use of the Mortgaged Property or if Beneficiary believes that the environmental condition will impact the value of the Mortgaged Property. Trustor shall proceed continuously and diligently with such Remediation. All Remediation shall be performed: (i) by one or more contractors selected by Trustor and approved in advance and in writing by Beneficiary; (ii) in a good, safe and workmanlike manner in such a fashion so as to minimize any impact on the business conducted at the Mortgaged Property; and (iii) in accordance with all applicable Environmental Laws. Trustor shall pay all fees, costs, and expenses in connection with such Remediation and neither Trustee nor Beneficiary shall have any liability therefor. Trustor shall promptly provide Beneficiary with copies of testing results and reports that are generated in connection with any Remediation. Within ten (10) days of demand therefor, Trustor shall provide Beneficiary with a bond, letter of credit, or similar financial assurance evidencing that sufficient funds are available to Trustor to perform any Remediation obligations required by this Section 4.15(c).

(d) Nature of Obligations. The obligations of Trustor and the rights of Beneficiary under this Section 4.15 are in addition to and not in substitution of the obligations of Trustor and rights of Beneficiary under all applicable Environmental Laws. The obligations of Trustor and the rights of Beneficiary under this Section 4.15 and under all applicable Environmental Laws, notwithstanding anything contained herein or in any other document or agreement which may be construed to the contrary: (i) shall not be subject to any anti-deficiency laws or protections; and (ii) shall not be discharged, impaired, or affected in any way by, and shall survive, a foreclosure or trustee's sale, judicial sale or deed, or other transaction in lieu of such sale hereunder.

(e) Sole Reliance. Notwithstanding anything to the contrary contained herein, the provisions of this Section 4.15 are solely for the benefit of Beneficiary and the other Indemnified Person (as defined in Section 9.9(c)), and no other Person is entitled to rely on the same.

(f) Covenants. Trustor agrees that it shall (i) not cause or permit any Hazardous Substances to exist at, on or in the Property or within any improvement on the Property or discharge from the Property; (ii) comply and cause the Property to comply with all Environmental Laws; (iii) promptly pay any claim and remove any charge or lien upon the Property due to an Environmental Activity or Condition; (iv) not cause or permit any Hazardous Substances to exist on or discharge from any property owned or used by Trustor that would result in any charge or lien upon the Property; (v) notify Beneficiary of any Environmental



Activity or Condition within ten (10) days after Trustor first has knowledge of such Environmental Activity or Condition; and (vi) cause or permit no change to be made in the general use of the Property without Beneficiary's prior written consent.

4.16 Waste. Trustor will abstain from and will not suffer the commission of waste on the Property and will keep the buildings, improvements, fixtures, and equipment, now or hereafter thereon, in good repair and will make replacements thereto as and when the same become necessary. Trustor will comply with all laws, ordinances, regulations, and orders of all public authorities having jurisdiction over the Property relating to the use, occupancy, and maintenance thereof. Nothing herein shall be deemed to prohibit Trustor from reasonably contesting the enforceability or applicability of any law, ordinance, regulation, or order; provided, however, that Beneficiary, in its sole discretion, may require that Trustor comply with any such law, ordinance, regulation, or order during the pendency of any such contest and all appeals there from. In the event the Property or any part thereof, in the sole judgment of Beneficiary, requires inspection, repair, care, or attention of any kind or nature not theretofore provided by Trustor, Beneficiary may (without being obligated to do so) enter or cause entry to be made upon the Property and inspect, repair, and/or maintain the same as Beneficiary may deem reasonably necessary or advisable, and may (without being obligated to do so) make such expenditures and outlays of money as Beneficiary may deem appropriate for the preservation of the Property. All expenditures and outlays of money made by Beneficiary, pursuant hereto, shall be secured hereby, shall be payable forthwith, and shall bear interest at the default rate provided in the Note. Subject to the rights of tenants under existing Leases, Beneficiary shall have the right at any time, and from time to time, to enter the Property for the purpose of inspecting the same. Trustor will not permit the Property, or any portion thereof, to be used for any unlawful purpose. No building or other improvement on any part of the Property shall be removed, demolished, or materially altered without the prior written consent of Beneficiary, except that Trustor shall have the right, without such consent to remove and dispose or, free from the lien of this Construction Deed of Trust, such personalty and equipment as from time to time may become worn out or obsolete, provided that (a) simultaneously with or prior to such removal, any such equipment shall be replaced with other new equipment of like kind and quality, free from any security interest, lien, or encumbrance, and by such removal and replacement Trustor shall be deemed to have subjected the replacement equipment to the lien of this Construction Deed of Trust; and (b) any net cash proceeds received from such disposition shall be promptly paid over to Beneficiary to be applied to the last installment(s) due on the Note, without any charge for prepayment.

4.17 Compliance with Federal Law. Trustor will comply with and to the extent required by law, keep the Mortgaged Property in compliance with the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act of 1990, and any other Federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct relating to barrier-free access or access of the handicapped or disabled to the Mortgaged Property (collectively, "Access Laws"). The Trustor hereby indemnifies the Beneficiary and agrees to hold the Beneficiary harmless from and against all losses, liabilities, damages, injuries, costs, expenses, and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Beneficiary for violations or alleged violation of the Access Laws relating to the Mortgaged Property.

4.18 Financial Statements. Trustor shall submit to Beneficiary, annually by April 30th of each year, a financial statement of the Trustor showing the financial condition of Trustor. Further, Trustor shall submit to Beneficiary, annual financial statements and rent rolls, both of which are to be certified by Trustor, showing the financial condition and detailed record of income and expenses of the Mortgaged Property within one hundred twenty (120) days after the end of each fiscal year of the Trustor. All financial statements and other information provided by Trustor hereunder shall be in a form that is acceptable to Beneficiary and all costs of providing the same shall be borne entirely by Trustor.

5. CONVEYANCE.

5.1 Conveyance. Trustor acknowledges that Beneficiary has examined and relied on the creditworthiness and experience of Trustor in agreeing to make the Construction Loan secured hereby. Trustor agrees that Trustor shall not, without the prior written consent of Beneficiary, which may be given or withheld in Beneficiary's sole and absolute discretion, do or permit any of the following (hereinafter any of the following is sometimes referred to as a "Transfer"): sell, convey, mortgage, grant, bargain, encumber, assign, hypothecate or otherwise transfer the Property or any part thereof or interest therein (legal or equitable) or permit the Property or any part thereof to be sold, conveyed, mortgaged, granted, bargained, encumbered, assigned, or otherwise transferred and that if Trustor does so without the prior written consent of Beneficiary, Beneficiary may, in its sole discretion declare the entire indebtedness secured by the Deed of Trust immediately due and payable regardless of the date of maturity.

A Transfer within the meaning of this Article 5 shall be deemed to include (a) an installment sales agreement wherein Trustor agrees to sell the Property or any part thereof for a price to be paid in installments; (b) an agreement by Trustor leasing any part of the Property or a sale, assignment or other transfer of, or the grant of a security interest in, Trustor's right, title and interest in and to any Leases or any Rents (c) if Trustor is other than a natural person, Trustor shall not make, suffer or permit any change in the ownership or control of the Trustor, whether by (i) sale of assets, (ii) merger, (iii) consolidation, (iv) sale of stock interest, (v) assignment of a partner's or member's interest; (vi) any circumstances under which David R. Brudvik ceases to be the Manager of the Trustor, or (vii) any other circumstances where the effect is that more than forty-nine percent (49%) of the ownership or beneficial interest in Trustor becomes vested in persons or entities not having an ownership interest in Trustor as of the date of this Construction Deed of Trust excluding, however a transfer by devise or succession to the heirs, devisees, or legatees of those having a present ownership interest in Trustor or a transfer in trust for benefit of such heirs. ANY TRANSFER MADE IN CONTRAVENTION OF THIS ARTICLE 5 SHALL BE AN EVENT OF DEFAULT.

5.2 Permitted Sales and Partial Reconveyance. Notwithstanding any other provision of this Construction Deed of Trust to the contrary, Trustor shall have the right to sell, convey or otherwise transfer individual single family homes (each a "Residence") (of the five (5) such single family homes contemplated by the Construction Loan Documents) to third parties and Beneficiary will cause the lien created by this Deed of Trust to be released as to each particular Residence, provided that the principal outstanding balance of the Construction Loan must be paid down by an amount equal to Five Hundred Seventy-Two Thousand Dollars and No Cents (\$572,00.00) per Residence to be released. In the event that the actual loan amount or cost

budget increases from the amounts set forth in this Section (which shall only occur with the prior written consent of the Beneficiary as such consent may be granted or withheld in the Beneficiary's sole and absolute discretion), the release price for the individual Residences shall increase proportionately. If the actual loan amount or cost budget decreases, there shall be no decrease in the amounts set forth in this Section.

6. EVENTS OF DEFAULT AND REMEDIES.

6.1 Events of Default. Any "Event of Default" (as that term is defined in the Construction Loan Documents) shall constitute an event of default (as such, an "Event of Default") hereunder, including, but not limited to:

(a) Failure by Trustor to: (i) pay any amounts, installment or additional payment when due under the Note; or (ii) make any additional payments as and at the time required under this Construction Deed of Trust; or (iii) promptly and faithfully perform all of the other terms, covenants and conditions of the Note, this Construction Deed of Trust or any other Loan Document; or (iv) Default under any of the Permitted Liens, if not cured within any cure period given in the Permitted Liens.

(b) Appointment by a court of competent jurisdiction of a receiver, liquidator or trustee of Trustor or for any property of Trustor unless such appointment is discharged within sixty (60) days from the date thereof.

(c) A decree by a court of competent jurisdiction adjudicating Trustor, as bankrupt or insolvent, or the sequestration of any of Trustor's property, if such decree is not discharged or permanently stayed for sixty (60) days after the entry thereof.

(d) The filing of a petition in bankruptcy against Trustor pursuant to the Federal Bankruptcy Act or any other similar applicable statute as is now or may hereafter be in effect, which petition is not dismissed within sixty (60) days from the date of service thereof.

(e) The filing by Trustor of a voluntary petition under any provision of any bankruptcy law.

(f) Consent by Trustor to the filing of any bankruptcy petition against Trustor under any bankruptcy law.

(g) An assignment by Trustor for the benefit of creditors or a written admission by Trustor of inability to pay debts generally as they become due.

(h) Consent by Trustor to the appointment of a receiver, trustee or liquidator of Trustor for all or any part of their respective property.

(i) Failure by Trustor to comply with all of the material terms, covenants and provisions of any and all leases or other agreements, documents or restrictions that now encumber, affect or pertain to the Mortgaged Property or any portion thereof and the failure to timely cure any default thereunder.



(j) A determination that Trustor has failed to disclose or made an incomplete disclosure of a material nature upon which Beneficiary relied upon in its agreement to make the loan to Trustor for which this Construction Deed of Trust is being made.

(k) A default by Trustor in any Loan Document or by any guarantor under any guaranty, or other Loan Document.

(l) A default by Trustor under any other indebtedness now or hereafter owing to Beneficiary on which Trustor or any guarantor is a maker or a guarantor, and such default is not cured within the applicable cure period, if any, under the instruments evidencing and securing such indebtedness.

(m) An attachment, execution or other judicial seizure of any property of Trustor or any guarantor and such seizure is not discharged within ten (10) days.

(n) Any damage to the Mortgaged Property in any manner which is not covered by insurance solely as a result of Trustor's failure to maintain insurance required in accordance with this Construction Deed of Trust and Trustor shall have failed within twenty (20) days after the occurrence of such damage to deposit with Beneficiary cash in an amount equal to the insurance proceeds which would have been available were such insurance carried as required, or such other collateral security as shall be satisfactory to Beneficiary, in Beneficiary's determination.

(o) Trustor transfers or encumbers any portion of the Mortgaged Property in a manner inconsistent with the terms of this Construction Deed of Trust.

(p) Any representation or disclosure made to Beneficiary by Trustor in connection with the Construction Loan evidenced by the Note proves to be materially false or misleading when made, whether or not that representation or disclosure is expressly set forth in the Construction Loan Documents.

(q) This Construction Deed of Trust ceases to constitute a valid lien and/or security interest encumbering the Mortgaged Property, or any portion thereof.

6.2 Rights and Remedies Upon Default.

(a) Generally. Upon the occurrence and during the continuation of an Event of Default and in accordance with the provisions of the Construction Loan Documents, Beneficiary shall have all of the following rights and remedies:

(i) Acceleration of Obligations. Any Event of Default, as defined herein including, but not limited to the specific Events of Default listed in Section 6.1, shall be deemed events of default hereunder and shall entitle Beneficiary, at its option and without notice except if provided for herein to declare all Secured Obligations to be, and such amounts shall thereupon become, immediately due and payable and without presentment, demand, protest, notice intent to accelerate, notice of intent to accelerate, or other notice of any kind, all of which are hereby waived by Trustor.

(ii) Other Actions. Beneficiary, or any of its agents, designees, attorneys, or receivers, shall have all rights and remedies available to it under each of the Construction Loan Documents, at law, in equity, or otherwise. Without limiting the generality of the foregoing, Beneficiary, or any of its agents, designees, attorneys, or receivers:

(A) may enter upon all or any part of the Property and may exclude the party owning the beneficial interest in same and its agents, designees, and servants wholly there from;

(B) may use, operate, manage, and control all or any portion of the Mortgaged Property for any lawful purpose and conduct the business thereof;

(C) may, upon any entry of the Property, at the expense of Trustor: (1) either by purchase, repairs, or construction, maintain and restore the Mortgaged Property; (2) complete the construction of any Improvements and in the course of such completion may make such changes in the contemplated Improvements as Beneficiary may deem desirable; and (3) make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments, and improvements to the Mortgaged Property or any part thereof and thereon as Beneficiary may deem advisable;

(D) may, at the expense of Trustor, insure or reinsure all or any portion of the Mortgaged Property as provided in Section 4.7;

(E) may exercise all rights and powers of the party owning all or any portion of the Mortgaged Property either in the name of such party or otherwise as Beneficiary shall deem advisable and may incur the risks and obligations ordinarily incurred by owners of property (without any personal obligation on the part of the receiver);

(F) may collect and receive all Rents;

(G) may negotiate with governmental authorities with respect to the Mortgaged Property's environmental compliance and remedial measures and may take any action necessary to enforce compliance with any Environmental Law, including spending Rents to abate the problem;

(H) may make, terminate, enforce, or modify leases of all or any portion of the Mortgaged Property upon such terms and conditions as Beneficiary deems advisable;

(I) may contract for goods and services, and hire agents, employees, and counsel necessary, in Beneficiary's judgment, to protect or enhance the Lien hereof;

(J) may take all other actions which may be necessary or desirable to comply with Trustor's obligations hereunder or under any of the other Loan Documents; and



(K) shall have the exclusive right to adjust all losses payable under any insurance policies maintained pursuant to this Construction Deed of Trust without any liability to Trustor whatsoever in respect of such adjustments.

(b) Additional Rights and Remedies. Without limiting the generality of the provisions contained in Section 6.2(a), upon the occurrence and during the continuation of an Event of Default and in accordance with the provisions of the Note, Beneficiary shall have all of the following rights and remedies:

(i) Power of Sale.

(A) Beneficiary may declare all Secured Obligations immediately due and payable by delivery to Trustee of a written declaration of default and demand for sale and written notice of default and of election to cause the Mortgaged Property to be sold. After the lapse of such time as may then be required by law following notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Mortgaged Property at the time and place fixed by Trustee in such notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. If the Mortgaged Property consists of several known lots or parcels, Beneficiary may designate the order in which such parcels shall be sold or offered for sale. Any Person, including Trustor, Trustee, or Beneficiary, may purchase at such sale. Trustee may postpone sale of all or any portion of the Mortgaged Property by public announcement at such time and place of sale and, from time to time thereafter, may postpone such sale by public announcement at the time fixed by the preceding postponement.

(B) Trustee, after making such sale, and upon receipt of the purchase price, shall make, execute, and deliver to the purchaser(s) its deed(s) conveying the Mortgaged Property so sold, but without any covenant or warranty, express or implied, and without any representation, express or implied, as to the existence, or lack thereof, of Hazardous Substances on the Mortgaged Property, and shall apply the proceeds of sale thereof to the payment of: FIRST, the costs, fees and expenses of such sale, together with the reasonable expenses of this trust, including Trustee's fees and the cost of obtaining evidence of title in connection with sale; SECOND, all moneys paid, advanced, or expended by Beneficiary under the terms hereof, not then repaid, together with interest thereon as herein provided; THIRD, the amount of the principal and interest comprising the Secured Obligations then remaining unpaid; and LAST, any proceeds remaining from such sale to the person or persons legally entitled thereto, upon satisfactory proof of such right.

(C) Upon a sale of all or any portion of the Mortgaged Property and the execution of a deed or deeds therefor under this Construction Deed of Trust, the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof and of the fact that such sale was regularly and validly made in accordance with all requirements of the laws of the State of California and of this Construction Deed of Trust. Any such deed(s), with such recitals therein, shall be effectual and conclusive against Trustor and all other Persons and the receipt for the purchase money recited or contained in any deed executed to any such purchaser



shall be sufficient discharge to such purchaser from all obligations to see to the proper application of the purchase money according to the terms hereof.

(D) Trustor absolutely, unconditionally, knowingly, and expressly waives any right to require any sale of the Mortgaged Property made hereunder to be made in parcels and any right to select any parcels to be so sold.

(ii) Judicial Foreclosure. Beneficiary may commence an appropriate action or proceeding in any court of competent jurisdiction to foreclose the lien of this Construction Deed of Trust as a mortgage or to enforce specifically any of the covenants and agreements contained in the Construction Deed of Trust or in any other Loan Document.

(iii) Appointment of Receiver. Upon the occurrence and during the continuation of an Event of Default or upon the commencement of any proceedings to foreclose or enforce this Construction Deed of Trust, to enforce the specific performance hereof or to enforce any right of Trustee or Beneficiary hereunder, Beneficiary shall be entitled, as a matter of right, if it so elects, without the giving of notice to any other Person and without regard to the adequacy or inadequacy of any security for the Secured Obligations, either before or after declaring all sums evidenced by any of the Construction Loan Documents to be due and payable, to the appointment of a receiver or receivers with respect to the Mortgaged Property.

(iv) Environmental Actions.

(A) Upon written notice, and without releasing Trustor from any obligation hereunder, Beneficiary may perform such acts and things as Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the Lien hereof and Beneficiary's rights hereunder, including any of its other rights: (1) to obtain a court order to enforce Beneficiary's right to enter and inspect the Mortgaged Property under California Civil Code Section 2929.5, as to which the decision of Beneficiary as to whether there exists a release or threatened release of a Hazardous Substances onto the Mortgaged Property shall be deemed reasonable and conclusive as between the parties hereto; and (2) to have a receiver appointed under Section 564 of the California Code of Civil Procedure to enforce Beneficiary's right to enter and inspect the Mortgaged Property for Hazardous Substances. All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations, which Beneficiary or its agents or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, shall be paid by Trustor. All costs and expenses incurred by Trustee and Beneficiary pursuant to this subparagraph (including court costs, consultant fees, and attorney fees, whether incurred in litigation or not and whether before or after judgment) shall bear interest at the Default Rate set forth in the Construction Loan Documents from the date they are incurred until such sums have been paid.

(B) Beneficiary may seek a judgment that Trustor has breached one or more of their covenants, representations, or warranties with respect to the environmental matters set forth in Sections 3.4 or 4.15 by commencing and maintaining an action or actions in any court of competent jurisdiction for breach of contract pursuant to Section 736 of the California Code of Civil Procedure, if applicable, whether commenced prior to or after foreclosure of the Mortgaged Property, and to seek the recovery of all costs, damages, expenses,



fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred or advanced by Beneficiary relating to the cleanup, remediation, or other response action required by any notice or order of any Governmental Authority having jurisdiction to enforce any Environmental Law, but regardless of any such notice or order if Trustor's compliance therewith was required without any notice or order to Trustor (collectively, the "Environmental Costs"), it being conclusively presumed between Beneficiary and Trustor that all such Environmental Costs were incurred or advanced by Beneficiary in good faith. All Environmental Costs (including court costs, consultant fees and attorneys' fees, including fees incurred pursuant to 11 U.S.C., whether incurred in litigation or not and whether before or after judgment) shall bear interest at the default rate specified in the Note from the date of expenditure until such sums have been paid.

(C) Beneficiary may waive its Lien against the Mortgaged Property or any portion thereof if such property is found to be environmentally impaired in accordance with California Code of Civil Procedure Section 726.5 and may exercise all rights and remedies of an unsecured creditor against Trustor and all of Trustor's assets and property for the recovery of any deficiency and Environmental Costs, including seeking an attachment order under Section 483.010 of the California Code of Civil Procedure. As between Beneficiary and Trustor, for the purposes of California Code of Civil Procedure Section 726.5, Trustor shall have the burden of proving that Trustor or any related party (or any affiliate or agent of Trustor or any related party) was not in any way negligent in permitting the release or threatened release of the Hazardous Substances.

(D) Nothing contained herein shall be construed to limit any rights that Beneficiary has under this Construction Deed of Trust, at law, or in equity.

(v) UCC Rights and Remedies. Beneficiary shall have all of the rights and remedies of a secured party under the UCC. Should Beneficiary elect to cause the sale of the Mortgaged Property as provided above, all personal and other property subject to the UCC may be sold in any manner permitted under the UCC or other applicable law, including, without limitation, in a unified sale by Trustee with the Real Property subject to this Construction Deed of Trust as provided by the UCC.

7. ADDITIONAL RIGHTS AND BENEFITS OF TRUSTEE AND BENEFICIARY.

7.1 Covenants Run With the Land. All of the grants, covenants, obligations, provisions, and conditions of Trustor contained herein shall run with the Land.

7.2 Right of Inspection. Beneficiary and Trustee shall at all reasonable times have access to and the right to inspect the Property or the Chattels.

7.3 No Merger. There shall be no merger of the interest or estate created by this Construction Deed of Trust with any other interest or estate in the Mortgaged Property at any time held by or for the benefit of Beneficiary in any capacity without the prior written consent of Beneficiary.

7.4 Remedial Action by Beneficiary. If Trustor fails to comply with its Remediation obligations hereunder or with the requirements of any applicable Environmental Law,

Beneficiary may, but shall not have the obligation to, give such notices or cause such work to be performed at the Mortgaged Property or take any other actions as Beneficiary shall deem necessary or advisable to cause such compliance or effect such Remediation. Any amounts paid as a result thereof, together with interest thereon at the default interest rate specified in the Note from the date of payment by Beneficiary, shall be immediately due and payable by Trustor to Beneficiary. Until the same has been paid, such amounts shall automatically be added to and become part of the Secured Obligations and shall have the benefit of the Lien created hereby.

7.5 Performance of Obligations by Beneficiary. If Trustor does not timely perform any of their obligations contained herein, Beneficiary may, but shall not have the obligation to, perform such obligations. All obligations of Trustor so performed by Beneficiary shall be at Trustor's expense and the amount of such expenses shall automatically be added to the Secured Obligations and shall have the benefit of the Lien created hereby.

7.6 Certain Actions by Trustee. Trustee may, without liability therefore and without notice, so long as the Lien hereof shall exist, upon the written request of Beneficiary and presentation of this Construction Deed of Trust and the instruments evidencing the Secured Obligations for endorsement, consent to the making of any map or plat of the Land, join in granting any easement thereon or in creating any covenants restricting use or occupancy thereof, reconvey, without warranty, any part of the Mortgaged Property, or join in any extension agreement or in any agreement subordinating the Lien hereof.

7.7 Substitution of Trustee. Beneficiary may from time to time, without notice to Trustor or to Trustee, and with or without cause and with or without the resignation of the Trustee substitute a successor or successors to the trustee named herein or acting hereunder to execute this trust. Upon such appointment and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon the trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written document executed by Beneficiary, containing reference to this Construction Deed of Trust and its place of record, which when duly filed for record in the proper office, shall be conclusive proof of proper appointment of the successor trustee. The procedure herein provided for substitution of the trustee named herein shall be conclusive of all other provisions for substitution, statutory or otherwise.

7.8 Multiple Properties as Security. If, in addition to the execution of this Construction Deed of Trust, Trustor has executed and delivered as security for the Secured Obligations a mortgage or deed of trust on parcels of property outside the boundaries of this county and/or a mortgage or deed of trust on parcels of property, or any bank accounts or deposits, as security for any other indebtedness to Beneficiary for which Trustor has, prior to, simultaneously or hereafter, pledged to Beneficiary as security for an indebtedness other than the indebtedness evidenced by this Construction Deed of Trust, Trustor agrees that the occurrence of an Event of Default shall be an event of default under each of such mortgages and deeds of trust, permitting Beneficiary to proceed against any or all of the property comprising the Mortgaged Property or against any other security for the Secured Obligations or against any other security for indebtedness of Trustor to Beneficiary other than that evidenced by this Construction Deed of Trust in such order as Beneficiary, in its sole and absolute discretion, may determine. Trustor hereby waives the benefit of any statute or decision relating to the marshalling of assets that is



contrary to the foregoing. Beneficiary shall not be compelled to release or be prevented from foreclosing this instrument or any other instrument securing the Secured Obligations unless all Secured Obligations shall have been indefeasibly repaid in full and Beneficiary shall not be required to accept any part or parts of any property securing the Secured Obligations as distinguished from the entire whole thereof, as payment of or upon the Secured Obligations to the extent of the value of such part or parts, and shall not be compelled to accept or allow any apportionment of the Secured Obligations to or among any separate parts of such property.

8. CERTAIN ACKNOWLEDGEMENTS AND AGREEMENTS OF TRUSTOR.

8.1 Beneficiary as Trustor's Attorney-in-Fact. Trustor irrevocably appoints Beneficiary as Trustor's attorney-in-fact, with full authority, at Beneficiary's discretion, but only following the occurrence and during the continuation of a Default, to take any action and to execute any instrument which Beneficiary may, in accordance with the provisions of the Construction Loan Documents or this Construction Deed of Trust, require as necessary or advisable to accomplish the purposes of this Construction Deed of Trust.

8.2 First Lien. Trustor warrants that this Construction Deed of Trust is a valid first lien upon Trustor's interest in the Mortgaged Property and agree that they shall maintain same as such and further discharge (or, (a) in the case of any construction lien, bond over after judgment, prior to any foreclosure sale, pending any appeal; or (b) in the case of any tax assessments, after any appeal or contest of such assessment or tax has been concluded and in any event prior to sale due to any delinquency) any lien or encumbrance which purports to take priority over the lien of this Construction Deed of Trust other than permitted encumbrances. In addition, Trustor will not, without the prior written consent of Beneficiary, mortgage or pledge the Mortgaged Property or any part thereof as security for any other loans obtained by Trustor or grant any lien or encumbrance other than the leasehold interests in the ordinary course of business and purchase money security interests for fixtures against the Mortgaged Property which is subordinate to the lien of this Construction Deed of Trust. If any such mortgage or pledge is entered into without the prior written consent of the Beneficiary, the entire indebtedness secured hereby, may, at the option of Beneficiary, be declared immediately due and payable without notice, unless otherwise provided herein. Failure by Beneficiary to grant such consent shall not be deemed unreasonable in the event that:

(a) The total amount of the indebtedness and/or obligations secured by liens and/or encumbrance subordinate to the Construction Deed of Trust (including the amount secured by the lien or encumbrance for which such consent is sought) equals or exceeds the then remaining unpaid indebtedness due under the Note;

(b) The total indebtedness or obligations secured by liens and/or encumbrances against said Property (including the amount secured by the lien or encumbrance for which such consent is sought) exceeds the then existing market value of said Property, as determined by Beneficiary; or

(c) In the estimation of Beneficiary, in its reasonable judgment, the annual payments due in connection with the lien or encumbrance for which consent is sought, together

with all other annual disbursements relative to said Property, exceed the annual receipts derived therefrom.

Subject to the foregoing, Trustor also shall pay any and all other obligations, liabilities or debts which become liens, security interest, or encumbrances upon or charges against the Mortgaged Property for any repairs or improvements that are now or may hereafter be made thereon, and shall not, without Beneficiary's prior written consent, permit any lien, security interest, encumbrance or charge of any kind to accrue and remain outstanding against the Mortgaged Property or any part thereof, or any improvements thereon, irrespective of whether such lien, security interest, encumbrance or charge is junior to the lien, security interest, encumbrance or charge of this Construction Deed of Trust. Notwithstanding the foregoing, if any personal property by way of additions, replacements or substitutions is hereafter purchased and installed, affixed or placed by Trustor on the Mortgaged Property under a security agreement the lien or title of which is superior to the lien created by this Construction Deed of Trust, all the right, title and interest of Trustor in and to any and all such personal property, together with the benefit of any deposits or payments made thereon by Trustor, shall nevertheless be and are hereby assigned to Beneficiary and are covered by the lien of this Construction Deed of Trust.

9. GENERAL PROVISIONS.

9.1 Absolute Nature of Rights and Obligations. All rights of Beneficiary and all obligations of Trustor hereunder shall be absolute and unconditional irrespective of: (a) any lack of validity or enforceability of any of the Secured Obligations or any other agreement or instrument relating thereto, including the Construction Loan Documents; (b) any change in the time, manner, or place of payment of, or in any other term of, any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from any of the Construction Loan Documents; (c) any exchange or release of, or the non-perfection of any security interest in, any other collateral, or any release, amendment, or waiver of, or consent to a departure from, any guaranty of all or any of the Secured Obligations; or (d) any other circumstances that might otherwise constitute a defense available to, or a discharge of, Trustor or any other third party pledgor or guarantor.

9.2 Termination of Construction Deed of Trust. Upon (a) the indefeasible payment in full of all of the Secured Obligations and the full and final termination of any commitment to extend financial accommodations under the Construction Loan Documents or (b) a sale of the Mortgaged Property and full payment of all of Trustor's financial obligations under the Construction Loan Documents, the obligations of Trustor arising hereunder shall automatically terminate. Upon any such termination, Beneficiary shall, at Trustor's expense, execute and deliver to Trustor such documents as Trustor shall reasonably request to evidence such termination.

9.3 Notices. All notices, demands, requests, and other communications required to be given to either party hereunder shall be in writing and shall be deemed given upon the first to occur of: (a) deposit thereof in a receptacle under the control of the United States Postal Service; (b) transmittal by electronic means to a receiver under the control of the party to whom notice is being given; or (c) actual receipt by the party to whom notice is being given, or an employee or agent thereof. For purposes hereof, the addresses of the parties are as set forth below or as may



otherwise be specified from time to time in a writing sent by one party to the other in accordance with the provisions of this subsection:

Beneficiary: **Sterling Bank and Trust, FSB., a federal savings bank**
One Towne Square, 17th floor,
Southfield, MI 48076
Attention: Gary Gaiser
Telephone: (248) 351-3364
Facsimile: (248) 351-3491

Trustor: **RDR Springs, LLC**
52050 Industrial Way
Coachella, CA 92236
Attention: David R. Brudvik

9.4 Request for Notice. Trustor specifically requests that a copy of any notice of default and a copy of any notice of sale under this Construction Deed of Trust be mailed to Trustor at the address for Trustor specified in Section 9.3.

9.5 Amendments, Waivers, and Consents. No amendment or waiver of any provision of this Construction Deed of Trust or consent to any departure by Trustor from the terms hereof, shall in any event be effective unless the same shall be in writing and signed by the parties hereto. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

9.6 No Waiver; Cumulative Nature of Remedies. No failure or delay on the part of Beneficiary in exercising any of its rights and remedies under this Construction Deed of Trust, any of the Construction Loan Documents, or otherwise with respect to any of the Secured Obligations shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Construction Deed of Trust, the Construction Loan Documents, or otherwise with respect to the Secured Obligations preclude any other or further exercise thereof or the exercise of any other right or remedies. The rights and remedies provided in this Construction Deed of Trust and otherwise with respect to the Secured Obligations are cumulative and not exclusive of any rights and remedies provided by law.

9.7 Guarantors Obligation. Trustor hereby irrevocably authorizes Beneficiary to apply any and all amounts received by Beneficiary in repayment of amounts due under the Construction Loan Documents first to amounts that are not guaranteed pursuant to the terms of any guaranty. Trustor hereby waives any and all rights it has or may have under Section 2822 of the California Civil Code which provides that if a guarantor is "liable upon only a portion of any obligation and the principal provides partial satisfaction of the obligation, the principal may designate the portion of the obligation that is to be satisfied."

9.8 Obligations at Trustor's Expense. All obligations of Trustor arising hereunder shall be performed by Trustor at Trustor's sole cost and expense.



9.9 Expenses; Documentary Taxes; Indemnification.

(a) Expenses. Trustor shall pay all reasonable out-of-pocket expenses of Trustee and Beneficiary, including fees and disbursements of counsel (including allocated costs for in-house legal services) in connection with the negotiation, preparation, and administration of this Construction Deed of Trust, any waiver, forbearance, or consent hereunder, any amendment hereof or any Default or alleged Default hereunder, any collection or other enforcement proceedings resulting from or arising in connection with any Event of Default, any refinancing or restructuring of the Secured Obligations in the nature of a "workout" (including in any proceeding under the Bankruptcy Code (or under any other similar law)), or any appellate proceeding involving this Construction Deed of Trust.

(b) Documentary Taxes. Trustor shall indemnify Trustee and Beneficiary against any transfer taxes, documentary taxes, assessments, or charges made by any governmental authority by reason of the execution and delivery of this Construction Deed of Trust or any other document executed in connection herewith.

(c) Indemnity. Trustor shall pay, defend, indemnify, and hold Beneficiary and its officers, directors, employees, counsel, agents, and attorneys-in-fact (each, an "Indemnified Person") harmless from and against all liabilities, obligations, losses (including any loss or impairment of the Secured Obligations), damages, penalties, actions, judgments, suits, costs, charges, expenses or disbursements (including attorneys' fees, costs, and expenses, including allocated costs for in-house legal services) of any kind or nature whatsoever with respect to: (i) any investigative, administrative, or judicial proceeding (including pre-trial discovery and any proceeding under the Bankruptcy Code (or under any similar law) and any appellate proceeding, whether or not such Indemnified Person shall be designated a party thereto, related to this Construction Deed of Trust or the transactions contemplated hereby which may be incurred by such Indemnified Person directly or indirectly; or (ii) the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal or presence on, under or about Trustor's operations or property or property leased by Trustor of any Hazardous Substances; provided that no Indemnified Person shall have the right to be indemnified hereunder for its own gross negligence or willful misconduct. The obligations in this Section 9.9 shall survive the payment in full of all Secured Obligations and the termination of the Construction Loan Documents. At the election of any Indemnified Person, Trustor shall defend such Indemnified Person using legal counsel satisfactory to such Indemnified Person in such Person's sole discretion, at the sole cost and expense of Trustor. All amounts owing under this Section 9.9 shall be paid within thirty (30) calendar days after demand. Trustor's indemnification obligations contained herein shall not be limited in any manner by Trustor's date of acquisition or time of ownership of the Mortgaged Property or by the value of the Mortgaged Property. The obligations of Trustor and the rights of Beneficiary under this Section 9.9(c) are (A) in addition to and not in substitution of the obligations of Trustor and rights of Beneficiary under all applicable Environmental Laws, and (B) notwithstanding anything contained herein or in any other document or agreement which may be construed to the contrary: (i) shall not be subject to any anti-deficiency laws or protections; and (ii) shall not be discharged, impaired, or affected in any way by, and shall survive, a foreclosure or trustee's sale, judicial sale or deed, or other transaction in lieu of such sale hereunder.

9.10 Successors and Assigns. This Construction Deed of Trust shall: (a) be binding upon Trustor and its successors and assigns (as permitted by the Construction Loan Documents); (b) inure to the benefit of Beneficiary and its successors and assigns; and (c) inure to the benefit of Trustee and its successors. Without limiting the generality of the foregoing and subject to the provisions of the Construction Loan Documents, Beneficiary may assign or otherwise transfer all or any part of the Secured Obligations owed to it to any other Person.

9.11 Headings. Section and subsection headings in this Construction Deed of Trust are included herein for convenience of reference only and shall not constitute a part of this Construction Deed of Trust or be given any substantive effect.

9.12 Ambiguities. Neither this Construction Deed of Trust nor any uncertainty or ambiguity herein shall be construed or resolved using any presumption against either Trustor or Beneficiary, whether under any rule of construction or otherwise. On the contrary, this Construction Deed of Trust has been reviewed by each of Trustor and Beneficiary and their respective counsel. In case of any ambiguity or uncertainty, this Construction Deed of Trust shall be construed and interpreted according to the ordinary meaning of the words used to accomplish fairly the purposes and intentions of all parties hereto.

9.13 Severability. In case any provision in or obligation under this Construction Deed of Trust shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality, and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby. In addition, all agreements and covenants herein shall be given independent effect such that, if a particular action or condition is prohibited by the terms of any such agreement or covenant, the fact that such action or condition would be permitted by another agreement or covenant shall not be construed as allowing such action to be taken or condition to exist.


9.14 Counterparts. This Construction Deed of Trust may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes.

9.15 GOVERNING LAW. THIS CONSTRUCTION DEED OF TRUST, AND THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF, AND THE RIGHTS OF TRUSTOR, TRUSTEE, AND BENEFICIARY HERETO AND HEREUNDER SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF CALIFORNIA.


This Construction Deed of Trust is effective as of the date first written above.

TRUSTOR:

**RDR Springs, LLC,
a California limited liability company**

By: 

**David R. Brudvik,
Chief Executive Manager**

By: 

**Ronald I. Safren,
Manager**

