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Type of Review Requested

- Annexation/Deannexation
- Appeal/Amendment
- Comprehensive Plan Map Change
- Design Review
- Ordinance Amendment
- Rezone
- Special Use Permit
- Subdivision- Preliminary Plat
- Subdivision- Final Plat
- Subdivision- Short Plat
- Time Extension
- Variance
- Other

Subject Property Information

Address: 4211 S FLORIDA AVE CALDWELL, ID 83605
Parcel Number(s): R2747400000
Subdivision: UPLAND PARK ADD Block: 4 Lot: 5&6 Acreage: _ Zoning:
Prior Use of the Property: Agriculture
Proposed Use of the Property: Multi-family Residential

Applicant Information

Applicant Name: David Glancey Phone: (208) 345-0566
Address: 1257 West River Street, Suite 110 City: Boise State: ID Zip: 83702
Email: office@grboise.com Cell: (208) 345-0566
Owner Name: MERIDIAN INVESTMENT HOLDINGS LLC
JAM ADVISORS GROUP LLC Phone: ___________
Address: 1005 N HARRISON BLVD City: BOISE State: ID Zip: 83702
BOISE, ID 83702
Email: ___________ Cell: ___________ Glancey Rockwell & Associates
Agent Name: (e.g., architect, engineer, developer, representative)
Address: 1257 West River Street, Suite 110 City: Boise State: ID Zip: 83702
Email: office@grboise.com Cell: ___

Authorization

Print Applicant Name: David Glancey
Applicant Signature: Date: 10/17/2022

621 Cleveland Boulevard • Caldwell, Idaho 83605 • Phone: (208) 455-3021 • www.cityofcaldwell.com/PlanningZoning
Copper Pointe Multifamily Development narrative

Copper Pointe Multifamily utilizes project sites 4125 & 4211 S. Florida Ave at the intersection of Florida Ave. and Ustick Rd. for 1, 2 and 3 bedroom apartment units with adequate parking, carports and clubhouse amenities. The proposed zoning is R-3 on approximately 8.6 acres with 215 apartment units. Water and sewage would need to be designed and installed to meet the needs of the planned development.

We are requesting approval for annexation, rezone and special use permit.

Thank you for your time and consideration,

Nate Heintzman
Design Manager
Glancey Rockwell & Associates
Permit Project

File #: 22-004134
4211 S FLORIDA AVE CALDWELL ID 83605
Multi-family Development

Permit #: ANN22-000022
Permit Type: Annexation
Sub Type: Annexation
Work Description: Copper Pointe Multi-family Development

Applicant: Glancey Rockwell & Associates
Status: Online Application Received
Total Amount: $0.00
Amount Paid: $0.00
Balance Due: $0.00
Valuation: $0.00
Non-Billable: 

OFFICE USE ONLY
P&Z Hearing Date Scheduled: 
P&Z Decision: 
CC Legal Ad Publish Date: 
CC Meeting Date: 
Bill and Ordinance #: 
Development Agreement: 
Approved: 
P&Z Legal Ad Publish Date: 
CC Hearing Date Scheduled: 
CC Decision: 
CC Meeting Decision: 
Bill and Ordinance Approval Date: 

PROPERTY INFORMATION
Is this part of a concurrent application: No
Prior use of the property: Agriculture
Proposed use of the property: Multi-family Residential

# of Acres: More than 2 acre

CONTACT INFORMATION
Property Owner: - Michael Nigh
Agent: Glancey Rockwell & Associates
SUBMITTAL DOCUMENTS

Will you be submitting plans for review:

- Site Plan: Select File Copper Pointe_A-0.01 Site Plan.pdf
- Vicinity map: Select File Ustick 88 ALTA Survey 06-23-22.pdf

Metics and bounds legal description: Select File description.pdf

Neighborhood meeting sign in sheet: Select File

Property Owner: Copper Pointe
Acknowledgement: Copper Pointe - Deed of Trust
 Recorded warranty deed: 4211 S Florida.pdf

Copy of the Order of Decision: Select File
Copy of the Record of Survey: Select File

B. Compaction tests shall be completed in accordance with ISPWC and submitted to the City.

PERMIT FEES

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https://www3.citizenserve.com/Admin/PrintScreen_Page.jsp
Permit Project

File #: 22-004136
4211 S FLORIDA AVE CALDWELL ID 83605
Multi-family Development

Permit #: SUP22-000029
Permit Type: Special Use Permit
Sub Type: Special Use
Work Description: Multi-family Development

Applicant: Glancey Rockwell & Associates
Status: Online Application Received
Total Amount: $0.00
Amount Paid: $0.00
Balance Due: $0.00
Valuation: 0.00
Non-Billable: 

OFFICE USE ONLY
HE Hearing Date Scheduled: 
HE Decision: 
P&Z Legal Ad Publish Date: 
P&Z Hearing Date Scheduled: 
City Council Hearing Date Scheduled: 
CC Decision: 

PROPERTY INFORMATION
Is this part of a concurrent application: No
Prior use of the property: Agriculture
Proposed use of the property: Multi-Family Residential
# of Acres: More than 2 acres

CONTACT INFORMATION
Property Owner: Michael Nigh
Agent: Glancey Rockwell

SUBMITTAL DOCUMENTS
https://www3.citizenserve.com/Admin/PrintScreen_Page.jsp
Will you be submitting for review:
- Site Plan: Select File
- Vicinity map: Select File
- Project narrative: Select File
- Landscape plan: Select File
- Copy of the Order of Decision: Select File

### Property Owner
- Metes and bounds legal description: Select File
- Neighborhood meeting sign in sheet: Select File
- Recorded warranty deed: Select File
- Copy of the Record of Survey: Select File

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A.1
Permit Project

File #: 22-004135
4211 S FLORIDA AVE CALDWELL ID 83605
Multi-family Development

Permit: ZON22-000012

Permit #: ZON22-000012
Permit Type: Rezone
Sub Type: 2 to 20 acres
Work Description: Multi-family Development

Applicant: Glancey Rockwell & Associates
Status: Online Application Received
Total Amount: $ 0.00
Amount Paid: $ 0.00
Balance Due: $ 0.00
Valuation: 0.00
Non-Billable: 

OFFICE USE ONLY
HE Hearing Date Scheduled: 
HE Decision: 
P&Z Legal Ad Publish Date: 
P&Z Hearing Date Scheduled: 
P&Z Decision: 
CC Hearing Date Scheduled: 
CC Decision: 
Bill and Ordinance Approval Date:

PROPERTY INFORMATION
Is this part of a concurrent application: No
Prior use of the property: Agriculture
Current Zone:
Desired Zone:

CONTACT INFORMATION
Property Owner: Michael Nigh
Agent: Glancey Rockwell

SUBMITTAL DOCUMENTS
Will you be submitting for Yes  

Site Plan: [Select File]  
Vicinity map: [Select File]  
Project narrative: [Select File]  

Landscape plan: [Select File]  
Copy of the Order of Decision: [Select File]  
Metes and bounds legal description: [Select File]  
Neighborhood meeting sign in sheet: [Select File]  

Property Owner Acknowledgement:  
Recorded warranty deed: [Select File]  
Copy of the Record of Survey: [Select File]  

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Description  Amount  Total
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Other Fees:  0.00
Total Fees:  0.00

Payments  
Date  Type  Reference  Note  Receipt #  Received From  Amount
Amount Paid:  0.00
Balance Due:  0.00
File #: 22-004373
4125 S FLORIDA AVE CALDWELL ID 83605
Density Change

Permit #: CPM22-000010
Permit Type: Comp Plan Map Change
Sub Type: Comm Plan Map Change
Work Description: Density Change

Applicant: Glancey Rockwell & Associates
Status: Online Application Received
Total Amount: $0.00
Amount Paid: $0.00
Balance Due: $0.00
Valuation: $0.00
Non-Billable: No

Application Date: 11/09/2022
Approval Date: 
Issue Date: 
Expiration Date: 
Close Date: 
Last Inspection: 

OFFICE USE ONLY
P&Z Hearing Date Scheduled: 
P&Z Legal Ad Publish Date: 
P&Z Decision: 
CC Hearing Date Scheduled: 
CC Legal Ad Publish Date: 
CC Decision: 
Resolution Approval Date: 

Subject Property Information

Applicant Information
Current Comp Plan Map Designation: Medium Density Resider
Proposed Comp Plan Map Designation: High Density Residential
Owner Name: Copper Pointe LLC
Phone: 
Address: 4253 W. Lovegood Ln
City: Meridian
State: ID
Zip: 83646
Email: copperpointellc@gmail.com
Cell:

Agent Information: (e.g., architect, engineer, developer, representative)
Name: Nate Heintzman
Address: 1257 W. River St. Ste 11
City: Boise
State: ID
Zip: 83702
Email: nheintzman@grboise.co
Cell:

**Submittal Requirements**

Narrative fully describing the proposed map change, including the following:

- Total # of acres being re-classified and the new map classification
- How the proposed change will complement with the surrounding area

Site Plan (PDF):
- Copper Pointe Comp Plan Narrative.pdf

Landscape Plan (PDF):
- Copper Pointe Landscape Plans.pdf

Neighborhood Meeting (PDF):
- Neighborhood Meeting Letter- Addresses.pdf

Warrant deed for the subject property:
- Copper Pointe - Deed of Trust 4125 S Florida.pdf
- Copper Pointe - Deed of Trust 4211 S Florida.pdf

Signed Property Owner Acknowledgement (if applicable):
- Copper Pointe Property Owner Acknowledgement.pdf

Vicinity, map, showing the location of the subject property:
- Copper Pointe_A-0.01 Site Plan.pdf

Please indicate # of Property Owners within 300 feet: 40

**Authorization**

Print applicant name: Nate Heintzman
Applicant Signature: signature.png
Date: 11/09/2022

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<td>Parks &amp; Recreation Master Plan</td>
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<td>Treasure Valley Tree Selection Guide</td>
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**ANN22-000022, SUP22-000029**

**Copper Pointe Sub**

**GRAND TOTAL** $6,510.00

**Pd. CK #6033 by Michael Nigh in person**
Caldwell Planning & Zoning

Copper Pointe Multifamily Development Comprehensive Map Change Narrative

We are requesting a Comprehensive Plan modification for a density change from Medium Density Residential to High Density Residential.

Copper Pointe Multifamily utilizes project sites 4125(R27475000) & 4211(R27474000) S. Florida Ave at the intersection of Florida Ave and Ustick Rd. The requested change of density will be approximately 8.6 acres of land.

We believe this proposed change will complement the surrounding area due to the City of Caldwell’s plans to add a roundabout at the intersection of S Florida Ave and E Ustick Rd. This is a similar plan to the nearby intersection of S Indiana Ave and E Ustick Rd to the west. This tells us that the city of Caldwell anticipates further growth in this area similar to the changes made at S Indiana and Ustick Rd intersection.

Thank you for your time and consideration,

Nate Heintzman
Design Manager
Glancey Rockwell & Associates
Start Time of Neighborhood Meeting: 6:55 pm
End Time of Neighborhood Meeting: 7:45 pm

Those in attendance please print your name and address. If no one attended, Applicant please write across this form “No one attended.”

<table>
<thead>
<tr>
<th>PRINTED NAME</th>
<th>ADDRESS, CITY, STATE, ZIP</th>
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<tbody>
<tr>
<td>1.</td>
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<tr>
<td>2.</td>
<td>NO ONE ATTENDED</td>
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</table>
Neighborhood Meeting Certification:

Applicants shall conduct a neighborhood meeting for the following: special use permit applications; variance applications; annexation applications; planned unit development applications; preliminary plat applications that will be submitted in conjunction with an annexation, rezone or planned unit development application; and, rezone applications as per City of Caldwell Zoning Ordinance Section 10-03-12.

Description of the proposed project: Multi-Family Development

Date of Round Table meeting: 4/1/22

Notice sent to neighbors on: August 19, 2022

Date & time of the neighborhood meeting: August 30th, 2022 7:00 pm

Location of the neighborhood meeting: 4125 S. Florida Ave, Caldwell

Developer/Applicant:

Name: Michael High, Rockbury BB LLC

Address, City, State, Zip: 4253 W. Lovegood Ave, Meridian ID 83642

I certify that a neighborhood meeting was conducted at the time and location noted on this form and in accord with City of Caldwell Zoning Ordinance Section 10-03-12.

DEVELOPER/APPLICANT SIGNATURE [Signature] DATE 8/30/22
COPPER POINT DEVELOPMENT
NEIGHBORHOOD MEETING

PLEASE JOIN US TO DISCUSS THE PROPOSED DEVELOPMENT PROJECT AT THE CORNER OF USTICK RD & S. FLORIDA AVE

WHEN: 7PM TUESDAY AUGUST 30, 2022
WHERE: 4215 S.FLORIDA AVE, CALDWELL

CONTACT: MICHAEL NIGH
myckey2u45@yahoo.com
(208) 407-6710
<table>
<thead>
<tr>
<th>PARCEL_NO</th>
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<tr>
<td>R27438112</td>
<td>MORRIS LARRY AND ROCKY FAMILY TRU</td>
<td>43010 LINDLEY RD</td>
<td>BAKER CITY</td>
<td>OR</td>
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<td>R27438</td>
<td>FRONTIER INVESTMENTS LLC</td>
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<td>CORP OF PRESIDING BISHOP OF JESUS CI</td>
<td>50 E NORTH TEMPLE STE 1200</td>
<td>SALT LAKE CITY</td>
<td>UT</td>
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<td>R27471</td>
<td>WELCH MICHAEL D</td>
<td>1420 W CHRISTOPHER DR</td>
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<tr>
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<td>THOMAS DARRIUS D</td>
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</table>
RECORDATION REQUESTED BY:
BANK OF IDAHO
OVERLAND BRANCH
6881 W OVERLAND RD
BOISE, ID 83709

WHEN RECORDED MAIL TO:
BANK OF IDAHO
OVERLAND BRANCH
6881 W OVERLAND RD
BOISE, ID 83709

SEND TAX NOTICES TO:
ROCKBURY 88, L.L.C.
12681 W HAVENCREST DR
STAR, ID 83669

SPACE ABOVE THIS LINE IS FOR RECORDEE’S USE ONLY

DEED OF TRUST

MAXIMUM LIEN. The lien of this Deed of Trust shall not exceed at any one time $512,500.00.

THIS DEED OF TRUST is dated June 16, 2022, among ROCKBURY 88, L.L.C., AN IDAHO LIMITED LIABILITY COMPANY ("Grantor"); BANK OF IDAHO, whose address is OVERLAND BRANCH, 6881 W OVERLAND RD, BOISE, ID 83709 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and FIRST AMERICAN TITLE INSURANCE COMPANY, whose address is 2150 S BONITO WAY, STE 100, MERIDIAN, ID 83642 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor does hereby irrevocably grant, bargain, sell and convey in trust, with power of sale, to Trustee for the benefit of Lender as Beneficiary, all of Grantor’s right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all oil, gas, mineral, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in CANYON County, State of Idaho:

See See Exhibit "A" ATTACHED HERETO AND MADE PART HEREOF, which is attached to this Deed of Trust and makes a part of this Deed of Trust as if fully set forth herein.

The Real Property or its address is commonly known as 4125 S. FLORIDA AVE, COLDWELL, ID 83607.

CROSS-COLLATERALIZATION. In addition to the Note, this Deed of Trust secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, absolute or contingent, matured or unmatured, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations or repose, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable or extinguished, AND GRANTOR EXPRESSLY WAIVES ANY RIGHTS UNDER ANY APPLICABLE STATUTE OF LIMITATIONS OR REPOSE, INCLUDING BUT NOT LIMITED TO IDAHO CODE § 45-1512, ANY BENEFITS OF WHICH ARE HEREBY EXPRESSLY, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVED.

Granor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor’s right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Granor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS NOT GIVEN AND IS NOT ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE OF this Deed of Trust, Granor shall pay to Lender or to any person or persons, in general, whenever due, all sums required to be paid under the terms of this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor’s obligations under the Note, this Deed of Trust, and the Related Documents.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor’s possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property. THE REAL PROPERTY IS NOT MORE THAN EIGHTY (80) ACRES AND IS NOT PRINCIPALLY USED FOR THE AGRICULTURAL PRODUCTION OF CROPS, LIVESTOCK, DAIRY OR AQUATIC GOODS, OR IS NOT MORE THAN FORTY (40) ACRES REGARDLESS OF INCORPORATED CITY OR VILLAGE. Duty to Maintain. Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Granor’s ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened Riparian or coastal claims of any kind by any person relating to such matter; and (2) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor’s expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by Lender shall be for Lender’s purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Granor’s due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed of Trust or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor’s ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Deed of Trust, including the obligation to indemnify and defend, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Deed of Trust and shall not be affected by Lender’s acquisition of any interest in the Property, whether by foreclosure or otherwise.

Without otherwise limiting Grantor’s covenants as provided herein, Grantor shall not without Lender’s prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local
government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or request or permit a change in the use of any trees or timber from the Property.

At its sole cost and expense, Grantor shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, disposal, storage, and handling of Hazardous Substances, and pay immediately what due to the failure to remove any of such wastes or substances from, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

Grantor shall not install or permit to be installed in or on the Property, flammable asbestos or any substance containing asbestos and deemed hazardous in accordance with such local laws, rules, regulations or orders respecting such material. Grantor shall not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantor shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantor's expense.

Grantor shall indemnify and defend Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substances, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantor or, to Grantor's knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental status, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repair, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantor shall take any and all steps, and shall perform any and all actions necessary or appropriate to comply with the same, at Grantor's expense. In the event Grantor fails to so do, Lender may declare this Deed of Trust to be in default.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the law, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's Interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act, with respect to any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's Interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's Interests.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - RELEASE BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any right, title or interest in the Real Property. If Lender so notifies Grantor of a sale or transfer of the Real Property, Grantor shall deliver the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

Tax and Liens. The following provisions relating to the taxes and liens on the Property are part of this Deed of Trust:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and Impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's Interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or is filed pay and discharge the lien or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien with Lender cash or a sufficient corporate bond or other satisfactory security to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of the lien. In any contest, Grantor shall defend itself, at its own expense, against any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligor under any surety bond furnished in the contest proceeding.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Contest. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, the amount of such services or materials. Lender shall be responsible for any additional cost and shall, in such case, be entitled to the same protection as is afforded under the provisions of this section.

PROPERTY DAMAGE INSURANCE. The following provisions relating to Insuring the Property are a part of this Deed of Trust:

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a fair value basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgage clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Trustee and Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Lender may reasonably require. Policies shall be written in form, amounts, coverage, and terms reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. All policies shall provide that the policies shall not be invalidated by any waiver of the right of subrogation by any insured and shall provide that the carrier shall have no right to be subrogated to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender. Each such insurance policy shall also include an endorsement insuring that certain additional coverage is in favor of Lender. Grantor shall not, without Lender's consent, also include any endorsement insuring that certain additional coverage is in favor of any person other than Lender. The policies shall not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Federal Emergency Management Agency as a special flood hazard area, Grantor shall also maintain flood insurance, if available, within 45 days after notice is given by Lender that the Property is located in a flood prone area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to the extent necessary to provide full coverage for the term of the loan. Flood Insurance may be purchased under the National Flood Insurance Program, from private insurers providing "private flood insurance" as defined by applicable federal flood insurance statutes and regulations, or from another flood insurance provider that is both...
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acceptance to Lender in its sole discretion and permitted by applicable federal flood insurance statutes and regulations.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any Insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or for the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair of the Property, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditures, pay the same for the reasonable cost of repair or restoration if the same is not made in whole or in part under this Deed of Trust. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not consented to be used first to pay any amount owed to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

Uninsured Insurance at Risk. Any uninsured property shall be the benefit of, and pass to, the purchaser of the Property covered by this Deed of Trust at any trustee's sale or other sale held under the provisions of this Deed of Trust, or at any foreclosure sale of such Property.

Grantor's Report on Insurance. Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each policy of Insurance showing: (1) the name of the Insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Related Documents, Lender, at Lender's option, and at Lender's cost and expense, shall be entitled to discharge or pay such amounts on behalf of Grantor, and to the extent that Lender so acts, (A) Lender shall be deemed to be the owner of the related property and has the right to sell, lease, or otherwise dispose of such property, and (B) Lender shall have all rights and remedies to the same extent as if Lender owned such property. Lender shall have the right to enter into the real property and take possession of the property and to institute proceedings and to have the same conducted in the name of Grantor or in the name of Lender, as Lender may elect. Lender may, at Lender's option, and at Lender's cost and expense, employ counsel to enforce Lender's rights and to institute and maintain any suit or action to enforce and protect Lender's rights hereunder. Lender, in the exercise of any remedy hereunder, shall have the right to sell, lease, or otherwise dispose of the property, to perform all or any part of the obligations of Grantor hereunder, and to be reimbursed by Grantor for all expenses incurred in any such proceeding, all of which expenses shall be paid by Grantor. Lender shall be entitled to the title of the property, as well as the title of any property purchased with the proceeds thereof. All such expenses paid by or for the account of Lender shall be secured by this Deed of Trust, in priority and lien over the property secured hereby, and may be added to the balance of the Note and be paid as a part of the indebtedness hereunder.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Deed of Trust:

Title. Grantor warrants that: (1) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property Description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust; and (2) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

Defence of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons who may claim adversely to Grantor. In the event any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust, Lender shall have the right to defend the title to the Property, and to the extent that Lender so acts, (A) Lender shall be deemed to be the owner of the related property and has the right to sell, lease, or otherwise dispose of such property, and (B) Lender shall have all rights and remedies to the same extent as if Lender owned such property. Lender may, at Lender's option, and at Lender's cost and expense, employ counsel to enforce Lender's rights and to institute and maintain any suit or action to enforce and protect Lender's rights hereunder. Lender, in the exercise of any remedy hereunder, shall have the right to sell, lease, or otherwise dispose of the property, to perform all or any part of the obligations of Grantor hereunder, and to be reimbursed by Grantor for all expenses incurred in any such proceeding, all of which expenses shall be paid by Grantor. Lender shall have the right to enter into the real property and take possession of the property and to institute proceedings and to have the same conducted in the name of Grantor or in the name of Lender, as Lender may elect. Lender may, at Lender's option, and at Lender's cost and expense, employ counsel to enforce Lender's rights and to institute and maintain any suit or action to enforce and protect Lender's rights hereunder. Lender, in the exercise of any remedy hereunder, shall have the right to sell, lease, or otherwise dispose of the property, to perform all or any part of the obligations of Grantor hereunder, and to be reimbursed by Grantor for all expenses incurred in any such proceeding, all of which expenses shall be paid by Grantor.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Deed of Trust:

Notice of Condemnation. Lender shall immediately notify Grantor in writing should all or any part of the Property become subject to any condemnation or expropriation proceedings or other similar proceedings, including without limitation, any condemnation, expropriation, or compensation proceedings, eminent domain, inverse condemnation or temporary requisition or taking of the mortgaged Property, or any part or parts of the Property. Grantor further agrees to promptly take such steps as may be necessary and proper within Lender's sole judgment and at Lender's expense, to defend any such condemnation or expropriation proceedings. Grantor agrees not to agree to any settlement or compromise of any condemnation or expropriation claim without Lender's prior written consent.

Lender's Participation. Lender may, at Lender's sole option, elect to participate in any such condemnation or expropriation proceedings and to be represented by counsel of Lender's choice. Grantor agrees to provide Lender with such documentation as Lender may request to enable Lender to participate and to reimburse Lender for Lender's costs associated with Lender's participation, including Lender's reasonable attorneys' fees.

Conduct of Proceedings. If Grantor fails to defend any such condemnation or expropriation proceedings to Lender's satisfaction, Lender may undertake the defense of such a proceeding for and on behalf of Grantor. To this end, Lender irrevocably appoints Grantor as Lender's agent and attorney-in-fact, and Grantor may be coupled with an Interested, to bring, defend, adjust, settle, or otherwise compromise such condemnation or expropriation claim. If Lender chooses to do so, Lender agrees to immediately turn over and to pay such proceeds to Lender. All condemnation proceedings, which are received by, or which are payable to either Grantor or Lender, shall be applied, at Lender's sole option and discretion, and in such manner as Lender determines, towards the repayment of all monies (after payment of all reasonable costs, expenses and attorneys' fees necessarily paid or incurred by Lender and/or Grantor), for the payment of any judgment, award, or compromise, including any outstanding balance of the indebtedness, together with interest thereon, with such payments being applied in the manner provided in this Deed of Trust. Lender's receipt of such condemnation proceeds and the application of such proceeds as provided in this Deed of Trust shall not affect the lien of this Deed of Trust.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Deed of Trust:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Deed of Trust or upon all or any part of the Indebtedness secured by this Deed of Trust; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments of the Indebtedness secured by this type of Deed of Trust; (3) a tax on this type of Deed of Trust imposed against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and
Lien on section and deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

Security Agreement. This instrument constituting a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender’s security interest in the Lots and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further action or notice from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Address. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender’s designee, and when requested by Lender, cause to be filed, recorded, refinanced, or renewed, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as Lender may require in order to effect, perfect, continue, or preserve (1) Grantor’s obligations under the Note, this Deed of Trust, and the Related Documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-In-Fact. If Grantor fails to do anything of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor’s expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor’s attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender’s sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor substitute statements of termination of any financing statement on file evidencing Lender’s security interest in the Lots and the Personal Property. Any reconveyance so required by law shall be paid by Grantor, if permitted by applicable law.

EVENTS OF DEFAULT. Each of the following, at Lender’s option, shall constitute an Event of Default under this Deed of Trust:

Payment Default. Grantor fails to make any payment when due under the Indebtedness.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Deed of Trust or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Compliance Default. Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note or in any of the Related Documents.

Defeasance on Other Payments. Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes or Insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor’s property or Grantor’s ability to repay the Indebtedness or Grantor’s ability to perform Grantor’s obligations under this Deed of Trust or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor’s behalf, or made by Guarantor, or any other guarantor, endorser, surety, or accommodation party, under this Deed of Trust or the Related Documents in connection with the obtaining of the Indebtedness evidenced by the Note or any security document directly or indirectly securing repayment of the Note is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of collateral document to constitute interest lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor’s (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor’s existence as a going business or the death of any member, the Insolvency of Grantor, the appointment of a receiver for any part of Grantor’s property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Grantor’s accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Exercising Attachment. Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within fifteen (15) days after the same is levied.

Change in Zoning or Public Restrictions. Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or imposed, or any other change or restriction is made which may be made of the property such that the present or intended use of the property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed.

Default Under Other Lien Documents. A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

Judgment. Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantor and the failure by Grantor to discharge the same, or cause it to be discharged, or bonded off to Lender’s satisfaction, within fifteen (15) days from the date of the order, decree or process under which it was entered.

Breach of Other Agreement. Any breach of other agreements between Grantor and Lender that is not remedied within any time period provided therein, including without limitation any agreement concerning any Indebtedness or other obligation of Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor, or any other guarantor, endorser, surety, or accommodation party of any of the Indebtedness or any Guarantor, or any other guarantor, endorser, surety, or accommodation party that may become incompetent, or is removed or disqualified, or voids or discharges the validity of, or liability under, any guarantee of the Indebtedness.

Adverse Change. A material adverse change occurs in Grantor’s financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insolvency. In good faith believes itself insolvent.
Right to Cure. If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Deed of Trust within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor that the default is curable, (1) causes the default to be cured within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

1. Notice of Default. In the Event of Default, Lender shall give notice of default to Grantor and the Trustee.
2. Acceleration of Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which would be required to be paid.
3. Foreclosure. With respect to all or any part of the Real Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent permitted by applicable law.

UCC Remedies. With respect to all or any part of the Real Property, the Trustee shall have the right to proceed by notice and sale, and Lender shall have the right to proceed by judicial foreclosure, in either case in accordance with and to the full extent permitted by applicable law.

Collect Rents. Lender shall have the right, without notice to Grantor, to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and all recoupment of, and in lieu of, the Indebtedness. In the event of default, Lender may require any tenant or other user of the Property to make payments of rent or fees directly to Lender. If the Rents are collected by Lender, then Lender will irrevocably designate Lender as Grantor's attorney-in-fact to endorse instruments, transfer property, pay the taxes and insurance premiums and hold funds in the name of Grantor to pay the same. The Trustee shall, upon a request by Lender, pay the amounts owed, to the extent the Trustee has no reason to believe it was not authorized by Grantor.

Appoint Receiver. Lender shall have the right to appoint a receiver or other fiduciary to manage the Property, to recover costs, to pay the Rents, to collect the rents and to otherwise manage the Property. The receiver or fiduciary may act without bond if permitted by law. Lender's appointment of a receiver shall be subject to the approval of the court and the property shall be managed, supervised, and controlled by the receiver or fiduciary. The receiver or fiduciary shall act only if and to the extent permitted by applicable law.

tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Lender shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Trustee or Lender shall have the right or remedy provided in this Deed of Trust or the Note or available at law or in equity.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Real Property or of any of the time after which any private sale or other intended disposition of the Real Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Real Property may be made in conjunction with any sale of the Real Property.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property. Notice of sale having been given as required by law, and not less than the time required by law having elapsed, Trustee, without demand on Grantor, shall sell the property at the time and place fixed by it in the notice of sale at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee shall deliver to the purchaser his or her deed conveying the Property, so sold, but without any covenant or warranty express or implied. The title is in such deed of any matters or facts shall be conclusive proof of the truthfulness of such matters or facts. After obtaining all costs, fees and expenses of Trustees and of this Trust, including cost of evidence of title and reasonable attorneys' fees, including those in connection with the sale, Trustee shall apply proceeds of sale to payment of (a) all sums advanced under this Trust, not then repaid with interest thereon as provided in this Trust, and (b) all Indebtedness secured hereby; and (c) the remainder, if any, to the person or persons legally entitled thereto.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sum as the court or any other court may allow as attorneys' fees and expenses at trial and upon appeal. When any suit or action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the enforcement of the rights or interests of the Trustee shall be paid by the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until paid. Expenses covered by this paragraph include, without limitation, litigation, but herein, subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is a recovery, including counsel's fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-foreclosure collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveys' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor shall also pay all court costs, in addition to all other sums permitted by law.

Rights of Trustee. Trustee shall have all of the rights and duties of Lender as set forth in this section.

POWERS AND OBLIGATIONS OF TRUSTEE. The following provisions relating to the powers and obligations of Trustee are part of this Deed of Trust:

Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Lender and Grantor: (a) join in preparing and filling a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

Obligations to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless the action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless the action or proceeding is to affect the Real Property.

Trustees. Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent permitted by applicable law.

Successor Trustee. Lender, at Lender's option, may, from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by Lender and recorded in the office of the recorder of the county in which the Property is located. In the event of death or other matters required by state law, the names of the original Lender, Trustee, and Grantor, the book and page where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Lender or its successors in interest. The successor trustee, without conveyance, shall succeed to the Trustee in this Deed of Trust and to all other rights in the Property. This procedure for substitution of Trustees shall govern to the exclusion of all other provisions for substitution.

NOTICES. Any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be written in English and delivered, when actually received by electronically deliverable by telecommunication means (including telegraph, telephone, or any similar means), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, registered or certified mail postage prepaid, directed to the addresses shown near the beginning of this Trust. All copies of notices of
forclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Lender’s address, as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying the purpose of the notice and the new party’s address. For notice purposes, Grantor and the Trustee at any time may change the party’s address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

Miscellaneous Provisions. The following miscellaneous provisions are a part of this Deed of Trust:

Amendments. This Deed of Trust, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration or amendment of this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. Any Person other than Grantor’s residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor’s previous fiscal year in such form and detail as Lender shall require. “Net operating income” shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

 Governing Law. This Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Idaho without regard to its conflicts of law provisions. This Deed of Trust has been accepted by Lender in the State of Idaho.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender’s request to submit to the jurisdiction of the courts of Ada County, State of Idaho.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Lender’s rights otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender’s rights or of any of Grantor’s obligations as to any future transactions. Whenever the consent of Lender is required under this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid, and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity, or enforceability of any other provision of this Deed of Trust.

Non-Liability of Lender. The relationship between Grantor and Lender created by this Deed of Trust is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantor. Grantor is exercising Grantor’s own judgment with respect to Grantor’s business. All information supplied to Lender is for Lender’s protection only and no other information will be supplied to Lender.

Equal Credit Opportunity. Lender and Grantor intend that Lender may reasonably rely on all information furnished by Grantor to Lender, together with all representations and warranties given by Grantor to Lender, without investigation or confirmation by Lender and that any investigation or failure to investigate will not diminish Lender’s rights to rely so.

Sole Discretion of Lender. Whenever Lender’s consent or approval is required under this Deed of Trust, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender’s decision shall be final and conclusive.

Successors and Assigns. Subject to any limitations stated in this Deed of Trust on transfer of Grantor’s interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor’s successors with reference to this Deed of Trust and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Deed of Trust.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Idaho as to all Indebtedness secured by this Deed of Trust.

Definitions. The following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in this Deed of Trust and not otherwise defined in this Deed of Trust shall have the meanings ascribed to them in the Uniform Commercial Code:

Beneficiary. The word “Beneficiary” means BANK OF IDAHO, and its successors and assigns.

Borrower. The word “Borrower” means ROCKSVURY 88, L.L.C., and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Deed of Trust. The words “Deed of Trust” mean this Deed of Trust among Grantor, Lender, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.


Event of Default. The words “Event of Default” mean individually, collectively, and interchangeably any of the events of default set forth in this Deed of Trust in the events of default section of this Deed of Trust.

Grantor. The word “Grantor” means ROCKSVURY 88, L.L.C., and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Guarantor. The word “Guarantor” means any guarantor, surety, or accommodation party of any or all of the Indebtedness, and, in each case, the successors, assigns, heirs, personal representatives, executors and administrators of any guarantor, surety, or accommodation party.

Guaranty. The word “Guaranty” means any guaranty from Guarantor, or any other guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words “Hazardous Substances” mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words “Hazardous Substances” are used without limitation any and all hazardous or wastes as defined by or listed under the Environmental Laws. The term “Hazardous Substances” also includes, without limitation, petroleum and any of its by-products or any fraction thereof and asbestos.

Improvements. The word “Improvements” means all existing and future Improvements, buildings, structures, mobile homes affixed to the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word “Indebtedness” means all principal, interest, and other amounts, costs and expenses payable under the Note or
DEED OF TRUST
(Continued)

Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Trustee or Lender to enforce Grantor's obligations under this Deed of Trust, together with interest on such amounts as provided in this Deed of Trust. Specifically, without limitation, indebtedness includes all amounts that may be indirectly secured by the Cross-Collateralization provision of this Deed of Trust.

Lender. The word "lender" means BANK OF IDAHO, its successors and assigns.

Note. The word "Note" means the promissory note dated June 16, 2022, in the original principal amount of $1,023,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property, together with all additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness; except that the words do not mean any guaranty or environmental agreement, whether now or hereafter existing, executed in connection with the indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

Trustee. The word "Trustee" means FIRST AMERICAN TITLE INSURANCE COMPANY, whose address is 2150 S BONITO WAY, STE 100, MERRIDIAN, ID 83642 and any substitute or successor trustee.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

ROCKBURY 88, LLC.

[Signature]

By: MICHAEL NIGH, Member of SPUDWOOD 88, LLC

[Signature]

By: JENNIFER NIGH, Member of SPUDWOOD 88, LLC

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF

COUNTY OF

This record was acknowledged before me on 20 by MICHAEL NIGH, Member of SPUDWOOD 88, LLC, Member of ROCKBURY 88, LLC, an Idaho Limited Liability Company and JENNIFER NIGH, Member of SPUDWOOD 88, LLC, Member of ROCKBURY 88, LLC, an Idaho Limited Liability Company, and ROCKBURY 88, LLC, an Idaho Limited Liability Company, Is the maker of the foregoing record.

Notary Public in and for the State of

My commission expires

REQUEST FOR FULL RECONVEYANCE
(To be used only when obligations have been paid in full)

To: Trustee

The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to cancel the Note secured by this Deed of Trust (which is delivered to you together with this Deed of Trust), and to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Date:

Beneficiary:

By:

Not:
Property Owner Acknowledgement

I, Michael L. Night, the record owner for real property addressed as 4125 + 4201 Fuchsia Ave, Caldwell ID, am aware of, in agreement with, and give my permission to Glamour Rockwell Architects, to submit the accompanying application(s) pertaining to the property.

1. I agree to indemnify, defend and hold the City of Caldwell and its employees harmless from any claim or liability resulting from any dispute as to the statement(s) contained herein or as to the ownership of the property which is the subject of the application(s).

2. I hereby grant permission to City of Caldwell staff to enter the subject property for the purpose of site inspection(s) related to processing said application(s).

Dated this 17th day of October, 2022

(Signature)

CERTIFICATE OF VERIFICATION

STATE OF IDAHO ss.

County of Canyon ss.

I, Jacob Campbell, a Notary Public, do hereby certify that on this 17th day of October, 2022, personally appeared before me Michael L. Night, known or identified to me to be the person whose name is subscribed to the foregoing instrument, who, being by me first duly sworn, declared that she signed the foregoing document, and that the statements therein contained are true.

Jacob Campbell
20213421
NOTARY PUBLIC
STATE OF IDAHO
MY COMMISSION EXPIRES 07/15/2027

Residing at 6700 NLinder rd Ste 156
My Commission Expires 7/15/27
SURVEYOR PROPERTY DESCRIPTION

LEGAL DESCRIPTION

A parcel of land in a portion of Lots 5 and 6, Block 4 of the Upland Park Addition, according to the official plat thereof, filed in Book 2 of Plats at Page 28, records of Canyon County, Idaho. Situate in Government Lot 2 of Section 2, Township 3 North, Range 3 West, Boise Meridian, Canyon County, Idaho, and more particularly described as follows:

COMMENCING at the North 1/4 Corner of Section 2 as shown on Corner Record 200463704, from which the Northeast Corner of Section 2 as shown on Corner Record 2017-024048 bears, North 89°38'38" East, 2,657.26 feet; thence North 89°38'38" East, 664.32 feet; thence South 00°31'10" West, 56.01 feet to the southerly right of way for E. Ustick Rd, monumented with a set 5/8-inch pin with cap "PLS8575" and the POINT OF BEGINNING;

Thence along the easterly boundary of lots 5 and 6, South 00°31'20" East, 635.49 feet to the southeast corner of lot 5, monumented by a found 1/2-inch pin with cap "PLS9365";

Thence along the southerly boundary of lot 5, South 89°39'45" West, 504.33 feet to a set 5/8-inch pin with cap "PLS8575";

Thence North 00°31'30" East, 150.02 feet to a set 5/8-inch pin with cap "PLS8575";

Thence South 89°39'45" West, 135.02 feet to the easterly right-of-way for S. Florida Ave. monumented by a set 5/8-inch pin with cap "PLS8575";

Then along said right-of-way, the following four (4) courses and distances:

Thence North 00°31'30" East, 195.63 feet to a set 5/8-inch pin with cap "PLS8575";

Thence North 89°39'12" East, 16.37 feet to a set 5/8-inch pin with cap "PLS8575";

Thence North 10°23'24" East, 50.29 feet to a set 5/8-inch pin with cap "PLS8575";

Thence North 00°31'30" East, 171.76 feet to the southerly right-of-way for E. Ustick Rd monumented by a set 5/8-inch pin with cap "PLS8575";

Then along said right-of-way, the following six (6) courses and distances:

Thence along a non-tangent curve to the right 136.68 feet, concave southeasterly, a radius of 285.01, a central angle of 27°28'41", and a long chord which bears North 67°47'55"E, 135.38 feet to a set 5/8-inch pin with cap "PLS8575";

Thence North 08°27'56" West, 20.03 feet to a set 5/8-inch pin with cap "PLS8575";

Thence along a non-tangent curve to the right 62.34 feet, concave southeasterly, a radius of 456.02, a central angle of 07°49'57", and a long chord which bears North 85°43'39"E, 62.29 feet

Thence North 89°38'38" East, 50.44 feet; to a set 5/8-inch pin with cap "PLS8575";

Thence South 88°40'17" East, 204.09 feet to a set 5/8-inch pin with cap "PLS8575";

Thence North 89°38'38" East, 175.97 feet to the POINT OF BEGINNING.

Containing 8.619 acres, more or less