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FEB 12 2007
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u> </u>	<u>63-04267</u>	<u>N</u>	<u> </u>	<u> </u>	<u> </u>
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WATER RESOURCES
WESTERN REGION

2. The following **REQUIRED** information must be submitted with this form:
- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Lloyd R and/or Patricia Rogers
P.O. Box 1365, Boise, ID 83701
4. New Owner/Claimant(s) A and R Properties, LLC c/o Colliers International
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address P.O. Box 9573
- City, State and ZIP Code Boise, ID 83702
- New Telephone Number ()
5. Date you acquired the property July 2006

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable)

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date 2-9-07 Fee 0
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR DB Date 5-1-07

This instrument prepared by and
after recording return to:

Tami Grigsby
U.S. Bank N.A.
101 S. Capitol Blvd., Suite 201
Boise, ID 83702

AD 949239 JL

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 09/02/06 12:41 PM
DEPUTY Bonnie Oberbillig
RECORDED-REQUEST OF
Title One

AMOUNT 30.00 10



5824100316



**IDAHO DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES
(INCLUDING FIXTURE FILING UNDER UNIFORM COMMERCIAL CODE)**

This Idaho Deed of Trust, Security Agreement and Assignment of Rents and Leases (including Fixture Filing Under Uniform Commercial Code) ("Deed of Trust") is made and entered into by the undersigned borrower(s), guarantor(s) and/or other obligor(s)/pledgor(s) (collectively the "Grantor") in favor of U.S. BANK TRUST COMPANY, N.A., having a mailing address at 555 SW OAK, PORTLAND, OR 97204 (the "Trustee"), for the benefit of U.S. BANK N.A. (the "Beneficiary"), as of the date set forth below.

ARTICLE I. CONVEYANCE/MORTGAGED PROPERTY

1.1 Grant of Deed of Trust/Security Interest. For valuable consideration, in hand paid by the Trustee to the Grantor, and the financial accommodations from the Beneficiary to the Grantor as described below, the Grantor has bargained, sold, conveyed and confirmed, and hereby bargains, sells, conveys and confirms, unto Trustee, its successors and assigns, for the benefit of the Beneficiary, the Mortgaged Property (defined below) to secure all of the Grantor's Obligations (defined below) to the Beneficiary. The intent of the parties hereto is that the Mortgaged Property secures all Obligations of the Grantor to the Beneficiary, whether now or hereafter existing, between the Grantor and the Beneficiary or in favor of the Beneficiary, including, without limitation, any note, any loan or security agreement, any lease, any other mortgage, deed of trust or other pledge of an interest in real or personal property, any guaranty, any letter of credit or reimbursement agreement or banker's acceptance, any agreement for any other services or credit extended by the Beneficiary to the Grantor even though not specifically enumerated herein and any other agreement with the Beneficiary (together and individually, the "Loan Documents"). The parties further intend that this Deed of Trust shall operate as a security agreement with respect to those portions of the Mortgaged Property which are subject to Article 9 of the Uniform Commercial Code.

1.2 "Mortgaged Property" means all of the following, whether now owned or existing or hereafter acquired by the Grantor, wherever located: all the real estate described below or in Exhibit A attached hereto (the "Land"), together with all buildings, structures, standing timber, timber to be cut, fixtures, equipment, inventory and furnishings used in connection with the Land and improvements; all materials, contracts, drawings and personal property relating to any construction on the Land; and all other improvements now or hereafter constructed, affixed or located thereon (the "Improvements") (the Land and the Improvements collectively the "Premises"); TOGETHER with any and all easements, rights-of-way, licenses, privileges, and appurtenances thereto, and any and all leases or other agreements for the use or occupancy of the Premises, all the rents, issues, profits or any proceeds therefrom and all security deposits and any guaranty of a tenant's obligations thereunder (collectively the "Rents"); all awards as a result of condemnation, eminent domain or other decrease in value of the Premises and all insurance and other proceeds of the Premises.

The Land is described as follows (or in Exhibit A hereto if the description does not appear below):

See Attached Exhibit A

Together with all and singular the passages, waters, water rights (whether tributary or non-tributary), water courses, riparian rights, wells, well permits, water stock, other rights, liberties and privileges thereof or in any way now or hereafter appertaining to the Property.

1.3 "Obligations" means all loans by the Beneficiary to West of Broadway, LLC

including those loans evidenced by a note or notes dated 09/01/05

, in the initial principal amount(s) of \$ 937,500.00

, and any extensions, renewals, restatements and modifications thereof and all principal, interest, fees and expenses relating thereto (the "Note"); and also means all the Grantor's debts, liabilities, obligations, covenants, warranties, and duties to the Beneficiary (plus its affiliates including any credit card debt, but specifically excluding any type of consumer credit), whether now or hereafter existing or incurred, whether liquidated or unliquidated, whether absolute or contingent, whether arising out of the Loan Documents or otherwise, and regardless of whether such Obligations arise out of existing or future credit granted by the Beneficiary to any Grantor, to any Grantor and others, to others guaranteed, endorsed or otherwise secured by any Grantor or to any debtor-in-possession/successor-in-interest of any Grantor, and principal, interest, fees, expenses and charges relating to any of the foregoing, including, without limitation, costs and expenses of collection and enforcement of this Deed of Trust, attorneys' fees of both inside and outside counsel and environmental assessment or remediation costs. The interest rate and maturity of such Obligations are as described in the documents creating the indebtedness secured hereby.

1.4 Homestead. The Premises are not the homestead of the Grantor. If so, the Grantor releases and (are)(are not) waives all rights under and by virtue of the homestead exemption laws of the State of Idaho.

1.5 Future Advances. This Deed of Trust secures future advances made pursuant to Idaho Code Section 45-108 and shall secure the payment of all loan advances included within the term "Obligations", regardless of the time such advances are made. This Deed of Trust shall also secure unpaid balances of advances made with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums or costs incurred for the protection of the Mortgaged Property and other costs which the Bank is authorized by this Deed of Trust to pay on Grantor's behalf, plus interest thereon, regardless of the time when such advances are made.

ARTICLE II. WARRANTIES AND COVENANTS

In addition to all other warranties and covenants of the Grantor under the Loan Documents which are expressly incorporated herein as part of this Deed of Trust, including the covenants to pay and perform all Obligations, and while any part of the credit granted the Grantor under the Loan Documents is available or any Obligations of the Grantor to the Beneficiary are unpaid or outstanding, the Grantor continuously warrants to the Beneficiary and the Trustee and agrees as follows:

2.1 Warranty of Title/Possession. The Grantor warrants that it has sole and exclusive title to and possession of the Premises, excepting only the following "Permitted Encumbrances": restrictions and easements of record, and zoning ordinances (the terms of which are and will be complied with, and in the case of easements, are and will be kept free of encroachments), taxes and assessments not yet due and payable and those Permitted Encumbrances set forth on Exhibit B attached hereto (except that if no Exhibit B is attached, there will be no additional Permitted Encumbrances). The lien of this Deed of Trust, subject only to Permitted Encumbrances, is and will continue to be a valid first and only lien upon all of the Mortgaged Property.

2.2 Maintenance; Waste; Alteration. The Grantor will maintain the Premises in good and tenantable condition and will restore or replace damaged or destroyed Improvements with items of at least equal utility and value. The Grantor will not commit or permit waste to be committed on the Premises. The Grantor will not remove, demolish or materially alter

any part of the Premises without the Beneficiary's prior written consent, except the Grantor may remove a fixture, provided the fixture is promptly replaced with another fixture of at least equal utility. The replacement fixture will be subject to the priority lien and security of this Deed of Trust.

2.3 Transfer and Liens. The Grantor will not, without the prior written consent of the Beneficiary, which may be withheld in the Beneficiary's sole and absolute discretion, either voluntarily or involuntarily (a) sell, assign, lease or transfer, or permit to be sold, assigned, leased or transferred, any part of the Premises, or any interest therein; or (b) pledge or otherwise encumber, create or permit to exist any mortgage, pledge, lien or claim for lien or encumbrance upon any part of the Premises or interest therein, except for the Permitted Encumbrances. Beneficiary has not consented and will not consent to any contract or to any work or to the furnishing of any materials which might be deemed to create a lien or liens superior to the lien of this Deed of Trust or otherwise.

2.4 Escrow. After written request from the Beneficiary, the Grantor will pay to the Beneficiary sufficient funds at such time as the Beneficiary designates, to pay (a) the estimated annual real estate taxes and assessments on the Premises; and (b) all property or hazard insurance premiums when due. Interest will not be paid by the Beneficiary on any escrowed funds. Escrowed funds may be commingled with other funds of the Beneficiary. All escrowed funds are hereby pledged as additional security for the Obligations.

2.5 Taxes, Assessments and Charges. To the extent not paid to the Beneficiary under 2.4 above, the Grantor will pay before they become delinquent all taxes, assessments and other charges now or hereafter levied or assessed against the Premises, against the Beneficiary based upon this Deed of Trust or the Obligations secured by this Deed of Trust, or upon the Beneficiary's interest in the Premises, and deliver to the Beneficiary receipts showing timely payment.

2.6 Insurance. The Grantor will continually insure the Premises against such perils or hazards as the Beneficiary may require, in amounts, with acceptable co-insurance provisions, not less than the unpaid balance of the Obligations or the full replacement value of the improvements, whichever is less. The policies will contain an agreement by each insurer that the policy will not be terminated or modified without at least thirty (30) days' prior written notice to the Beneficiary and will contain a mortgage clause acceptable to the Beneficiary; and the Grantor will take such other action as the Beneficiary may reasonably request to ensure that the Beneficiary will receive (subject to no other interests) the insurance proceeds from the improvements. The Grantor hereby assigns all insurance proceeds to and irrevocably directs, while any Obligations remain unpaid, any insurer to pay to the Beneficiary the proceeds of all such insurance and any premium refund; and authorizes the Beneficiary to endorse the Grantor's name to effect the same, to make, adjust or settle, in the Grantor's name, any claim on any insurance policy relating to the Premises. The proceeds and refunds will be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.7 Condemnation. Any compensation received for the taking of the Premises, or any part thereof, by a condemnation proceeding (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Premises, or any part thereof, shall be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.8 Environmental Matters. Except as specifically disclosed by Grantor to Beneficiary in writing prior to the execution of this Deed of Trust, Grantor represents and warrants as follows. There exists no uncorrected violation by the Grantor of any federal, state or local laws (including statutes, regulations, ordinances or other governmental restrictions and requirements) relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or Hazardous Substances as hereinafter defined, whether such laws currently exist or are enacted in the future (collectively "Environmental Laws"). The term "Hazardous Substances" will mean any hazardous or toxic wastes, chemicals or other substances, the generation, possession or existence of which is prohibited or governed by any Environmental Laws. The Grantor is not subject to any judgment, decree, order or citation, or a party to (or threatened with) any litigation or administrative proceeding, which asserts that the Grantor (a) has violated any Environmental Laws; (b) is required to clean up, remove or take remedial or other action with respect to any Hazardous Substances (collectively "Remedial Action"); or (c) is required to pay all or a portion of the cost of any Remedial Action, as a potentially responsible party. Except as disclosed on the Borrower's environmental questionnaire provided to the Beneficiary, there are not now, nor to the Grantor's knowledge after reasonable investigation have there ever been, any Hazardous Substances (or tanks or other facilities for the storage of Hazardous Substances) stored, deposited, recycled or disposed of on, under or at any real estate owned or occupied by the Grantor during the periods that the Grantor owned or occupied such real estate, which if present on the real estate or in soils or ground water, could require Remedial Action. To the Grantor's knowledge, there are no proposed or pending changes in Environmental Laws which would adversely affect the Grantor or its business, and there are no conditions existing currently or likely to exist while the Loan Documents are in effect which would subject the Grantor to Remedial Action or other liability. The Grantor currently complies with and will continue to timely comply with all applicable Environmental Laws; and will provide the Beneficiary, immediately upon receipt, copies of any correspondence, notice, complaint, order or other document from any source asserting or alleging any circumstance or condition which requires or may require a financial contribution by the Grantor

or Remedial Action or other response by or on the part of the Grantor under Environmental Laws, or which seeks damages or civil, criminal or punitive penalties from the Grantor for an alleged violation of Environmental Laws. In the event of any such circumstance or condition, the Grantor agrees, at its expense and at the request of the Beneficiary, to permit an environmental audit solely for the benefit of the Beneficiary, to be conducted by the Beneficiary or an independent agent selected by the Beneficiary and which may not be relied on by the Grantor for any purpose. This provision shall not relieve the Grantor from conducting its own environmental audits or taking any other steps necessary to comply with Environmental Laws.

2.9 Assignments. The Grantor will not assign, in whole or in part, without the Beneficiary's prior written consent, the rents, issues or profits arising from the Premises.

2.10 Right of Inspection. The Beneficiary may at all reasonable times enter and inspect the Premises.

2.11 Waivers by Grantor. To the greatest extent that such rights may then be lawfully waived, the Grantor hereby agrees for itself and any persons claiming under the Deed of Trust that it will waive and will not, at any time, insist upon or plead or in any manner whatsoever claim or take any benefit or advantage of (a) any exemption, stay, extension or moratorium law now or at any time hereafter in force; (b) any law now or hereafter in force providing for the valuation or appraisal of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained or pursuant to the decree, judgment or order of any court of competent jurisdiction; (c) to the extent permitted by law, any law now or at any time hereafter made or enacted granting a right to redeem from foreclosure or any other rights of redemption in connection with foreclosure of, or exercise of any power of sale under, this Deed of Trust; (d) any statute of limitations now or at any time hereafter in force; or (e) any right to require marshalling of assets by the Beneficiary.

2.12 Assignment of Rents and Leases. The Grantor assigns and transfers to the Beneficiary, as additional security for the Obligations, all right, title and interest of the Grantor in and to all leases which now exist or hereafter may be executed by or on behalf of the Grantor covering the Premises and any extensions or renewals thereof, together with all Rents, it being intended that this is an absolute and present assignment of the Rents. Notwithstanding that this assignment constitutes a present assignment of leases and rents, the Grantor may collect the Rents and manage the Premises, but only if and so long as a default has not occurred. If a default occurs, the right of Grantor to collect the Rents and to manage the Premises shall thereupon automatically terminate and such right, together with other rights, powers and authorizations contained herein, shall belong exclusively to the Beneficiary. This assignment confers upon the Beneficiary a power coupled with an interest and cannot be revoked by the Grantor. Upon the occurrence of a default, the Beneficiary, at its option without notice and without seeking or obtaining the appointment of a receiver or taking actual possession of the Premises may (a) give notice to any tenant(s) that the tenant(s) should begin making payments under their lease agreement(s) directly to the Beneficiary or its designee; (b) commence a foreclosure action and file a motion for appointment of a receiver; or (c) give notice to the Grantor that the Grantor should collect all Rents arising from the Premises and remit them to the Beneficiary upon collection and that the Grantor should enforce the terms of the lease(s) to ensure prompt payment by tenant(s) under the lease(s). All Rents received by the Grantor shall be held in trust by the Grantor for the Beneficiary. All such payments received by the Beneficiary may be applied in any manner as the Beneficiary determines to payments required under this Deed of Trust, the Loan Documents and the Obligations. The Grantor agrees to hold each tenant harmless from actions relating to tenant's payment of Rents to the Beneficiary.

2.13 Fixture Filing. From the date of its recording, this Deed of Trust shall be effective as a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to the improvements and for this purpose the name and address of the debtor is the name and address of the Grantor as set forth in this Deed of Trust and the name and address of the secured party is the name and address of the Beneficiary as set forth in this Deed of Trust. The Mortgaged Property includes goods which are or may become so affixed to real property as to become fixtures. If any of the Mortgaged Property is of a nature such that a security interest therein can be perfected under the Uniform Commercial Code, this Deed of Trust shall also constitute the grant of a security interest to the Beneficiary and serve as a Security Agreement, and Grantor authorizes the filing of any financing statements and agrees to execute other instruments that may be required for the further specification, perfection or renewal of such security interest.

ARTICLE III. RIGHTS AND DUTIES OF THE BENEFICIARY

In addition to all other rights (including setoff) and duties of the Beneficiary under the Loan Documents which are expressly incorporated herein as a part of this Deed of Trust, the following provisions will also apply:

3.1 Beneficiary Authorized to Perform for Grantor. If the Grantor fails to perform any of the Grantor's duties or covenants set forth in this Deed of Trust, the Beneficiary may perform the duties or cause them to be performed, including, without limitation, signing the Grantor's name or paying any amount so required, and the cost, with interest at the default rate set forth in the Loan Documents, will immediately be due from the Grantor to the Beneficiary from the date of expenditure by the Beneficiary to date of payment by the Grantor, and will be one of the Obligations secured by

this Deed of Trust. All acts by the Beneficiary are hereby ratified and approved, and the Beneficiary will not be liable for any acts of commission or omission, nor for any errors of judgment or mistakes of fact or law.

ARTICLE IV. DEFAULTS AND REMEDIES

The Beneficiary may enforce its rights and remedies under this Deed of Trust upon default. A default will occur if the Grantor fails to comply with the terms of any Loan Documents (including this Deed of Trust or any guaranty by the Grantor) or a demand for payment is made under a demand loan, or the Grantor defaults on any other mortgage affecting the Land, or if any other obligor fails to comply with the terms of any Loan Documents for which the Grantor has given the Beneficiary a guaranty or pledge. Upon the occurrence of a default, the Beneficiary may declare the Obligations to be immediately due and payable.

4.1 Remedies. In addition to the remedies for default set forth below and in the other Loan Documents, including acceleration, the Beneficiary upon default will have all other rights and remedies for default available by law or equity. Upon a default, Beneficiary may exercise the following remedies:

(a) Enforcement of Assignment of Rents and Leases. Beneficiary may:

(i) terminate the license granted to Grantor to collect the Rents (regardless of whether Beneficiary or Trustee shall have entered into possession of the Mortgaged Property), collect and sue for the Rents in Beneficiary's own name, give receipts and releases therefor, and after deducting all expenses of collection, including reasonable attorneys' fees, apply the net proceeds thereof to any Obligations as Beneficiary may elect;

(ii) make, modify, enforce, cancel or accept surrender of any leases, evict tenants, adjust Rents, maintain, decorate, refurbish, repair, clean, and make space ready for renting, and otherwise do anything Beneficiary reasonably deems advisable in connection with the Mortgaged Property;

(iii) apply the Rents so collected to the operation and management of the Mortgaged Property, including the payment of reasonable management, brokerage and attorneys' fees, or to the Obligations; and

(iv) require Grantor to transfer and deliver possession of all security deposits and records thereof to Beneficiary.

(b) Power of Sale. Beneficiary may require the Trustee, and the Trustee is hereby authorized and empowered, to enter and take possession of the Premises and to sell all or part of the Mortgaged Property, at public auction, to the highest bidder for cash, free from equity of redemption, and any statutory or common law right of redemption, homestead, marital share, and all other exemptions, after giving notice of the time, place and terms of such sale and of the Mortgaged Property to be sold, in accordance with applicable law. The Trustee shall execute a conveyance to the purchaser in fee simple and deliver possession to the purchaser, which the Grantor warrants shall be given without obstruction, hindrance or delay. The Trustee may sell all or any portion of the Mortgaged Property, together or in lots or parcels, and may execute and deliver to the purchaser or purchasers of such property a conveyance in fee simple. The Trustee shall receive the proceeds thereof and shall apply the same as follows: (a) first, the payment of the expenses of making, maintaining and executing this trust, protection of the Mortgaged Property, including the expense of any litigation and reasonable attorneys' fees, and reasonable compensation to the Trustee; (b) second, to any advancements made by the Trustee or the Beneficiary pursuant hereto, with interest thereon; (c) third, to the payment of the Obligations herein secured or intended so to be, in such order as Beneficiary shall elect, and any balance of said Obligations may be the subject of immediate suit; (d) and, fourth, should there be any surplus, Trustee will pay it to the Grantor, or to such person as may be legally entitled thereto. The sale or sales by Trustee of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and the Trustee is specifically empowered to make successive sale or sales under such power until the whole of the Mortgaged Property shall be sold; and if the proceeds of such sale or sales of less than the whole of the Premises shall be less than the aggregate of the Obligations and the expenses thereof, this Deed of Trust and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property; provided, however, that Grantor shall never have any right to require the sale or sales of less than the whole of the Mortgaged Property, but Beneficiary shall have the right at its sole election, to request the Trustee to sell less than the whole of the Mortgaged Property. Beneficiary may bid and become the purchaser of all or any part of the Mortgaged Property at any such sale, and the amount of Beneficiary's successful bid may be credited on the Obligations. In the event of a foreclosure of this Deed Trust, whether pursuant to the power of sale granted herein or pursuant to court decree, the Grantor shall remain liable for any deficiency.

(c) Judicial and Other Relief. Beneficiary or Trustee may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction.

(d) Entry on Premises; Tenancy at Will.

(i) Beneficiary may enter into and upon and take possession of all or any part of the Mortgaged Property, and may exclude Grantor, and all persons claiming under Grantor, and its agents or servants, wholly or partly therefrom; and,

holding the same, Beneficiary may use, administer, manage, operate, and control the Mortgaged Property and may exercise all rights and powers of Grantor in the name, place and stead of Grantor, or otherwise, as the Beneficiary shall deem best; and in the exercise of any of the foregoing rights and powers Beneficiary shall not be liable to Grantor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of Beneficiary.

(f) In the event of a trustee's or other foreclosure sale hereunder and if at the time of such sale Grantor or any other party (other than a tenant under a Lease as to which the Beneficiary shall have expressly subordinated the lien of this Deed of Trust as hereinabove set out) occupies the portion of the Mortgaged Property so sold or any part thereof, such occupant shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of such purchaser, at a reasonable rental per day based upon the value of the portion of the Premises so occupied (but not less than any rental theretofore paid by such tenant, computed on a daily basis). An action of forcible detainer shall lie if any such tenant holds over a demand in writing for possession of such portion of the Premises.

(g) **Receiver.** Beneficiary may make application to a court of competent jurisdiction, as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Obligations, for appointment of a receiver of the Mortgaged Property, and Grantor does hereby irrevocably consent to such appointment. Any such receiver shall have all necessary and proper powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court.

(h) **Remedies Cumulative, Concurrent and Nonexclusive.** If the Obligations are now or hereafter further secured by chattel mortgages, other deeds of trust, security agreements, pledges, contracts of guaranty, assignments of leases, or other security, Beneficiary may, at its option, exhaust its remedies under any one or more of said Instruments and this Deed of Trust, either concurrently or independently, and in such order as Beneficiary may determine. Beneficiary shall have all rights, remedies and recourses granted in the Loan Documents and available to it at law or equity (including, without limitation, those granted by the Uniform Commercial Code), and same (a) shall be cumulative, concurrent, and nonexclusive, (b) may be pursued separately, successively or concurrently against Grantor or others obligated for the Obligations, or any part thereof or against any one or more of them, or against the Mortgaged Property, at the sole discretion of Beneficiary, and (c) may be exercised as often as occasion therefor shall arise, it being agreed by Grantor that the exercise of or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse.

(i) **Waiver by the Beneficiary.** The Beneficiary may permit the Grantor to attempt to remedy any default without waiving its rights and remedies hereunder, and the Beneficiary may waive any default without waiving any other subsequent or prior default by the Grantor. Furthermore, delay on the part of the Beneficiary in exercising any right, power or privilege hereunder or at law will not operate as a waiver thereof, nor will any single or partial exercise of such right, power or privilege preclude other exercise thereof or the exercise of any other right, power or privilege. No waiver or suspension will be deemed to have occurred unless the Beneficiary has expressly agreed in writing specifying such waiver or suspension.

(j) **Attorneys' Fees and Other Costs.** Attorneys' fees and other costs incurred in connection with this Deed of Trust may be recovered by the Beneficiary and included in any sale made hereunder or by judgment of foreclosure.

ARTICLE V. TRUSTEE

5.1 Action by Trustee. The Trustee named herein shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of the Mortgaged Property. In the event that the substitution of the Trustee shall become necessary for any reason, the substitution of a trustee in the place of that named herein shall be sufficient. The term "Trustee" shall be construed to mean "Trustees" whenever the sense requires. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

5.2 Employment of Agents. The Trustee, or any one acting in its stead, shall have, in its discretion, authority to employ all property agents and attorneys in the execution of this trust and/or in the conducting of any sale made pursuant to the terms hereof, and to pay for such services rendered out of the proceeds of the sale of the Mortgaged Property, should any be realized; and if no sale be made or if the proceeds of sale be insufficient to pay the same, then Grantor hereby undertakes and agrees to pay the cost of such services rendered to said Trustee. Trustee may rely on any document believed by it in good faith to be genuine. All money received by the Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and the Trustee shall not be liable for interest thereon.

5.3 Indemnification of Trustee. If the Trustee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Property or the title thereto, or the interest of the Trustee or Beneficiary under this Deed of Trust, the Trustee and Beneficiary shall be reimbursed by Grantor, immediately and without demand, for all reasonable costs,

charges and attorneys' fees incurred by them or either of them in any such case, and the same shall be secured hereby as a further charge and lien upon the Mortgaged Property.

5.4 Successor Trustee. Beneficiary may at any time, including any time before, during or after the commencement or completion of any foreclosure proceeding, remove Trustee (with or without cause) and appoint a successor Trustee by an instrument executed, acknowledged and recorded in the real estate records, which recording may take place before, during or after the commencement or completion of any foreclosure proceeding, and any such successor Trustee shall thereupon succeed to Trustee as Trustee hereunder as if named herein. No defect in the removal of Trustee or in the appointment of a successor or in the execution and recording of such appointment shall affect the validity thereof. Additionally, whether the recording of the successor Trustee instrument takes place before, during or after the commencement or completion of any foreclosure proceeding shall have no effect upon the validity of said proceeding. Trustee shall not be disqualified by reason that Trustee is an officer, employee or stockholder of Beneficiary, or has an interest in the Obligations. All parties waive any objection to Trustee having any such interest. Trustee shall be liable only for gross negligence or willful misconduct. No indemnity or remedy herein conferred is exclusive of any other remedy or indemnity, but each shall be in addition to every other hereunder and at law or in equity. No delay or omission by Trustee or Beneficiary to exercise any right or power shall impair such right or power or be construed as a waiver of any default or an acquiescence therein. If Trustee shall have proceeded to enforce any right by foreclosure, entry or otherwise, and such proceedings are discontinued for any reason, or shall have been determined adversely, then Grantor and Trustee shall severally and respectively be restored to their former positions and rights hereunder.

ARTICLE VI. MISCELLANEOUS

In addition to all other miscellaneous provisions under the Loan Documents which are expressly incorporated as a part of this Deed of Trust, the following provisions will also apply:

6.1 Term of Deed of Trust. This Deed of Trust shall continue in full force and effect until this Deed of Trust is released.

6.2 Time of the Essence. Time is of the essence with respect to payment of the Obligations, the performance of all covenants of the Grantor and the payment of taxes, assessments, and similar charges and insurance premiums.

6.3 Subrogation. The Beneficiary will be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the proceeds of the Note or other advances by the Beneficiary, in which event any sums otherwise advanced by the Beneficiary shall be immediately due and payable, with interest at the default rate set forth in the Loan Documents from the date of advance by the Beneficiary to the date of payment by the Grantor, and will be one of the Obligations secured by this Deed of Trust.

6.4 Choice of Law. This Deed of Trust will be governed by the laws of the state in which the Mortgaged Property is located. For all other purposes, the choice of law specified in the Loan Documents will govern.

6.5 Severability. Invalidity or unenforceability of any provision of this Deed of Trust shall not affect the validity or enforceability of any other provision.

6.6 Entire Agreement. This Deed of Trust is intended by the Grantor and the Beneficiary as a final expression of this Deed of Trust and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Deed of Trust. No parol evidence of any nature shall be used to supplement or modify any terms.

6.7 Joint Liability; Successors and Assigns. If there is more than one Grantor, the liability of the Grantors will be joint and several, and the reference to "Grantor" shall be deemed to refer to each Grantor and to all Grantors. The rights, options, powers and remedies granted in this Deed of Trust and the other Loan Documents shall extend to the Beneficiary and to its successors and assigns, shall be binding upon the Grantor and its successors and assigns, and shall be applicable hereto and to all renewals, amendments and/or extensions hereof.

6.8 Indemnification. Except for harm arising from the Beneficiary's or the Trustee's willful misconduct, the Grantor hereby indemnifies and agrees to defend and hold the Beneficiary and the Trustee harmless from any and all losses, costs, damages, claims and expenses (including, without limitation, attorneys' fees and expenses) of any kind suffered by or asserted against the Beneficiary or the Trustee relating to claims by third parties arising out of the financing provided under the Loan Documents or related to the Mortgaged Property (including, without limitation, the Beneficiary's failure to perform its obligations relating to Environmental Matters described in Section 2.8 above) or the exercise by the Beneficiary or the Trustee of any of their respective powers, rights and remedies under this Deed of Trust. This indemnification and hold harmless provision will survive the termination of the Loan Documents and the satisfaction of this Deed of Trust and Obligations due the Beneficiary.

6.9 Notices. Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid, (b) received by overnight delivery service, (c) received by telex, (d) received by telecopy, (e) received through the internet, or (f) when personally delivered.

6.10 Release of Rights of Homestead and Distributive Share. Each of the undersigned hereby relinquishes all

rights of homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property.

6.11 Copy. The Grantor hereby acknowledges the receipt of a copy of this Deed of Trust, together with a copy of each promissory note secured hereby, and all other documents executed by the Grantor in connection herewith.

6.12 Usury Savings Clause. Notwithstanding anything herein or in the Note to the contrary, no provision contained herein or in the Note which purports to obligate the Grantor to pay any amount of interest or any fees, costs or expenses which are in excess of the maximum permitted by applicable law, shall be effective to the extent that it calls for the payment of any interest or other sums in excess of such maximum. All agreements between the Grantor and the Beneficiary, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand for payment of or acceleration of the maturity of any of the indebtedness secured hereby or otherwise, shall the interest contracted for, charged or received by the Beneficiary exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to the Beneficiary in excess of the maximum lawful amount, the interest payable to the Beneficiary shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance the Beneficiary shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall at the Beneficiary's option, be refunded to the Grantor or be applied to the reduction of the principal balance of the indebtedness secured hereby and not to the payment of interest or, if such excessive interest exceeds the unpaid balance of principal indebtedness secured hereby, such excess shall be refunded to the Grantor. This paragraph shall control all agreements between the Grantor and the Beneficiary.

6.13 Riders. The rider(s) attached hereto and recorded together with this Deed of Trust are hereby fully incorporated into this Deed of Trust. [Check applicable box(es)] ☐ Condominium Rider ☐ Second Deed of Trust Rider ☐ Construction Loan Rider ☐ Other(s) (Specify) _____

IN WITNESS WHEREOF, the undersigned has/have executed this Deed of Trust as of SEPTEMBER 1, 2005.

(Individual Grantor)

Printed Name N/A

(Individual Grantor)

Printed Name N/A

West of Broadway, LLC

Grantor Name (Organization)

a New York Limited Liability Company

By

Richard T. Fernand

Name and Title Member

By

Name and Title

(Grantor Address)

1406 Harrison Blvd.

Boise, ID 83702

(Beneficiary Address)

555 SW OAK

PORTLAND, OR 97204

[NOTARIZATION ON NEXT PAGE]

STATE OF Idaho }
COUNTY OF Ada } ss.

On September 1, 2005, before me personally appeared Richard T. Fernand

to me known to be the person(s) described in and who executed the foregoing instrument and known to me to be

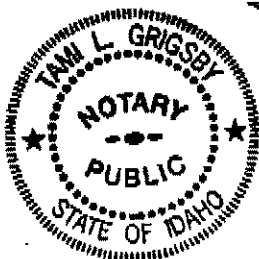
Member executing on behalf
(Type of authority or title, if any, e.g., officer, vice president, trustee; if an individual, a married individual, a single individual)

of West of Broadway, LLC
(Name of entity on whose behalf the document was executed; use N/A if individual)

a New York limited liability company, and
(State of organization and type of organization, use N/A if individual)

acknowledged that he/she/they executed the same as the free act and deed of such individual(s)/entity.

(SEAL)



Tami L. Grigsby
Notary Public

My term expires 10-1-2008

Residing at Boise, Idaho

EXHIBIT A TO DEED OF TRUST

(Legal Description)

Grantor: West of Broadway, LLC, a New York Limited Liability Company**Trustee:** U.S. BANK TRUST COMPANY, N.A.**Beneficiary:** U.S. BANK N.A.**Legal Description of Land:****PARCEL I:**

Starting at the Northwest corner of Lot 4, Eagleson Park Subdivision No. 1, according to the plat thereof, filed in Book 4 of Plats at Page 190, records of Ada County, Idaho, (which point lies South 0°04' West 662.00 feet, and thence

South 89°45' West 1,647.50 feet from the East Quarter corner of Section 21, Township 3 North, Range 2 East of the Boise Meridian, and is referenced by an iron pin placed

North 89°45' East a distance of 2.00 feet from the said Northwest corner of Lot 4; thence from the Northwest corner of Lot 4,

South 0°04' West along the Westerly boundary of said Lot 4 a distance of 242.15 feet to an iron pipe marking the REAL PLACE OF BEGINNING; thence

South 0°04' West along the Westerly boundary of said Lot 4 a distance of 371.33 feet to an iron pipe on the Northerly side of Malad Street; thence

North 89°42' East along the Northerly side of Malad Street a distance of 152.50 feet to an iron pipe; thence

North 0°04' East a distance of 371.46 feet to an iron pipe; thence

South 89°45' West a distance of 152.50 feet to the REAL POINT OF BEGINNING.

PARCEL II

A portion of the East half of Block 4 of Eagleson Park Subdivision No. 1, according to the plat thereof, filed in Book 4 of Plats at Page 190, records of Ada County, Idaho, more particularly described as follows:

Commencing at the Northeasterly corner of Lot 4, Eagleson Park Subdivision No. 1, which point is the Southwest corner of Cherry Lane and Shoshone Street; and running thence

South 0°04' West along the Westerly boundary line of Shoshone Street, 174 feet to the REAL POINT OF BEGINNING; thence continuing

South 0°04' West along the Westerly boundary line of Shoshone Street, 440 feet more or less (formerly shown as 489.15 feet) to an iron pin on the Northerly boundary line of Malad Street; thence

North 89°38' West along the Northerly boundary line of Malad Street, 152.50 feet to an iron pin; thence

North 0°04' East along the North-South centerline of said Lot 4, Eagleson Park Subdivision

No. 1, 370.95 feet to a point; thence

North 89°45' East 5 feet; thence

North 0°04' East 68.15 feet; thence

North 89°45' East 152.5 feet, more or less, to a point on the Westerly boundary line of Shoshone Street and the REAL POINT OF BEGINNING.

PARCEL III

A portion of the East half of Block 4 of Eagleson Park Subdivision No. 1, according to the plat thereof, filed in Book 4 of Plats at Page 190, records of Ada County, Idaho, more particularly described as follows:

Commencing at the Northeasterly corner of Lot 4, Eagleson Park Subdivision No. 1, which point is the Southwest corner of Cherry Lane and Shoshone Street, and running; thence

South 0°04' West along the Westerly boundary line of Shoshone Street 115 feet to the REAL POINT OF BEGINNING; thence continuing

South 0°04' West along the Westerly boundary line of Shoshone Street 59 feet to a point; thence

South 89°45' West 147.5 feet to a point; thence

North 0°04' East 39 feet to a point; thence

North 89°45' East 55 feet to a point; thence

North 0°04' East 20 feet; thence

North 89°45' East 92.5 feet more or less, to the REAL POINT OF BEGINNING.

200
A0545239 J4

When Recorded Mail To:

U.S. Bank N.A.
101 S. Capitol Blvd., Suite 201
Boise, Idaho 83702
Attention: Tami Grigsby

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 06/30/06 04:47 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Title One

AMOUNT 12.00
15.00
106105994

FIRST AMENDMENT
TO
DEED OF TRUST

This First Amendment to Deed of Trust, dated effective as of June 30, 2006, is entered into by and between U.S. BANK N.A., whose mailing address is Real Estate Banking, 101 S. Capitol Blvd., Suite 201, Boise, Idaho 83702, as beneficiary ("Bank") and WEST OF BROADWAY, LLC, a New York limited liability company ("Assignor"), and ANDRE FERNAND ("Borrower").

RECITALS:

A. Assignor borrowed the sum of Nine Hundred Thirty Seven Thousand Five Hundred Dollars (\$937,500.00) (the "Loan") from Beneficiary, as evidenced by that certain Term Note dated September 1, 2005 (as amended, modified, or supplemented from time to time, the "Note"), and secured its obligation under the Note by, among other things, that certain Idaho Deed of Trust, Security Agreement and Assignment of Rents and Leases (as amended, modified, or supplemented from time to time, the "Deed of Trust") likewise dated September 1, 2005, and recorded on September 2, 2005, in the official records of Ada County, State of Idaho, as Instrument No. 105127624 covering that certain real property in Ada County, State of Idaho, more particularly described in the Deed of Trust (the "Property").

B. Assignor transferred the Property to Borrower, and pursuant to a Loan Assumption Agreement, Borrower has assumed all of the duties, obligations, and liabilities of Assignor under the Note, Deed of Trust, and related agreements, all specifically modified by the Loan Assumption Agreement.

C. Assignor, Borrower, and Bank desire to amend the Deed of Trust to reflect Borrower's assumption of the obligations thereof.

AMENDMENT

NOW, THEREFORE, the Parties agree as follows:

1. Except as specifically defined otherwise in this Amendment, all of the terms herein shall have the same meaning as contained in the Deed of Trust.

2. The Deed of Trust is amended to provide that the Grantor thereunder commencing with the effective date of this Amendment is Andre R. Fernand, whose address is 14957 Gwenchris Court, Paramount, CA 92629.

3. The Deed of Trust remains in full force and effect in accordance with its respective terms, except as modified herein, and the lien of the Deed of Trust is in no manner affected or impaired hereby.

4. This Amendment shall be governed by the laws of the state of Idaho.

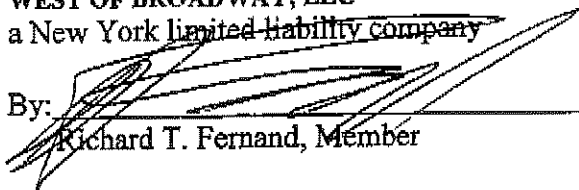
5. This Amendment may be executed in multiple counterparts each of which shall be an original part, but all of which shall constitute one instrument.

Signature Page Follows

IN WITNESS WHEREOF, the Borrower has executed and delivered this Amendment effective as of the date first written above.

ASSIGNOR:

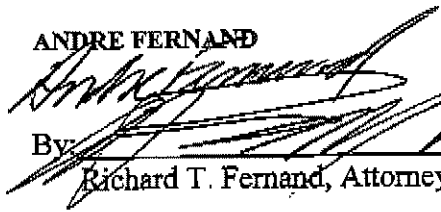
WEST OF BROADWAY, LLC
a New York limited liability company

By: 

Richard T. Fernand, Member

BORROWER:

ANDRE FERNAND

By: 

Richard T. Fernand, Attorney-in-Fact

Bank agrees to and accepts this Amendment effective as of June 30, 2006.

BANK:

U.S. BANK N.A.

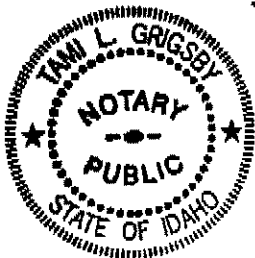
By: 

Rob R. Perez, Sr. Vice President

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 30th day of June, 2006, before me the undersigned, a Notary Public in and for said State, personally appeared **RICHARD T. FERNAND** known or identified to me (or proved to me on the oath of _____) to be a member of **WEST OF BROADWAY, LLC**, a New York limited liability company, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that he executed the within instrument on behalf of said company, and that such company executed the same in the company's name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

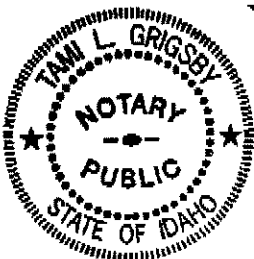


Tami L. Grigsby
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission Expires 10-1-2008

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 30th day of June in the year 2006, before me, a Notary Public, personally appeared **Richard T. Fernand** known or identified to me to be the person whose name is subscribed to the within instrument as the attorney in fact of **Andre Fernand** and acknowledged to me that he executed the same as such attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

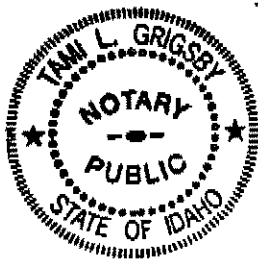


Tami L. Grigsby
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission Expires 10-1-2008

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 30th day of June, 2006, before me the undersigned, personally appeared Rob R. Perez, known or identified to me (or proved to me on the oath of _____) to be a senior vice-president of U.S. BANK N.A., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Tami L. Grigssy
NOTARY PUBLIC FOR IDAHO
Residing at Bowse, Idaho
My Commission Expires 10-1-2008

When Recorded Mail To:

U.S. Bank N.A.
101 S. Capitol Blvd., Suite 201
Boise, Idaho 83702
Attention: Taml Grigsby
AC 545239 JG

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 09/12/06 04:27 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Title One

AMOUNT 15.00 5



SECOND AMENDMENT TO DEED OF TRUST

This Second Amendment to Deed of Trust, dated effective as of September 6, 2006 (this "Amendment"), is entered into by and between U.S. BANK N.A., whose mailing address is Real Estate Banking, 101 S. Capitol Blvd., Suite 201, Boise, Idaho 83702, as beneficiary ("Bank"), ANDRE FERNAND ("Assignor"), and A & R PROPERTIES, LLC, an Idaho limited liability company ("Borrower").

RECITALS:

A. West of Broadway, LLC, a New York limited liability company ("West"), and Bank entered into a Term Loan Agreement, dated September 1, 2005 (as amended, modified, or supplemented from time to time, the "Loan Agreement"), providing term financing to West in the original principal amount of \$937,500.00 (the "Loan"); as further evidenced by that certain Term Note dated September 1, 2005, made by West in favor of Bank, in the amount of the Loan (as amended, modified, or supplemented from time to time, the "Note").

B. The Loan Agreement and the Note are secured by an Idaho Deed of Trust, Security Agreement and Assignment of Rents and Leases (as amended, modified, or supplemented from time to time, the "Deed of Trust"), dated September 1, 2005, recorded in the official records of Ada County, Idaho on September 2, 2005, as Instrument No. 105127624, covering that certain real property in Ada County, Idaho, and more particularly described in the Deed of Trust (the "Property"). The Loan Agreement, Note, Deed of Trust and any other assignments, agreements, and documents executed in connection with the Loan Agreement are collectively referred to as the "Loan Documents."

C. West transferred to Assignor all of West's right, title, and interest in and to the Property, and, pursuant to a Loan Assumption Agreement dated June 30, 2006, Assignor assumed all the duties, obligations, and liabilities of West under the Loan Documents.

D. The Deed of Trust was amended by an instrument dated June 30, 2005, and recorded in the official records of Ada County, Idaho on June 30, 2006, as Instrument No. 106 05994.

E. Assignor transferred the Property to Borrower, and pursuant to that certain Loan Assumption Agreement of even date, Borrower has assumed all of the duties, obligations, and liabilities of Assignor under the Loan Documents.

F. Assignor, Borrower, and Bank desire to further amend the Deed of Trust to reflect Borrower's assumption of the obligations thereof.

AMENDMENT

NOW, THEREFORE, the Parties agree as follows:

1. Except as specifically defined otherwise in this Amendment, all of the terms herein shall have the same meaning as contained in the Deed of Trust.

2. The Deed of Trust is amended to provide that the Grantor thereunder commencing with the effective date of this Amendment is A & R Properties, LLC, an Idaho limited liability company, whose address is 1406 Harrison Blvd., Boise, Idaho 83702.

3. The Deed of Trust remains in full force and effect in accordance with its respective terms, except as modified herein, and the lien of the Deed of Trust is in no manner affected or impaired hereby.

4. This Amendment shall be governed by the laws of the State of Idaho.

5. This Amendment may be executed in multiple counterparts each of which shall be an original part, but all of which shall constitute one instrument.

Signature Page Follows

IN WITNESS WHEREOF, the Borrower has executed and delivered this Amendment effective as of the date first written above.

ASSIGNOR:

ANDRE FERNAND


Andre Fernand

BORROWER:

A & R PROPERTIES, LLC,
an Idaho limited liability company

By:


Richard T. Fernand, Managing Member

Bank agrees to and accepts this Amendment effective as of September 6, 2006.

BANK:

U.S. BANK N.A.

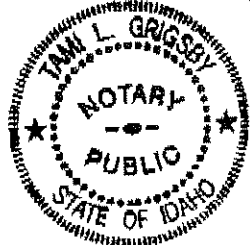
By:


Rob R. Perez, Sr. Vice President

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 12th day of September, 2006, before me, the undersigned, personally appeared **ANDRE FERNAND** known or identified to me (or proved to me on the oath of _____) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

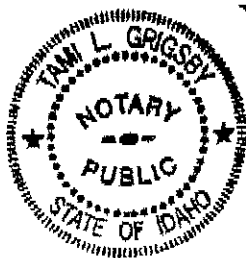


Tami L. Grigsby
NOTARY PUBLIC FOR IDAHO
Residing at Bowser, Idaho
My Commission Expires 10-1-2008

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 12th day of September, 2006, before me, the undersigned, personally appeared **RICHARD T. FERNAND** known or identified to me (or proved to me on the oath of _____) to be the managing member of **A & R PROPERTIES, LLC**, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

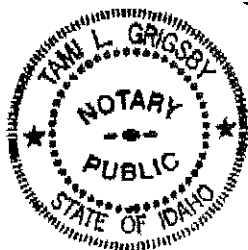


Tami L. Grigsby
NOTARY PUBLIC FOR IDAHO
Residing at Bowser, Idaho
My Commission Expires 10-1-2008

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 12th day of September, 2006, before me, the undersigned, personally appeared Rob R. Perez, known or identified to me (or proved to me on the oath of _____) to be a senior vice-president of U.S. BANK N.A., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Tami L. Grigsby
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission Expires 10-1-2008

ARTICLES OF ORGANIZATION
LIMITED LIABILITY COMPANY

FILED EFFECTIVE

To the Secretary of State of Idaho,
Statehouse, Boise, Idaho 83720

1. The name of the limited liability company is A & R Properties, LLC FEB 17 AM 11:41
2. The address of the initial registered office is: 1406 Harrison Blvd., Boise, Idaho 83702
(not a PO Box)

_____ and the name of the initial registered agent at that
address is: Richard Fernand

Signature of registered agent: _____

3. The latest date certain on which the limited liability company will dissolve: 12/31/2034

4. Is management of the limited liability company vested in a manager or managers?
☐ Yes ☒ No (check appropriate box)

5. If management is vested in one or more manager(s), list the name(s) and address(es) of
at least one initial manager. If management is vested in the members, list the name(s)
and address(es) of at least one initial member.

Name

Address

Richard Fernand

1406 Harrison Blvd., Boise, ID 83702

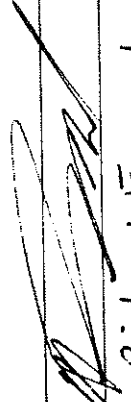
6. Signature of at least one person listed
in #5 above.

Richard Fernand

Secretary of State use only

W28655

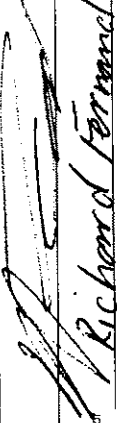
IDHDO SECRETARY OF STATE
02/18/2004 05:00
CK: 32909 CT: 22597 BH: 727065
1 @ 100.00 = 100.00 ORGAN LLC # 2

No. W 28655	Due no later than February 28, 2005 Annual Report Form		2. Registered Agent and Office NO PO BOX																		
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080	1. Mailing Address - Correct in this box, if applicable. A & R PROPERTIES, LLC 1406 HARRISON BLVD BOISE, ID 83702		RICHARD FERNAND 1406 HARRISON BLVD BOISE, ID 83702																		
NO FILING FEE IF RECEIVED BY DUE DATE																					
4. Limited Liability Companies: Enter Names and Addresses of Members. <table border="0"> <tr> <td><u>Office held</u></td> <td><u>Name</u></td> <td><u>Street or P.O. Address</u></td> <td><u>City</u></td> <td><u>State</u></td> <td><u>Zip</u></td> </tr> <tr> <td></td> <td>Richard Fernand</td> <td>1406 Harrison Blvd</td> <td>Boise</td> <td>ID</td> <td>83702</td> </tr> <tr> <td></td> <td>Andre Fernand</td> <td>89 Monarch Bay Dr.</td> <td>Dan Point</td> <td>CA</td> <td>92677</td> </tr> </table>				<u>Office held</u>	<u>Name</u>	<u>Street or P.O. Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>		Richard Fernand	1406 Harrison Blvd	Boise	ID	83702		Andre Fernand	89 Monarch Bay Dr.	Dan Point	CA	92677
<u>Office held</u>	<u>Name</u>	<u>Street or P.O. Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>																
	Richard Fernand	1406 Harrison Blvd	Boise	ID	83702																
	Andre Fernand	89 Monarch Bay Dr.	Dan Point	CA	92677																
5. Organized Under the Laws of: IDAHO W 28655	6. Signature  Richard Fernand		Date 12/19/04 Title Managing Partner																		

Issued 12/01/2004

Do Not Tape or Staple

200502001151

No. W 28655 Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080		Due no later than February 28, 2006 Annual Report Form		2. Registered Agent and Office NO PO BOX RICHARD FERNAND 1406 HARRISON BLVD BOISE, ID 83702	
NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address - Correct in this box, if applicable A & R PROPERTIES, LLC 1406 HARRISON BLVD BOISE, ID 83702		3. New Registered Agent Signature	
4. Limited Liability Companies: Enter Names and Addresses of Members.					
Office held <i>Managing Partner</i> <i>Partner</i>	Name <i>Richard Fernand</i> <i>Andre Fernand</i>	Street or P.O. Address <i>1406 Harrison Blvd</i> <i>" "</i>	City <i>Boise</i> <i>" "</i>	State <i>ID</i> <i>" "</i>	Zip <i>83702</i> <i>" "</i>
5. Organized Under the Laws of: IDAHO W 28655		6. Signature 		Date <i>3/28/06</i>	Title <i>Managing Partner</i>
Issued 12/01/2005		Do Not Tape or Staple		200602001578	

SRBA

PARTIAL DECREE 63-04267

Issued on 02-16-2007.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS: LLOYD R ROGERS
PATRICIA ROGERS
PO BOX 1365
BOISE, ID 83701

SOURCE: GROUND WATER

QUANTITY: 0.15 CFS
37.95 AFY

The quantity of water under this right for domestic use sh
not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1960

POINT OF DIVERSION: T03N R02E S21 NWSE Within Ada County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTIT
Irrigation	03-01 TO 11-15	0.03 C
		6.75 A
Domestic	01-01 TO 12-31	0.15 C
		31.20

Domestic use is for 51 homes.

PLACE OF USE: Irrigation Within Ada Cou

T03N R02E S21 NWSE 1.5

1.5 Acres Total

Domestic Within Ada Cou

T03N R02E S21 NWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for dom
use is not a determination of historical beneficial use.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIO
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFI
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN T
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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