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GARY W. OTT
 RECORDER, SALT LAKE COUNTY, UTAH
 LANDMARK TITLE
 BY: ULR, DEPUTY - WI 8 P.

**RECORDING REQUESTED BY
 AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National
 Association
 Real Estate Group (AU #07572)
 1512 Eureka Road
 Suite 350
 Roseville, CA 95661

Attn: Eileen V. Oquendo
 Loan No. 102006

**MEMORANDUM OF FOURTH MODIFICATION AGREEMENT
 AMENDING DEED OF TRUST (Secured Swap Contract)**

THIS MEMORANDUM OF FOURTH MODIFICATION AGREEMENT AMENDING DEED OF TRUST (Secured Swap Contract) ("Modification Agreement") is executed to be effective as of November 3, 2008, by and between Wells Fargo Bank, National Association ("Lender"), and Boyer Quarry Bend, L.C., a Utah limited liability company ("Borrower").

- A. Pursuant to the terms of a loan agreement ("Loan Agreement") between Borrower and Lender, dated November 22, 2005, Lender made a loan to Borrower in the principal amount of Ten Million and 00/100ths Dollars (\$10,000,000.00) ("Loan"). The Loan is evidenced and secured by a promissory note and by certain other documents described in the Loan Agreement as loan documents (the "Loan Documents"), including, without limitation, a deed of trust ("Deed of Trust") dated November 22, 2005, executed by Borrower, as Trustor, in favor of Lender, as Beneficiary. The Deed of Trust was recorded on December 7, 2005, as Instrument No. 9575206, in Book 9227, at Page 3240-3266, in the Official Records of Salt Lake County, Utah. The real property which is the subject of the Deed of Trust is hereafter defined as the "Property".
- B. Since the date of the Loan, Borrower and Lender have entered into a separate interest rate exchange transaction in the notional amount of Twenty Three Million and 00/100ths Dollars (\$23,000,000.00) with a trade date of October 9, 2008 and identified as Trade Number 430539 (hereinafter the "Swap Contract"). The term "Swap Contract" includes all documents and agreements which form a part of or supplement any ISDA Master Agreement executed or to be executed by Borrower and Lender, together with all modifications, extensions and renewals of any such documents.

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- C. Borrower's obligations to Lender under the Swap Contract are to be secured by the Deed of Trust. Lender's obligations to pay money to Borrower under the Swap Contract, if any, are to be assigned to Lender as additional collateral for the Loan.

NOW, THEREFORE, Borrower and Lender agree as follows:

1. **REPRESENTATIONS AND WARRANTIES.** Borrower represents and warrants, as of the effective date above, that:
 - 1.1 **Title To The Property.** Since the recordation date of the Deed of Trust (stated above), Borrower has not further encumbered the Property, including, without limitation, by entering into any deed of trust or mortgage, ground lease, and/or any option to purchase or right of first refusal with respect to the Property.
 - 1.2 **No Default.** No Default (as defined in the Deed of Trust), breach or failure of condition has occurred, or would exist with notice or the lapse of time or both, under the Deed of Trust (or under any of the Loan Documents) and all representations and warranties herein and in the Loan Documents are true and correct.

2. **MODIFICATION OF DEED OF TRUST.** The Deed of Trust (and the other Loan Documents) are hereby supplemented and modified to incorporate the following terms, which shall supersede and prevail over any conflicting provisions:
 - 2.1 **Secured Obligations.** The Secured Obligations (as defined in the Deed of Trust) are hereby amended to include, in addition to all existing Secured Obligations, the payment and performance of all covenants and obligations of Borrower under any swap, derivative, foreign exchange or hedge transaction or arrangement (or similar transaction or arrangement howsoever described or defined) at any time entered into between Borrower and Lender in connection with the Loan including, without limitation, the Swap Contract.
 - 2.2 **Cross-Default.** The existence of any default by Borrower under the Swap Contract shall be a Default (as defined in the Deed of Trust) under the Deed of Trust and any Default by Borrower under the Deed of Trust (or under any of the other Loan Documents) shall be a Default under the Swap Contract. Any breach of any representation or condition under this Modification Agreement shall be a Default under the Deed of Trust and under the Swap Contract.
 - 2.3 **Security Interest.** In order to further secure payment and performance of all of the Secured Obligations, Borrower grants to Lender a security interest in, and unconditionally and irrevocably assigns, conveys, pledges, and transfers unto Lender, all of Borrower's right, title and interest, now or hereafter acquired, to the payment of money from Lender to Borrower under any swap, derivative, foreign exchange or hedge transaction or arrangement (or similar transaction

or arrangement howsoever described or defined) at any time entered into between Borrower and Lender in connection with the Loan, including without limitation, the Swap Contract.

- 2.4 **Derivative Documents.** Upon receipt from Lender, Borrower shall execute promptly all documents evidencing the Swap Contract, including, without limitation, an ISDA Master Agreement, a Schedule to the ISDA Master Agreement and an ISDA Confirmation.
3. **NON-IMPAIRMENT.** Except as expressly provided herein, nothing in this Modification Agreement shall alter or affect any provision, condition, or covenant contained in the Deed of Trust (or in any other Loan Document) or affect or impair any rights, powers, or remedies of Lender.
4. **MISCELLANEOUS.** This Modification Agreement shall be governed by and interpreted in accordance with the laws of the State of Utah, except if preempted by federal law. Time is of the essence of each term hereof.
5. **COUNTERPARTS.** This Modification Agreement may be executed in several counterparts by the parties with the same effect as if the parties executing the several counterparts had all executed one counterpart.
6. **INTEGRATION; INTERPRETATION.** This Modification Agreement contains or expressly incorporates by reference the entire agreement of the parties with respect to the matters contemplated therein and supercedes all prior negotiations or agreements, written or oral, and shall not be modified except by written instrument executed by all parties.

IN WITNESS WHEREOF, Borrower and Lender have caused this Modification Agreement to be duly executed as of the date first above written.

"BENEFICIARY/LENDER"

Wells Fargo Bank, National Association

By: 
Ben Bliss, Assistant Vice President

"BORROWER"

Boyer Quarry Bend, L.C., a Utah limited liability company

By: The Boyer Company, L.C., a Utah limited liability company, Manager/Member

By: 
Steven B. Ostler, Chief Executive Officer and Manager

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

COURTESY RECORDING

This document is being recorded solely as a courtesy and an accommodation to the parties named therein. LANDMARK TITLE COMPANY hereby expressly disclaims any responsibility or liability for the accuracy or the content thereof.

GUARANTOR'S CONSENT

The undersigned ("Guarantor") consents to the foregoing Memorandum of Fourth Modification Agreement Amending Deed of Trust (Secured Swap Contract) and the transactions contemplated thereby and reaffirms its obligations under the Completion Guaranty and Repayment Guaranty ("Guaranty") dated November 22, 2005. Guarantor further reaffirms that its obligations under the Guaranty are separate and distinct from Borrower's obligations.

Agreed and Acknowledged:

Dated as of: November 3, 2008

"GUARANTOR"

The Boyer Company, L.C., a Utah limited liability company

By: 
Steven B. Ostler, Chief Executive Officer and Manager

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

HAZARDOUS INDEMNITOR'S CONSENT

The undersigned ("Indemnitor") consents to the foregoing Memorandum of Fourth Modification Agreement Amending Deed of Trust (Secured Swap Contract) and the transactions contemplated thereby and reaffirms its obligations under the Hazardous Materials Indemnity Agreement (Unsecured) ("Indemnity") dated November 22, 2005, and its waivers, as set forth in the Indemnity, of each and every one of the possible defenses to such obligations. Indemnitor further reaffirms that its obligations under the Indemnity are separate and distinct from Borrower's obligations.

Agreed and Acknowledged:

Dated as of: November 3, 2008

"INDEMNITOR"

The Boyer Company, L.C., a Utah limited liability company

By: 
Steven B. Ostler, Chief Executive Officer and Manager

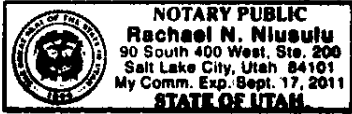
(ALL SIGNATURES MUST BE ACKNOWLEDGED)

STATE OF UTAH

SS.

COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 21st day of November, 2008, by Steven B. Oster, as CEO and manager of The Boyer Company, L.C., a Utah limited liability company.



Rachael Niusulu
NOTARY PUBLIC
residing at Salt Lake City

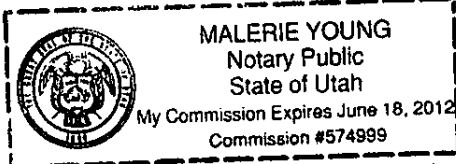
My commission expires: 9.17.11

STATE OF UTAH

SS.

COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 10th day of December, 2008, by Ben Bliss, as AVP of Wells Fargo Bank, a National Association.



Malerie Young
NOTARY PUBLIC
residing at Salt Lake City

My commission expires: JUNE 18, 2012

DESCRIPTION OF PROPERTY

Exhibit A to that certain Memorandum Of Fourth Modification Agreement Amending Deed Of Trust (Secured Swap Contract) dated as of November 3, 2008, by and between BOYER QUARRY BEND, L.C., a Utah limited liability company ("Borrower") and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Lender")

All that certain real property situated in Salt Lake County, State of Utah, described as follows:

Lots 3, 5, 8, AND 10, **QUARRY BEND SUBDIVISION**, according to the official plat thereof, filed in Book "2005P" of Plats, at Page 392 of the Official Records of the Salt Lake County Recorder.

EXCEPTING THEREFROM THE TRACTS IDENTIFIED AND DESCRIBED AS "ROAD DEDICATION A" AND "ROAD DEDICATION B" AND "ROAD DEDICATION C" IN THAT CERTAIN PLAT ENTITLED "ROAD DEDICATION SR-209" RECORDED JUNE 15, 2006 AS ENTRY NO. 9754372, IN BOOK 2006P OF PLATS, AT PAGE 168 OF THE OFFICIAL RECORDS OF THE SALT LAKE COUNTY RECORDER.

[For reference only: Tax Parcel Numbers: 28-05-451-009; 28-05-331-002; 28-05-452-002; and 28-05-451-010]