

When Recorded, Mail To:

Attn: Construction Loan Dept.  
THE CONSTRUCTION LENDING COMPANY, LLC  
144 NORTH MAIN  
SPANISH FORK, UTAH 84660

ENT 81746:2001 PG 1 of 4  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2001 Aug 15 3:11 pm FEE 16.00 BY SS  
RECORDED FOR GUARDIAN TITLE SALT LAKE

Order No.: 169279U

[Space Above This Line For Recorder's Use]

**UTAH DEED OF TRUST**

THIS TRUST DEED, made this 10th day of August, 2001, between  
BRUCE L. BRAITHWAITE

, as TRUSTOR, whose address is

589 EAAST 200 SOUTH

PLEASANT GROVE

UTAH 84062

(Street and number)

(City)

(State)

GUARDIAN TITLE COMPANY, as TRUSTEE, and THE CONSTRUCTION LENDING COMPANY, LLC, as  
BENEFICIARY.

WITNESSETH: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER  
OF SALE, the following described property, situated in UTAH County, State of UTAH:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

Together with all buildings, fixtures and improvements thereon and all water rights, water stock, royalties, mineral, oil and gas rights and profits, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now or hereafter used, erected, or enjoyed with said property, or any part thereof or the leasehold estate if this trust deed is on a leasehold, (hereinafter collectively referred to as the "property"). SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits; FOR THE PURPOSE OF SECURING (1) payment of the indebtedness and all other lawful charges evidenced by a promissory note or agreement dated August 10, 2001, which specifically refers to this Deed of Trust, herewith, in the principal sum of \$ 230,600.00, made by Trustor, payable to the order of Beneficiary in the manner and with interest as therein set forth, and any extensions, renewals or modifications thereof, (2) the performance of each agreement of trustor herein contained; and (3) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

Trustor covenants and warrants to Beneficiary that Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey this trust deed and the property, that the property is not encumbered except as previously disclosed in writing to Beneficiary, that the execution of this Deed of Trust will not result in the breach of any agreement to which trustor is a party or which purports to be binding on the trustor or the property, and that Trustor will warrant and defend generally the title to the property against all claims and defenses against the property.

**TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES:**

1. MAINTENANCE OF PROPERTY. To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on the Property, Trustor further agrees to commence construction promptly and to pursue the same with reasonable diligence to completion in accordance with plans and specifications satisfactory to beneficiary, and to allow Beneficiary to inspect the Property at all times during construction.

2. INSURANCE. To provide and maintain insurance against such casualties as is customarily carried on like properties or as Beneficiary may require, in an amount, not less than the unpaid balance of the note or the insurable value, for such term, and written by a company or companies satisfactory to Beneficiary with loss payable clauses in favor of and in a form satisfactory to Beneficiary. In the event of loss or damage, Trustor shall give immediate notice to Beneficiary. Beneficiary may make proof of loss and settle and adjust all claims thereunder, applying the proceeds at its option, to reduction of the amount due hereunder, or to the restoration or repair of the property damage. Payment of such loss may be made directly to Beneficiary. In the event of the refusal or neglect of Trustor to provide insurance or to maintain same, or to renew same in a manner satisfactory to Beneficiary, then Beneficiary may itself procure and maintain such insurance and charge the cost thereof to Trustor under the provisions of paragraph 1 hereof. Beneficiary shall not be required to accept or approve any policy of insurance or any renewal of an existing policy, which is not delivered to it prior to 30 days before the expiration date of existing coverage even though the same may be otherwise satisfactory to Beneficiary.

3. TITLE INSURANCE OR ABSTRACT OF TITLE. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

4. DEFEND TITLE. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

5. TAXES AND ASSESSMENTS. To pay before delinquency all taxes and assessments affecting the Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with the Property; to pay, when due, all encumbrances, charges, and liens with interest, on the Property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust.

6. PAYMENTS; CHARGES. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; Commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employ counsel, and pay his reasonable fees.

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7. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the rate set forth in the above mentioned instrument of indebtedness until paid, and the repayment thereof shall be secured hereby.

8. TRANSFER. Not to make any voluntary intervivos transfer of the premises or any part thereof without first obtaining the written consent of the Beneficiary. Any such transfer, if the Beneficiary shall not so consent, shall constitute a default under the terms of this instrument and the instrument of indebtedness it secures, and Beneficiary may cause same to be foreclosed, and the premises sold, according to law and the provisions hereof.

IT IS MUTUALLY AGREED THAT:

9. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, right of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

10. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Deed of Trust and the instrument of indebtedness for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed of Trust or the lien or charge thereof; (d) reconvey, without warranty, all or any part of said property. The grantee in any reconveyance may be described as "the person or persons entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

11. RENTS. As additional security, Trustor hereby assigns to Beneficiary, during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Deed of Trust and of any personal property located thereon. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable. If Trustor shall default as aforesaid, Trustor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Deed of Trust to any such tenancy, lease or option.

12. DEFAULT. Upon default by Trustor hereunder, Beneficiary may at any time without notice, either in person, by agent, or be a receiver to be appointed by a court (Trustor hereby consenting to the appointment of beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, and in its own name sue or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

13. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. FORBEARANCE NOT A WAIVER. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

15. TIME IS OF THE ESSENCE. Time is of the essence hereof. Upon default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the note and all documents evidencing expenditures secured hereby.

16. DEFAULT. After the lapse of such time as may then be required by law following the recordation of said notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor shall sell the Property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than one day beyond the day designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs of expenses of exercising the power of sale and of sale, including the payment of the Trustee's and attorney's fees actually incurred by the Trustee and the Beneficiary with the minimum total of said fees not to be less than \$250.00; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest from date of expenditure; (4) all other sums then secured hereby- and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

17. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclosure this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including a reasonable attorney's fee in such amount as shall be fixed by the court.

18. SUCCESSOR. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of each county in which said property or some part hereof is situated, a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title of the trustee named herein or of any successor trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given and Proof thereof made, in the manner provided by law.

19. This Deed of Trust shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including any pledgee, of the note secured hereby. In this Deed of Trust, whenever the text so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

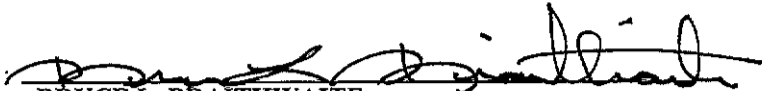
20. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Trust Deed or of any action in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

21. This Trust Deed shall be construed according to the laws of the State of Utah.

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

IN WITNESS THEREOF THE Trustor has caused these presents to be executed the day and year first above written.

  
BRUCE L. BRAITHWAITE

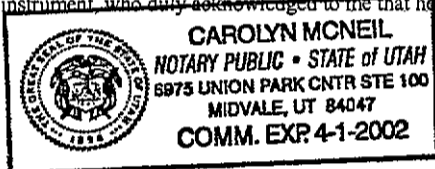
INDIVIDUAL ACKNOWLEDGMENT

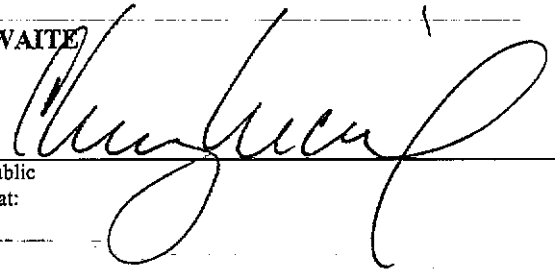
STATE OF UTAH )

ss.

COUNTY OF UTAH )

On the 10th day of August, 2001, personally appeared before me BRUCE L. BRAITHWAITE  
the signer of the above instrument, who duly acknowledged to me that he executed the same.



  
\_\_\_\_\_  
Notary Public  
Residing at:

My Commission Expires:

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH )

ss.

COUNTY OF UTAH )

On the 10th day of August, 2001, personally appeared before me \_\_\_\_\_ AND \_\_\_\_\_  
\_\_\_\_\_, who being by me duly sworn, did say that they are the  
President and \_\_\_\_\_ Secretary respectively of \_\_\_\_\_, a corporation, and that said instrument was signed in behalf  
of said corporation by authority of a resolution of its Board of Directors, and said  
and \_\_\_\_\_ and each of them acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
Notary Public  
Residing at:

My Commission Expires:

**EXHIBIT-"A"**

Lot 14, WIMBLETON SUBDIVISION, according to the official plat thereof, records of Utah County, State of Utah.

(For reference purposes only: Tax Parcel No. 55-503-0014)