

Richard C. Terry, USB No. 3216
TERRY JESSOP & BITNER
341 South Main, Suite 500
Salt Lake City, Utah 84111
Telephone: 801/534-0909
Facsimile: 801/534-1948
Email: richard@tjblawyers.com

Attorneys for RLS Capital, Inc., an Arizona Corporation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

In re:

The Falls of Littleton, LLC,

Debtor.

Bankruptcy No. 18-27111rkm

Chapter 11

Filed Electronically

**MOTION FOR RELIEF FROM THE
AUTOMATIC STAY OR IN THE
ALTERNATIVE TO PROHIBIT USE
OF CASH COLLATERAL**

RLS Capital, Inc., an Arizona Corporation ("RLS"), by and through the undersigned counsel of Terry Jessop & Bitner, hereby moves the above entitled Court for relief from the automatic stay to allow RLS to complete its foreclosure halted by the filing of this bankruptcy petition in order to realize the outstanding obligation due and owing, and to protect collateral pledged to it by the Debtor. This motion is made pursuant to Sections 362 and 363 of the United States Bankruptcy Code and Rule 4001, of the Rules of Bankruptcy Procedure. The property which RLS seeks to foreclose and recover is more particularly defined below. RLS's right to foreclose and exercise its rights and remedies

is based upon the loan documents defined below, as well as applicable state law. RLS's right to prohibit use of cash collateral is based upon the assignment of rent provisions of the loan documents and the debtor's use of collateral pledged to RLS which generates income. RLS asserts that there is a lack of equity in the property and that the property is not necessary for an effective reorganization. RLS also asserts that cause exists for termination of the automatic stay, including an inability to adequately protect RLS, as well as a failure to provide any adequate protection and the unauthorized use of rents generated from the property. Additionally, cause exists to terminate the automatic stay by virtue of the fact that the Debtor has no income and cannot propose an effective reorganization. RLS further requests that the 14 day stay period under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure be waived.

HISTORY/BACKGROUND

1. On June 4, 2016, The Falls of Littleton, LLC, ("Falls") executed a Promissory Note dated May 23, 2016, in favor of RLS Capital, Inc., an Arizona corporation, in the principal amount of \$2,500,000.00 (the "Note"). A copy of the Note is attached hereto and incorporated herein by reference as Exhibit A.

2. The Note was secured by a Deed of Trust dated May 23, 2016, ("Trust Deed"), wherein Debtor agreed to pledge real property and the rents generated from that property to secure the Note located at 8199 Southpark Court, Littleton, CO 80120 and more particularly described in the Deed of Trust, a copy of which is attached hereto and incorporated herein by reference as Exhibit B.

3. The Note was given as temporary construction financing designed to be repaid in eighteen months after completion of the construction.

4. In addition to pledging real property as security for the Note, the Debtor also pledged to RLS all income and rents generated from the property pursuant to an assignment of rents clause.

5. Pursuant to the Loan Documents, the Borrower borrowed \$2,500,000.00 from RLS with an original maturity date of June 1, 2017.

6. The loan required the payment of all interest on a monthly basis from the execution of the Note until its maturity at the rate of 12% per annum, or \$25,000 per month.

7. The Note also requires the Debtor to pay a late fee of 10% of any unpaid payment, or the sum of \$2,500 per month.

8. The Note also provides for a default interest rate of 29% per annum from the date on which the payment was due and payable until the delinquent payment is received.

9. On June 1, 2017, the Note matured, requiring the Debtor to pay the unpaid principal balance, which the Debtor failed to do.

10. Debtor has completed construction of a business building on the collateral pledged to RLS which is now operating and generating rents which were also pledged to RLS.

11. RLS has not consented to the debtor's use of its rents.

12. The Borrower defaulted under the Loan Documents by, among other things, failing to make timely payments when due and by failing to pay its obligations under the

Note at maturity. The last payment received by the Debtor was February 2018. Interest accrues from February 2018 until the present at 29% per annum.

13. As of February 9, 2018, the total payoff amount due under the Loan Documents was not less than \$3,253,880.33.

14. Based upon the Debtor's significant default with the entire unpaid balance of the loan due and owing, RLS commenced a foreclosure action in the state of Colorado. Under Colorado law, the matter was scheduled to be sold at auction on July 15, 2018.

15. To stop the foreclosure sale, the Debtor sought chapter 11 protection.

16. The Debtor filed a voluntary chapter 11 bankruptcy petition in Utah Bankruptcy Court on September 24, 2018 (the "Petition Date").

17. Upon information and belief, the Debtor had transferred, assigned or sold all of its revenues and rents generated from the real property which secures the Note.

18. Upon information and belief, the value of the property may be no more than \$2,800,000.

ARGUMENT AND AUTHORITY

A. RLS is Entitled to Relief from the Automatic Stay

RLS is entitled to relief from the automatic stay on one or more grounds under Section 362 of the Bankruptcy Code.

1. "Cause" Exists for Relief from the Automatic Stay under Section 362(d)(1). Section 362(d) of the Bankruptcy Code provides in relevant part: "On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or

conditioning such stay—(1) for cause, including the lack of adequate protection of an interest in property of such party in interest.” 11 U.S.C. § 362(d)(1) (2013). Courts have routinely recognized that “cause” is not limited to lack of adequate protection. *In re Carbaugh*, 278 B.R. 512, 525 (B.A.P. 10th Cir. 2002) (citing *Pursifull v. Eakin*, 814 F.2d 1501, 1506 (10th Cir. 1987)). *In re Scripps GSB I, LLC v. A Partners, LLC* (*In re A Partners, LLC*), 344 B.R. 114, 126-28 (Bankr. E.D. Cal. 2006).

In determining whether the automatic stay should be modified for cause, the bankruptcy court considered five factors: “(1) an interference with the bankruptcy; (2) good or bad faith of the debtor; (3) injury to the debtor and other creditors if the stay is modified; (4) injury to the movant if the stay is not modified; and (5) the relative portionality of the harms from modifying or continuing the stay.” *Scripps*, 344 B.R. at 127 (citations omitted). As for the first factor, the bankruptcy court found that relief from stay would not interfere with the bankruptcy case because the debtor’s junior lien interest in the property was wholly unsecured and the debtor was unable to “control the liquidation of the [property].” *Scripps*, 344 B.R. at 127. As for the second factor, no allegations of bad faith were made or considered. See *Scripps*, 344 B.R. at 127. Considering the third and fifth “cause” factors together, the bankruptcy court found that foreclosure of the property would not “make the [d]ebtor’s financial condition materially worse than it already is.” *Scripps*, 344 B.R. at 127. Turning to the fourth factor (injury to the movant if the stay is not modified), the bankruptcy court noted that the underlying obligation to senior lienholder was in material default and that the debt was increasing at an excessive rate (approximately \$268,000 per month.) *Scripps*, 344 B.R. at 127. The bankruptcy court also noted that the

property was “not generating enough net rent to cover the accruing interest on the debt” and the debtor could not pay adequate protection. *Scripps*, 344 B.R. at 127.

In this case, “cause” exists to terminate the automatic stay under the five factors considered in *Scripps*. First, modifying the stay will not interfere with the Debtor’s bankruptcy case because the Debtor’s junior lien against the property is wholly unsecured. The property has a value that may be as little as \$2,800,000 while the total payoff owed to RLS is the sum of \$3,253,880.33. There is evidence in this case that the Debtor may have acted in bad faith. The revenue generated from this property is not being utilized by the Debtor, but is apparently automatically transferred to the Debtor’s parent, also in bankruptcy. Although the Debtor pledged all income proceeds to RLS, the Debtor is diverting those proceeds to its parent corporation without the permission of RLS and perhaps without written documentary evidence.

In this case, foreclosure of the property will not make the Debtor’s financial condition any worse than it already is. There is no equity in the property to satisfy junior lien interests. While foreclosure may harm the parent corporation, it will not harm the Debtor.

Per diem interest on the debt to RLS is \$60,416.67 per month and continues to accrue while this bankruptcy is pending.

2. There is no Equity in the Property. Section 362(d)(2) of the Bankruptcy Code provides that a party in interest is entitled to relief from the automatic stay if “the debtor does not have an equity in such property” and “such property is not necessary to an effective reorganization.” 11 U.S.C. §361(d)(2). Under the first element, Debtor lacks equity in the property. RLS believes that the “as is” market value of the property may only be around \$2,800,000. The debt owing to RLS is currently \$3,253,880.33.

Under the second element, the property is not necessary for an effective reorganization. Although the Debtor attempted to refinance the obligation prior to the filing of the bankruptcy, Debtor was unable to do so. Neither the Debtor nor its parent corporation has been able to come up with any source to payoff RLS. With the Debtor transferring all sources of funds and revenue to the parent corporation, there is nothing in this bankruptcy to satisfy the obligation owing RLS. There can be no likely reorganization.

3. RLS is Entitled to Relief from the Stay Under Section 362(d)(4). Section 362(d)(4) of the Bankruptcy Code provides in relevant part that “on request of a party in interest and after notice and a hearing, the court shall grant relief from the stay ... with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or (B) multiple bankruptcy filings affecting such real property.” The Debtor’s transfer of all income and revenue sources to the parent corporation constitutes a transfer of a significant portion of the real property. Since it is the only thing from the real property that generates revenue, transfer of that right without permission of RLS has thwarted the foreclosure of RLS and continues to hinder, delay and prevent RLS from realizing its security.

4. RLS is Entitled to an order prohibiting the debtor from using income derived from the property pledged by the debtor Under Section 363(c). Section 363(c)(2) of the Bankruptcy Code provides in relevant part that “The Trustee may not use, sell, or lease cash collateral ...unless each entity that has an interest in such cash collateral consents..

The Debtor completed construction of a business building which the debtor has been using to generate income which the debtor or the Debtor's parent corporation is using without the consent of RLS and without permission of this court following notice and a hearing.

5. Waiver of 14-Day Stay Period Under Rule 4001(a)(3). Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure provides: "An order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise." Debtor borrowed money from RLS to construct a building and repay with permanent long-term financing. Rather than payoff the debt, a bankruptcy was filed and the revenue source diverted to another entity without the permission of RLS and outside the control of RLS. Immediate access to RLS's collateral is warranted.

WHEREFORE, for the reasons set forth herein, RLS requests that the Court enter an order granting RLS relief from the automatic stay to pursue its rights and remedies under the Loan Documents and applicable state law, and for waiver of the 14-day stay period.

DATED October 4, 2018.

TERRY JESSOP & BITNER
Attorneys for RLS Capital, Inc. an Arizona
Corporation

By: /s/ Richard C. Terry

CERTIFICATE OF SERVICE

I, Richard C. Terry, attorney for RLS Capital, Inc., an Arizona Corporation, hereby certify that on October 4, 2018, I served a copy of the foregoing Motion for Relief from the Automatic Stay upon the following by first class mail, postage prepaid; or by filing this pleading electronically as an ECF registered attorney of the United States District Court, I caused the same to be served via ECF.

The Falls of Littleton, LLC (Via U.S. Mail)
9067 South 1300 West
Suite 301
West Jordan, UT 84088-5582

Elaine A. Monson (Via ECF)
Ray Quinney & Nebeker
36 South State Street, 14th Floor
P.O. Box 45385
Salt Lake City, UT 84145-0385

Laurie A. Cayton, (Via ECF)
United States Trustee
Washington Federal Bank Building
405 South Main Street, Suite 300
Salt Lake City, UT 84111-3402

United States Trustee (Via ECF)
Washington Federal Bank Building
405 South Main Street, Suite 300
Salt Lake City, UT 84111-3402

/s/ Richard C. Terry

PROMISSORY NOTE SECURED BY DEED OF TRUST
(Installment Payments)

EXHIBIT**A****DATE: 5/23/2016****US \$ \$2,500,000.00**

Littleton, Colorado

Property Address: 8199 Southpark Court Littleton, CO 80120-5637

FOR VALUE RECEIVED, the undersigned ("Maker") promises to pay without offset or deduction to the order of RLS Two Capital, Inc., an Arizona Corporation, their successors and assigns ("Holder"), the principal sum of ~~ONE~~ ^{TWO} ~~MILLION FIVE HUNDRED THOUSAND AND 00/00 DOLLARS~~ ^{SEVEN} ~~(U.S. \$2,500,000.00)~~, with interest on the unpaid principal balance from 6/1/2016, until the date the entire outstanding principal balance has been paid in full at the rate of **twelve percent (12%)** per annum ("Annual Rate"). A minimum of 30 days interest is due. Interest on the outstanding principal balance shall be calculated on a daily basis (based on a three hundred sixty (360) day year). The principal and interest shall be payable for the benefit of Holder at **PO Box 97485 Phoenix, AZ 85060** ("account servicing agent") or such other place as Holder may, from time to time, designate in writing, commencing on 7/1/2016, and continuing on the same day of each and every successive calendar month (the "Payment Due Date") with the entire principal balance together with all accrued and unpaid interest, and all other obligations of Maker under this Note, if not sooner paid, shall be due and payable in full on 6/1/2017 ("Maturity Date"). All payments under this Note and under the Loan Documents (as below defined) shall be in lawful money of the United States of America, which at the time of payments shall be legal tender for the payment of public and private debts.

If any installment under this Note is not actually received by account servicing agent within five (5) days of the Payment Due Date; or if all principal, interest and any other amounts due hereunder are not fully paid on or before the Maturity Date; or if there is a default under any agreement between or among Holder and Maker or under any of the Loan Documents, Maker shall be deemed to be in default here under (a "Default"). In the event of a Default, the entire principal amount outstanding hereunder and all accrued interest thereon shall, at the option of Holder, be accelerated, and shall at once become due and payable. Holder may exercise this option to accelerate, without notice, during any default by Maker regardless of any prior forbearance. No failure to exercise or delay in exercising such option shall constitute a waiver of such option in the event of any subsequent Default hereunder. In the event of any Default in the payment of this Note, and if the same is referred to an attorney for collection or any action at law or in equity is brought with respect hereto, Maker shall pay Holder all expenses and costs, including, but not limited to, attorneys' fees, whether suit is instituted or not. In the event suit is instituted all court costs and attorneys' fees shall be set by the court and not by jury and the amount of such award shall be included in any judgment obtained by the Holder, and shall be secured by the Loan Documents.

Upon the occurrence of a Default hereunder, Holder may resort to any collateral, whether real property or personal property, now or hereafter given as security for this Note, in any order, and may sell and dispose of such collateral in whole or in part, at any time or from time to time with no requirement on the part of the Holder of this Note to marshal assets. Holder shall not be required to preserve any rights in such collateral as against prior parties. Holder is entitled to the benefits of any and all Loan Documents securing or guaranteeing this Note.

LATE CHARGE. Maker hereby acknowledges that any late payment by Maker to Holder will cause Holder to incur additional expenses not contemplated hereby in servicing the Loan Documents, and will result in losses to Holder of the use of the money due, and in frustration to Holder in meeting its other commitments, but that it is extremely difficult or impractical to ascertain the extent of such damages. Accordingly, Maker will pay as damages a late charge for each monthly payment that is not actually received by Holder or account servicing agent within five (5) days after the Payment Due Date. Such late charge shall be equal to ten percent (10%) of the delinquent monthly payment, and Maker agrees that such late charge is a reasonable estimate of Holder's damages. Such late charge shall be in addition to and separate from any increase in interest rate as hereinafter set forth. Said monthly payment shall be subject to an additional five percent (5%) late payment charge for each additional month thereafter that said payment remains past due. The late charge shall apply individually to all payments past due, there will be no daily adjustment and said late charge shall be used to defray the costs of the Holder incident to collecting such late payment. The late charge is due and payable in addition to and together with the delinquent

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installment. However acceptance by Holder of any installment payment that does not include said late charge shall not be a waiver of the right to collect said late charge unless said waiver is memorialized in a writing signed by Holder. The amount of any late charge not paid in accordance with this provision shall be added to the principal balance of this Note and shall thereafter bear interest at the Annual Rate. This provision shall not be deemed to excuse a late payment or be deemed a waiver of any other rights the Holder may have to collect any other amounts provided or to be paid hereunder or to declare a default or exercise any remedy available hereunder or under the Loan Documents or to otherwise prevent Holder from exercising any of the other rights and remedies granted hereunder or available at law or in equity. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Holder will incur by reason of late payment.

In the event of Default due to nonpayment of principal or interest provided for herein, then, in that event, and in addition to any and all other provisions hereof, each and every such delinquent payment along with the entire principal balance and accrued interest, shall bear interest to the extent permitted by law at the rate which is equal to twenty-nine percent (29%) per annum (the "Default Rate of Interest") from the date on which the payment was due and payable until the delinquent payment is received by Holder or account servicing agent. If any installment payment shall be due on a day that is not a business day, then the payment shall be deemed due on the next day which is a business day. The term "business day" shall mean any day which is not a Saturday, Sunday or federally observed holiday. If such Default Rate of Interest may not be collected from Maker under applicable law, then the Note shall bear interest at the maximum increased rate of interest, if any, which may be collected from Maker under applicable law.

Maker may prepay this Note in whole or in part at any time and from time to time, without premium or penalty. All prepayments shall include payment of all accrued and unpaid interest to the date of such prepayment on the amount of principal being prepaid. Partial prepayment shall not postpone or reduce any regular payments of principal or interest, but shall be credited first to any collection costs, attorney's fees, beneficiary advances (including interest thereon at the Default Rate of Interest) and all other amounts due under the terms of the Loan Documents, next to any accrued and unpaid late charges, default interest, regular interest and then to the principal (the Deed of Trust and Assignment of Rents, and any Fixture Filing, Security Agreement or any other instruments evidencing, governing or securing Maker's obligation under this Note are collectively referred to herein as "Loan Documents").

Maker and all endorsers and guarantors hereof jointly and severally agree with Holder that Holder may, from time to time, extend the time for payment of said outstanding principal balance or any part thereof, reduce the payments thereon, release anyone liable on any of said outstanding principal balance, accept a renewal of this Note, modify the terms and time of payment of said outstanding principal balance, join in any extension or subordination agreement, release any security given therefor, take or release other or additional security, or agree in writing with Maker to modify the rate of interest or period of amortization of this Note or change the amount of the monthly installments payable hereunder, without notice in such manner as Holder may see fit, all without in any way affecting or releasing the liability of Maker and all endorser and guarantors hereof.

All makers, sureties, guarantors and endorser hereof, severally waive demand, diligence, presentment for payment, protest and demand, and notice of extension, dishonor, protest, demand and nonpayment of this Note, and waive any and all lack of diligence or delays in collection or enforcement hereof. This Note shall be the joint and several obligations of all makers, sureties, guarantors and endorser, and shall be binding upon them and their successors and assigns. All makers, sureties, guarantors and endorser hereof, severally waive any homestead or exemption right.

Maker agrees to an effective rate of interest that is the rate stated in this Note plus any additional rate of interest resulting from any other charges in the nature of interest paid or to be paid in connection with this Note. In no event, whether by reason of demand for payment or acceleration of the maturity of this Note or otherwise, shall the interest contracted for, charged, or received by Holder hereunder or otherwise, exceed the maximum amount permissible under applicable law. If, under any circumstance whatsoever, interest would otherwise be payable to Holder in excess of the maximum lawful amount, the interest payable to Holder shall be reduced automatically to the maximum amount permitted under applicable law. If Holder shall ever receive any sum or other item of value deemed interest under applicable law that would, apart from

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this provision, be in excess of the maximum lawful amount, an amount equal to any amount which would have been excessive interest shall be applied to the reduction of the principal amount owing on the Note in the inverse order of maturity and not to the payment of interest, or if such amount which would have been excessive interest exceeds the unpaid principal balance of the Note, such excess shall be refunded to Maker. All interest paid or agreed to be paid to Holder shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term (including any renewal or extension) of the indebtedness evidenced by this Note so that the amount of interest on account of such indebtedness does not exceed the maximum permitted by applicable law. The provisions of this paragraph shall control all existing and future agreements between Maker and Holder.

All draw requests are to be submitted to the Holder. All disbursements of draws are at the sole discretion of the Holder.

The indebtedness evidenced by this Note is secured by Deed of Trust and Assignment of Rents of even date herewith. This Note shall be interpreted in accordance with the laws of the State of Colorado. The Maker of this Note certifies that the indebtedness evidenced by this Note is obtained for business or commercial purposes and that the proceeds thereof will not be used primarily for personal, family, household, or agricultural purposes.

MAKER:

 mgr

The Falls of Littleton, LLC
By: Steven Down, Manager

Date: 6-4-16

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EXHIBIT

B

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(TD72-8-10) (Mandatory 1-11)

IF THIS FORM IS USED IN A CONSUMER CREDIT TRANSACTION, CONSULT LEGAL COUNSEL.

THIS IS A LEGAL INSTRUMENT. IF NOT UNDERSTOOD, LEGAL, TAX OR OTHER COUNSEL, SHOULD BE CONSULTED
BEFORE SIGNING.

DEED OF TRUST (Due on Transfer - Strict)

THIS DEED OF TRUST is made this 23rd day of May, 20 16, between The Falls of Littleton, LLC,
a Colorado Limited Liability Company (Borrower), whose address is 9071 S. 1300 W., Suite 201, West Jordan, UT 84088
and the Public Trustee of the County in which the Property (see § 1) is situated (Trustee); for the benefit of
RJS Capital, Inc., an Arizona Corporation (Lender), whose address is
PO Box 97483, Phoenix, AZ 85060

Borrower and Lender covenant and agree as follows:

1. **Property in Trust.** Borrower, in consideration of the indebtedness herein recited and the trust herein created, hereby
grants and conveys to Trustee in trust, with power of sale, the following legally described property located in the
County of Arapahoe, State of Colorado:

SEE ATTACHED EXHIBIT "A"

known as No. 8199 Southpark Court, Littleton, CO 80120-5637 (Property Address),
Street Address City State Zip

together with all its appurtenances (Property).

2. **Note: Other Obligations Secured.** This Deed of Trust is given to secure to Lender:

2.1. the repayment of the indebtedness evidenced by Borrower's note (Note) dated May 23, 2016 in the
principal sum of Two Million Five Hundred Thousand and 00/100 Dollars (U.S. \$ 2,500,000.00).

2.2. the performance of the covenants and agreements of Borrower herein contained.

3. **Title.** Borrower covenants that Borrower owns and has the right to grant and convey the Property, and warrants title to
the same, subject to general real estate taxes for the current year, easements of record or in existence, and recorded declarations,
restrictions, reservations and covenants, if any, as of this date; and subject to the right, power, and authority hereinafter given to and
conferred upon Beneficiary to collect and apply such property income; AND SUBJECT TO ANY easements and restrictions listed in a
schedule of exceptions to coverage in any title insurance policy insuring Beneficiary's interest in the property.

4. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal of and interest on the
indebtedness evidenced by the Note, and late charges as provided in the Note and shall perform all of Borrower's other covenants
contained in the Note.

5. **Application of Payments.** All payments received by Lender under the terms hereof shall be applied by Lender first in
payment of amounts due pursuant to § 23 (Escrow Funds for Taxes and Insurance), then to amounts disbursed by Lender pursuant
to § 9 (Protection of Lender's Security), and the balance in accordance with the terms and conditions of the Note.

6. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under
any prior deed of trust and any other prior liens. Borrower shall pay all taxes, assessments and other charges, fines and impositions
attributable to the Property which may have or attain a priority over this Deed of Trust, and leasehold payments or ground rents, if
any, in the manner set out in § 23 (Escrow Funds for Taxes and Insurance) or, if not required to be paid in such manner, by
Borrower making payment when due, directly to the payee thereof. Despite the foregoing, Borrower shall not be required to make
payments otherwise required by this section if Borrower, after notice to Lender, shall in good faith contest such obligation by, or
defend enforcement of such obligation in, legal proceedings which operate to prevent the enforcement of the obligation or



The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(TD72-8-10) (Mandatory 1-11)

IF THIS FORM IS USED IN A CONSUMER CREDIT TRANSACTION, CONSULT LEGAL COUNSEL.

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R/S Capital, Inc. an Arizona Corporation (Lender), whose address is
PO Box 97485, Phoenix, AZ 85060

Borrower and Lender covenant and agree as follows:

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Street Address City State Zip

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2.2. the performance of the covenants and agreements of Borrower herein contained.

3. **Title.** Borrower covenants that Borrower owns and has the right to grant and convey the Property, and warrants title to the same, subject to general real estate taxes for the current year, easements of record or in existence, and recorded declarations, restrictions, reservations and covenants, if any, as of this date; and subject to the right, power, and authority hereinafter given to and conferred upon Beneficiary to collect and apply such property income; AND SUBJECT TO ANY easements and restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Beneficiary's interest in the property.

4. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, and late charges as provided in the Note and shall perform all of Borrower's other covenants contained in the Note.

5. **Application of Payments.** All payments received by Lender under the terms hereof shall be applied by Lender first in payment of amounts due pursuant to § 23 (Escrow Funds for Taxes and Insurance), then to amounts disbursed by Lender pursuant to § 9 (Protection of Lender's Security), and the balance in accordance with the terms and conditions of the Note.

6. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any prior deed of trust and any other prior liens. Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may have or attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any, in the manner set out in § 23 (Escrow Funds for Taxes and Insurance) or, if not required to be paid in such manner, by Borrower making payment when due, directly to the payee thereof. Despite the foregoing, Borrower shall not be required to make payments otherwise required by this section if Borrower, after notice to Lender, shall in good faith contest such obligation by, or defend enforcement of such obligation in, legal proceedings which operate to prevent the enforcement of the obligation or

forfeiture of the Property or any part thereof, only upon Borrower making all such contested payments and other payments as ordered by the court to the registry of the court in which such proceedings are filed.

7. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire or hazards included within the term "extended coverage" in an amount at least equal to the lesser of (a) the insurable value of the Property or (b) an amount sufficient to pay the sums secured by this Deed of Trust as well as any prior encumbrances on the Property. All of the foregoing shall be known as "Property Insurance."

The insurance carrier providing the insurance shall be qualified to write Property Insurance in Colorado and shall be chosen by Borrower subject to Lender's right to reject the chosen carrier for reasonable cause. All insurance policies and renewals thereof shall include a standard mortgage clause in favor of Lender, and shall provide that the insurance carrier shall notify Lender at least ten (10) days before cancellation, termination or any material change of coverage. Insurance policies shall be furnished to Lender at or before closing. Lender shall have the right to hold the policies and renewals thereof.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Insurance proceeds shall be applied to restoration or repair of the Property damaged, provided said restoration or repair is economically feasible and the security of this Deed of Trust is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is given in accordance with § 16 (Notice) by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Any such application of proceeds to principal shall not extend or postpone the due date of the installments referred to in §§ 4 (Payment of Principal and Interest) and 23 (Escrow Funds for Taxes and Insurance) or change the amount of such installments. Notwithstanding anything herein to the contrary, if under § 18 (Acceleration; Foreclosure; Other Remedies) the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

All of the rights of Borrower and Lender hereunder with respect to insurance carriers, insurance policies and insurance proceeds are subject to the rights of any holder of a prior deed of trust with respect to said insurance carriers, policies and proceeds.

8. **Preservation and Maintenance of Property.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold. Borrower shall perform all of Borrower's obligations under any declarations, covenants, by-laws, rules, or other documents governing the use, ownership or occupancy of the Property.

9. **Protection of Lender's Security.** Except when Borrower has exercised Borrower's rights under § 6 above, if Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if a default occurs in a prior lien, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, with notice to Borrower if required by law, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to:

- 9.1. any general or special taxes or ditch or water assessments levied or accruing against the Property;
- 9.2. the premiums on any insurance necessary to protect any improvements comprising a part of the Property;
- 9.3. sums due on any prior lien or encumbrance on the Property;
- 9.4. if the Property is a leasehold or is subject to a lease, all sums due under such lease;
- 9.5. the reasonable costs and expenses of defending, protecting, and maintaining the Property and Lender's interest in

the Property, including repair and maintenance costs and expenses, costs and expenses of protecting and securing the Property, receiver's fees and expenses, inspection fees, appraisal fees, court costs, attorney fees and costs, and fees and costs of an attorney in the employment of Lender or holder of the certificate of purchase;

- 9.6. all other costs and expenses allowable by the evidence of debt or this Deed of Trust; and
- 9.7. such other costs and expenses which may be authorized by a court of competent jurisdiction.

Borrower hereby assigns to Lender any right Borrower may have by reason of any prior encumbrance on the Property or by law or otherwise to cure any default under said prior encumbrance.

Any amounts disbursed by Lender pursuant to this § 9, with interest thereon, shall become additional indebtedness of Borrower secured by this Deed of Trust. Such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and Lender may bring suit to collect any amounts so disbursed plus interest specified in § 2.2 (Note: Other Obligations Secured). Nothing contained in this § 9 shall require Lender to incur any expense or take any action hereunder.

10. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspection of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

11. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and

shall be paid to Lender as herein provided. However, all of the rights of Borrower and Lender hereunder with respect to such proceeds are subject to the rights of any holder of a prior deed of trust.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, the proceeds remaining after taking out any part of the award due any prior lien holder (net award) shall be divided between Lender and Borrower, in the same ratio as the amount of the sums secured by this Deed of Trust immediately prior to the date of taking bears to Borrower's equity in the Property immediately prior to the date of taking. Borrower's equity in the Property means the fair market value of the Property less the amount of sums secured by both this Deed of Trust and all prior liens (except taxes) that are to receive any of the award, all at the value immediately prior to the date of taking.

If the Property is abandoned by Borrower or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is given, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Any such application of proceeds to principal shall not extend or postpone the due date of the installments referred to in §§ 4 (Payment of Principal and Interest) and 23 (Escrow Funds for Taxes and Insurance) nor change the amount of such installments.

12. Borrower not Released. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower, nor Borrower's successors in interest, from the original terms of this Deed of Trust. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower nor Borrower's successors in interest.

13. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by law, shall not be a waiver or preclude the exercise of any such right or remedy.

14. Remedies Cumulative. Each remedy provided in the Note and this Deed of Trust is distinct from and cumulative to all other rights or remedies under the Note and this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently or successively.

15. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of § 24 (Transfer of the Property; Assumption). All covenants and agreements of Borrower shall be joint and several. The captions and headings of the sections in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

16. Notice. Except for any notice required by law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be in writing and shall be given and be effective upon (1) delivery to Borrower or (2) mailing such notice by first class U.S. mail, addressed to Borrower at Borrower's address stated herein or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be in writing and shall be given and be effective upon (1) delivery to Lender or (2) mailing such notice by first class U.S. mail, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in any manner designated herein.

17. Governing Law; Severability. The Note and this Deed of Trust shall be governed by the law of Colorado. In the event that any provision or clause of this Deed of Trust or the Note conflicts with the law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and Note are declared to be severable.

18. Acceleration; Foreclosure; Other Remedies. Except as provided in § 24 (Transfer of the Property; Assumption), upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, or upon any default in a prior lien upon the Property, (unless Borrower has exercised Borrower's rights under § 6 above), at Lender's option, all of the sums secured by this Deed of Trust shall be immediately due and payable (Acceleration). To exercise this option, Lender may invoke the power of sale and any other remedies permitted by law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Deed of Trust, including, but not limited to, reasonable attorney's fees.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of such election. Trustee shall give such notice to Borrower of Borrower's rights as is provided by law. Trustee shall record a copy of such notice and shall cause publication of the legal notice as required by law in a legal newspaper of general circulation in each county in which the Property is situated, and shall mail copies of such notice of sale to Borrower and other persons as prescribed by law. After the lapse of such time as may be required by law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place (which may be on the Property or any part thereof as permitted by law) in one or more parcels as Trustee may think best and in such order as Trustee may determine. Lender or Lender's designee may purchase the Property at any sale. It shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

165 **19. Borrower's Right to Cure Default.** Whenever foreclosure is commenced for nonpayment of any sums due hereunder, the
166 owners of the Property or parties liable hereon shall be entitled to cure said defaults by paying all delinquent principal and
167 interest payments due as of the date of cure, costs, expenses, late charges, attorney's fees and other fees all in the manner provided
168 by law. Upon such payment, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as though
169 no Acceleration had occurred, and the foreclosure proceedings shall be discontinued.

170 **20. Assignment of Rents; Appointment of Receiver; Lender in Possession.** As additional security hereunder, Borrower
171 hereby assigns to Lender the rents of the Property; however, Borrower shall, prior to Acceleration under § 18 (Acceleration;
172 Foreclosure; Other Remedies) or abandonment of the Property, have the right to collect and retain such rents as they become due
173 and payable.

174 Lender or the holder of the Trustee's certificate of purchase shall be entitled to a receiver for the Property after Acceleration
175 under § 18 (Acceleration; Foreclosure; Other Remedies), and shall also be so entitled during the time covered by foreclosure
176 proceedings and the period of redemption, if any; and shall be entitled thereto as a matter of right without regard to the solvency or
177 insolvency of Borrower or of the then owner of the Property, and without regard to the value thereof. Such receiver may be appointed
178 by any Court of competent jurisdiction upon ex parte application and without notice; notice being hereby expressly waived.

179 Upon Acceleration under § 18 (Acceleration; Foreclosure; Other Remedies) or abandonment of the Property, Lender, in
180 person, by agent or by judicially-appointed receiver, shall be entitled to enter upon, take possession of and manage the Property
181 and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied, first
182 to payment of the costs of preservation and management of the Property, second to payments due upon prior liens, and then to the
183 sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

184 **21. Release.** Upon payment of all sums secured by this Deed of Trust, Lender shall cause Trustee to release this Deed of
185 Trust and shall produce for Trustee the Note. Borrower shall pay all costs of recordation and shall pay the statutory Trustee's fees.
186 If Lender shall not produce the Note as aforesaid, then Lender, upon notice in accordance with § 16 (Notice) from Borrower to
187 Lender, shall obtain, at Lender's expense, and file any lost instrument bond required by Trustee or pay the cost thereof to effect the
188 release of this Deed of Trust.

189 **22. Waiver of Exemptions.** Borrower hereby waives all right of homestead and any other exemption in the Property under
190 state or federal law presently existing or hereafter enacted.

191 **23. Escrow Funds for Taxes and Insurance.** This § 23 is not applicable if Funds, as defined below, are being paid pursuant
192 to a prior encumbrance. Subject to applicable law, Borrower shall pay to Lender, on each day installments of principal and interest are
193 payable under the Note, until the Note is paid in full, a sum (herein referred to as "Funds") equal to _____ of the
194 yearly taxes and assessments which may attain priority over this Deed of Trust, plus _____ of yearly premium installments for
195 Property Insurance, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and
196 reasonable estimates thereof, taking into account any excess Funds not used or shortages.

197 The principal of the Funds shall be held in a separate account by Lender in trust for the benefit of Borrower and deposited in
198 an institution, the deposits or accounts of which are insured or guaranteed by a federal or state agency. Lender shall apply the
199 Funds to pay said taxes, assessments and insurance premiums. Lender may not charge for so holding and applying the Funds,
200 analyzing said account or verifying and compiling said assessments and bills. Lender shall not be required to pay Borrower any
201 interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing
202 credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional
203 security for the sums secured by this Deed of Trust.

204 If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments and insurance premiums as they
205 fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within 30 days from the date notice is
206 given in accordance with § 16 (Notice) by Lender to Borrower requesting payment thereof. Provided however, if the loan secured
207 by this Deed of Trust is subject to RESPA or other laws regulating Escrow Accounts, such deficiency, surplus or any other
208 required adjustment shall be paid, credited or adjusted in compliance with such applicable laws.

209 Upon payment in full of all sums secured by this Deed of Trust, Lender shall simultaneously refund to Borrower any Funds held
210 by Lender. If under § 18 (Acceleration; Foreclosure; Other Remedies) the Property is sold or the Property is otherwise acquired by
211 Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, whichever occurs
212 first, any Funds held by Lender at the time of application as a credit against the sums secured by this Deed of Trust.

213 **24. Transfer of the Property; Assumption.** The following events shall be referred to herein as a "Transfer": (i) a transfer
214 or conveyance of title (or any portion thereof, legal or equitable) of the Property (or any part thereof or interest therein); (ii) the
215 execution of a contract or agreement creating a right to title (or any portion thereof, legal or equitable) in the Property (or any part
216 thereof or interest therein); (iii) or an agreement granting a possessory right in the Property (or any portion thereof), in excess of 3
217 years; (iv) a sale or transfer of, or the execution of a contract or agreement creating a right to acquire or receive, more than fifty
218 percent (50%) of the controlling interest or more than fifty percent (50%) of the beneficial interest in Borrower and (v) the reorganization,
219 liquidation or dissolution of Borrower. Not to be included as a Transfer are (x) the creation of a lien or encumbrance
220 subordinate to this Deed of Trust; (y) the creation of a purchase money security interest for household appliances; or (z) a transfer
221 by devise, descent or by operation of the law upon the death of a joint tenant. At the election of Lender, in the event of each and
222 every Transfer:

223 **24.1.** All sums secured by this Deed of Trust shall become immediately due and payable (Acceleration).

224 24.2. If a Transfer occurs and should Lender not exercise Lender's option pursuant to this § 24 to Accelerate. Transferee shall
225 be deemed to have assumed all of the obligations of Borrower under this Deed of Trust including all sums secured hereby whether or
226 not the instrument evidencing such conveyance, contract or grant expressly so provides. This covenant shall run with the Property
227 and remain in full force and effect until said sums are paid in full. Lender may without notice to Borrower deal with Transferee in
228 the same manner as with Borrower with reference to said sums including the payment or credit to Transferee of undisbursed reserve
229 Funds on payment in full of said sums, without in any way altering or discharging Borrower's liability hereunder for the
230 obligations hereby secured.

231 24.3. Should Lender not elect to Accelerate upon the occurrence of such Transfer then, subject to § 24.2 above, the
232 mere fact of a lapse of time or the acceptance of payment subsequent to any of such events, whether or not Lender had actual or
233 constructive notice of such Transfer, shall not be deemed a waiver of Lender's right to make such election nor shall Lender be
234 estopped therefrom by virtue thereof. The issuance on behalf of Lender of a routine statement showing the status of the loan,
235 whether or not Lender had actual or constructive notice of such Transfer, shall not be a waiver or estoppel of Lender's said rights.

236 25. Borrower's Copy. Borrower acknowledges receipt of a copy of the Note and this Deed of Trust.

EXECUTED BY BORROWER.

IF BORROWER IS NATURAL PERSON(s):

doing business as _____

IF BORROWER IS CORPORATION:
ATTEST:

Secretary _____

(SEAL)

Name of Corporation _____

By _____
President

IF BORROWER IS PARTNERSHIP:

Name of Partnership _____

By _____
A General Partner

IF BORROWER IS LIMITED LIABILITY COMPANY:

Name of Limited Liability Company _____

By _____
Its Authorized Representative

Title of Authorized Representative _____

STATE OF Utah
COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 4 day of June, 2016, by
* en of The Falls of Littleton, LLC

Witness my hand and official seal.

My commission expires: 2/15/19

Notary Public

237 * If a natural person or persons, insert the name(s) of such person(s). If a corporation, insert, for example, "John Doe as President and Jane Doe as
238 Secretary of Doe & Co., a Colorado corporation." If a partnership, insert, for example, "Sam Smith as general partner in and for Smith & Smith,
239 a general partnership." A Statement of Authority may be required if borrower is a limited liability company or other entity (§ 38-30-172, C.R.S.)

Exhibit A

A PARCEL OF LAND BEING A PORTION OF LOTS 1 & 2, SOUTHPARK SUBDIVISION - FILING NO. 5, SITUATED IN THE SOUTH ONE HALF OF SECTION 32, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF LITTLETON, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 2, SAID SOUTHPARK SUBDIVISION - FILING NO. 5 FROM WHENCE THE SOUTH 1/4 CORNER OF SAID SECTION 32 BEARS SOUTH 00 DEGREES 32 MINUTES 04 SECONDS WEST, A DISTANCE OF 996.10 FEET;

THENCE SOUTH 00 DEGREES 32 MINUTES 04 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 1 AND ALSO BEING THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 32, A DISTANCE OF 266.50 FEET;

THENCE SOUTH 57 DEGREES 03 MINUTES 09 SECONDS EAST, A DISTANCE OF 398.42 FEET;

THENCE SOUTH 00 DEGREES 06 MINUTES 00 SECONDS WEST, A DISTANCE OF 204.92 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WEST HILLTOP DRIVE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIX (6) COURSES:

1. NORTH 89 DEGREES 54 MINUTES 00 SECONDS WEST, A DISTANCE OF 114.55 FEET TO A POINT OF CURVATURE;
2. THENCE 39.93 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 30 DEGREES 30 MINUTES 09 SECONDS, AND A RADIUS OF 75.00 FEET;
3. THENCE NORTH 59 DEGREES 23 MINUTES 51 SECONDS WEST, A DISTANCE OF 76.59 FEET TO A POINT OF CURVATURE;
4. THENCE 82.76 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 37 DEGREES 55 MINUTES 55 SECONDS, AND A RADIUS OF 125.00 FEET;
5. THENCE SOUTH 82 DEGREES 40 MINUTES 14 SECONDS WEST, A DISTANCE OF 31.84 FEET TO A POINT OF CURVATURE;
6. THENCE 22.89 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 87 DEGREES 26 MINUTES 01 SECONDS, AND A RADIUS OF 15.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTHPARK CIRCLE;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING FIVE (5) COURSES:

1. NORTH 09 DEGREES 53 MINUTES 45 SECONDS WEST, A DISTANCE OF 90.80 FEET TO A POINT OF CURVATURE;
2. THENCE 294.02 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 17 DEGREES 25 MINUTES 49 SECONDS, AND A RADIUS OF 966.50 FEET;
3. THENCE NORTH 07 DEGREES 32 MINUTES 04 SECONDS EAST, A DISTANCE OF 100.60 FEET TO A POINT OF CURVATURE;
4. THENCE 132.37 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 07 DEGREES 00 MINUTES 00 SECONDS, AND A RADIUS OF 1083.50 FEET;
5. THENCE NORTH 00 DEGREES 32 MINUTES 04 SECONDS EAST, A DISTANCE OF 255.45 FEET;

THENCE SOUTH 89 DEGREES 27 MINUTES 56 SECONDS EAST, A DISTANCE OF 14.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 2, SOUTHPARK SUBDIVISION - FILING NO. 5;

THENCE SOUTH 00 DEGREES 34 MINUTES 04 SECONDS WEST ALONG SAID EASTERLY LINE, A DISTANCE OF 255.45 FEET TO THE POINT OF BEGINNING.

THE BASIS OF BEARINGS IS THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN WHICH BEARS SOUTH 89 DEGREES 53 MINUTES 45 SECONDS WEST AS SHOWN ON THE RECORDED PLAT OF SOUTHPARK SUBDIVISION FILING NO. 5, THE SOUTHWEST CORNER OF SAID SECTION 32 IS A CDOT MONUMENT IN A RANGE BOX, PLS 25384 AND THE SOUTH QUARTER CORNER OF SECTION 32 IS A 3 1/4" ALUMINUM CAP IN A RANGE BOX, PLS 28291.