

Assessor's Parcel Numbers:

1022-29-402-001 1022-29-402-002  
1022-29-402-003 1022-29-411-003  
1022-29-411-008 1022-29-411-017

This instrument prepared by, and  
After recording please return to:

AMRESKO COMMERCIAL FINANCE, INC.  
412 E. Parkcenter Blvd., Suite 300  
Boise, ID 83706  
Attention: Servicing Department

Mail Tax Bills to:

Topaz Lodge, Inc.  
500 Damonte Parkway,  
Suite 980  
Reno, Nevada 89521

Loan No. 6414-27710-SB1

**SUBORDINATION AGREEMENT AND MODIFICATION OF DEED OF TRUST,  
ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT,**

This Subordination Agreement Modification of Deed of Trust, Assignment of Leases and Rents and Security Agreement ("Agreement") is made and entered into the 30th day of January, 2003, by and between RHE Trust created by trust instrument dated May 1, 1990 by its sole trustee, Roger H. Elton (the "Original Grantor"), Topaz Lodge, Inc., a Nevada corporation ("Topaz Lodge"), Topaz Lake Water Co., Inc., a Nevada corporation ("Topaz Lake"), Robert Parker, Inc., a Nevada corporation ("Parker") (Topaz Lodge, Topaz Lake and Parker are collectively referred to herein as "Borrower"), and AMRESKO Commercial Finance, Inc., a Nevada corporation ("ACFI") as servicing agent for Wells Fargo Bank Minnesota, N.A., as Trustee of the ACLC Franchise Loan Receivables Trust 2002-1 ("Beneficiary").

**RECITALS:**

A. ACFI made a loan or loans (collectively, the "Loan") to Borrower which is evidenced by a promissory note (the "Note") dated March 27, 2001 in the original amount of Nine Million Four Hundred Forty Four Thousand Four Hundred Forty Four and 44/100 Dollars (\$9,444,444.44), plus interest and all other costs referenced in the Loan Documents

B. Original Grantor executed a Deed of Trust, Assignment of Leases and Rents and Security Agreement dated March 27, 2001 (the "Deed of Trust") encumbering Original Grantor's fee interest in real property (the "Property"), located at 1979 U.S. Highway 395 S., Gardnerville, Nevada, as more fully described in Schedule "A" attached hereto, evidencing Beneficiary's lien and security interest in the Property and securing the Note and other obligations of Original Grantor under the Deed of Trust.

C. Original Grantor, as landlord and Topaz Lodge, as tenant executed that certain Ground Lease dated March 31, 2001 (the "Ground Lease") covering the Property and memorialized by that certain Memorandum of Ground Lease recorded on March 29, 2001, in Book 0301, Page 7611, as Document No. 511284, Official Records of Douglas County, Nevada.

D. Topaz Lodge executed a Leasehold Deed of Trust, Assignment of Leases and Rents and Security Agreement dated March 27, 2001 (the "Leasehold Deed of Trust") encumbering Topaz Lodge's interest in all of the buildings, improvements, fixtures, personal property and leasehold interest in the Property (the "Leasehold Property"), evidencing Beneficiary's lien and security interest in the Leasehold Property and securing the Note and other obligations of Topaz Lodge under the Leasehold Deed of Trust.

E. The Note, Deed of Trust, Leasehold Deed of Trust, and all other documents executed in connection with the Loan shall be collectively referred to herein as the "Loan Documents". This Agreement is a Loan Document.

F. The Deed of Trust was recorded on March 29, 2001, in Book 0301, Page 7588, as Document No. 511283, Official Records of Douglas County, Nevada. ACFI's beneficial interest in the Deed of Trust was assigned to Wells Fargo Bank Minnesota, N.A., as Trustee for the ACLC Business Loan Receivables Trust 2002-1 by Assignment recorded on July 18, 2001, in Book 0701, Page 4549, Documents 518592, Official Records of Douglas County, Nevada.

G. The Leasehold Deed of Trust was recorded on March 29, 2001, in Book 0301, Page 7617, as Document No. 511285, Official Records of Douglas County, Nevada. ACFI's beneficial interest in the Leasehold Deed of Trust was assigned to Wells Fargo Bank Minnesota, N.A., as Trustee for the ACLC Business Loan Receivables Trust 2002-1 by Assignment recorded on July 18, 2001, in Book 0701, Page 4551, Documents 518593, Official Records of Douglas County, Nevada.

H. The Original Grantor desires to sell (the "Sale") to Topaz Lodge a fee interest, as tenants in common, in the Property pursuant to the terms set forth in Section 46 of the Ground Lease.

I. Original Grantor and Topaz Lodge have entered, or about to enter, into that certain Tenancy-In-Common Agreement ("Tenancy-In-Common"), pursuant to which Original Grantor and Topaz Lodge intend to own, or will own, their respective interest in the Property as a tenant-in-common with the other in the Property, as evidenced by a Memorandum of Tenancy-In-Common Agreement to be recorded in the Official Records of Douglas County, Nevada contemporaneously herewith.

J. It is the intent of the parties to hereby modify the Deed of Trust to (i) reflect the Sale between the Original Grantor and Topaz Lodge, (ii) subordinate the Ground Lease and Leasehold Deed of Trust to the Deed of Trust, as modified.

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties, the parties agree as follows:



**1. Deed of Trust Modification.**

(a) The Deed of Trust is amended to add the following provision:

Topaz Lodge, Inc., a Nevada corporation ("Additional Grantor"), in consideration of the premises and in order to secure the payment of the Obligations and the performance and observance of all the provisions hereof and of the Promissory Note and the other Loan Documents, hereby gives, grants, bargains, sells, warrants, aliens, remises, releases, conveys, assigns, transfers, mortgages, hypothecates, deposits, pledges, sets over and confirms unto Trustee, in trust with power of sale, all its estate, right, title and interest in, to and under all of the Mortgaged Property whether now owned or held or hereafter acquired by Additional Grantor, to have and to hold unto Trustee, its successors and assigns forever, in trust, to secure the payment to Beneficiary of the Obligations and the performance and observance of all the provisions hereof and of other Loan Documents and at maturity of the Promissory Note and payment in full of all obligations owed by Grantor to Beneficiary this Deed shall cease and be void and the Mortgaged Property shall be released at the cost of Grantor.

Unless the context clearly requires otherwise, all references in this Deed of Trust to Grantor shall be deemed to refer collectively to Original Grantor and Additional Grantor.

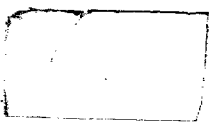
(b) Page 1 of the Deed of Trust is hereby amended that Beneficiary shall be Wells Fargo Bank Minnesota, N.A., as Trustee of the ACLC Business Loan Receivables Trust 2002-1 (together with its successors and assigns) defined as the "Beneficiary" of the Deed of Trust.

**2. Subordination of Ground Lease and Leasehold Deed of Trust.**

(a) Notwithstanding anything to the contrary set forth in the Ground Lease or Leasehold Deed of Trust, the parties acknowledge and agree that the Ground Lease and the Leasehold Deed of Trust are hereby made subordinate to the Deed of Trust and the liens thereof and all advances and rights of Beneficiary thereunder and to any and all renewals, modifications, consolidations, replacements and extensions thereof, as fully and as if the Deed of Trust and all of its renewals, modifications, consolidations, replacements and extensions had been executed, delivered and recorded prior to execution of the Ground Lease and Leasehold Deed of Trust. Without affecting the foregoing subordination, Beneficiary may, from time to time: (i) extend, in whole or in part, by renewal or otherwise, the terms of payment or performance of any obligation secured by the Deed of Trust; (ii) release, surrender, exchange or modify any obligation secured by the Deed of Trust, or any security for such obligation; or (iii) settle or compromise any claim with respect to any obligation secured by the Deed of Trust or against any person who has given security for any such obligation.

(b) Except for the amendments to the Deed of Trust set forth above, all obligations reflected in the Deed of Trust remain unchanged and all terms and conditions are incorporated herein by reference except as amended herein.

*[Signatures begin on the following page.]*



IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

**ORIGINAL GRANTOR:**

Witness:

**RHE Trust created by trust instrument dated May 1, 1990, by its sole trustee, Roger H. Elton, a Nevada Trust**

By: [Signature]  
Name:

By: [Signature]  
Roger H. Elton  
Trustee

**ADDITIONAL GRANTOR:**

Attested:

**Topaz Lodge, Inc.,**  
a Nevada corporation

By: [Signature]  
Name: Robert A. Cashell, Jr.  
Title: Secretary

By: [Signature]  
Robert A. Cashell, Jr.  
President

**BORROWER:**

Attested:

**Topaz Lodge, Inc.,**  
a Nevada corporation

By: [Signature]  
Name: Robert A. Cashell, Jr.  
Title: Secretary

By: [Signature]  
Robert A. Cashell, Jr.  
President

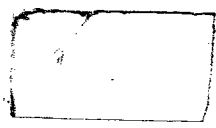
Attested:

**Topaz Lake Water Co, Inc.,**  
a Nevada corporation

By: [Signature]  
Name: Robert A. Cashell, Jr.  
Title: Secretary

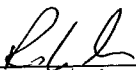
By: [Signature]  
Robert A. Cashell, Jr.  
President

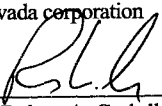
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Attested:

**Robert Parker, Inc.,**  
a Nevada corporation

By:   
Name: *Robert A. Cashell, Jr.*  
Title: *Secretary*

By:   
Robert A. Cashell, Jr.  
President

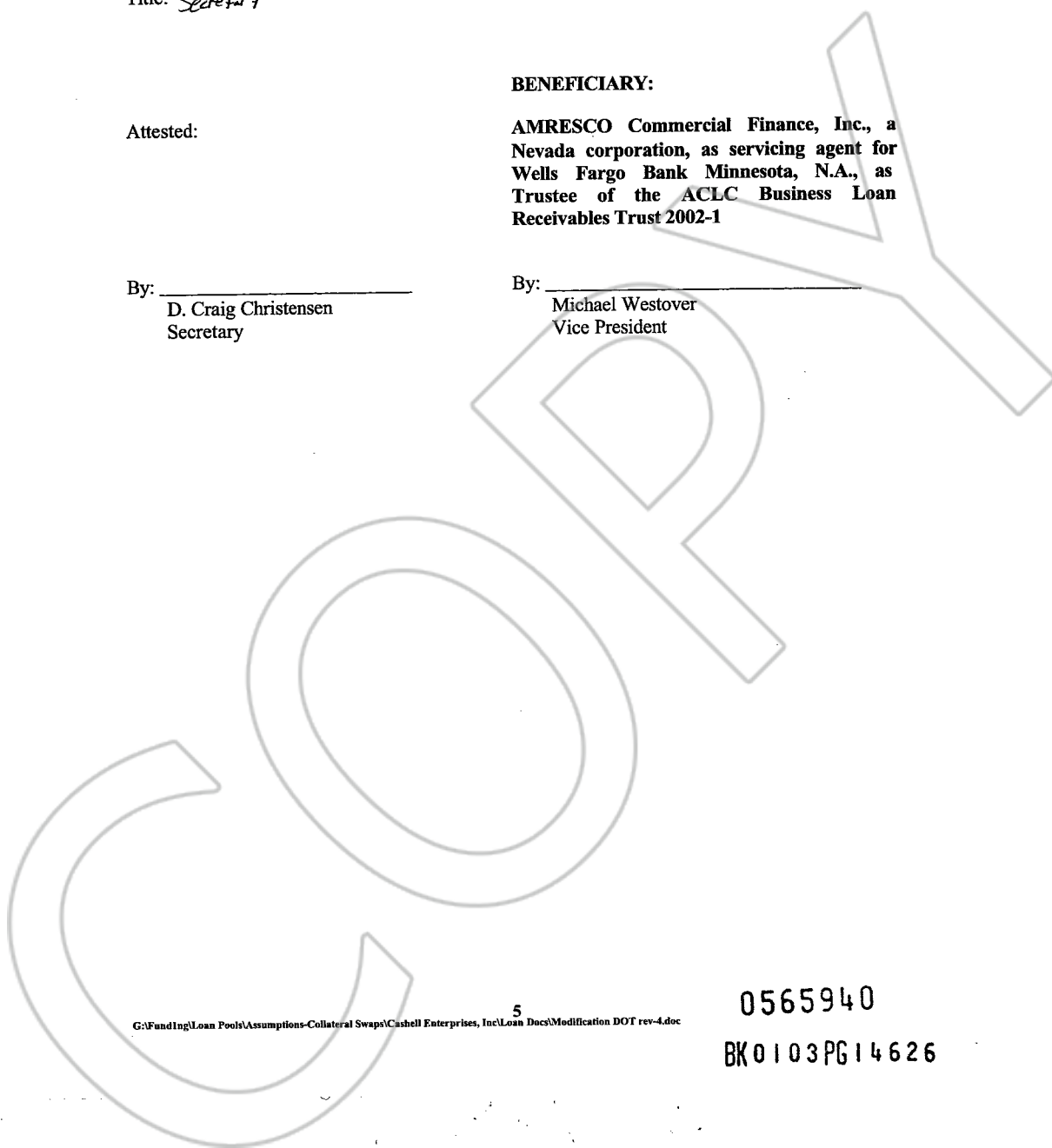
**BENEFICIARY:**

Attested:

**AMRESKO Commercial Finance, Inc.,** a  
Nevada corporation, as servicing agent for  
Wells Fargo Bank Minnesota, N.A., as  
Trustee of the ACLC Business Loan  
Receivables Trust 2002-1

By: \_\_\_\_\_  
D. Craig Christensen  
Secretary

By: \_\_\_\_\_  
Michael Westover  
Vice President



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Attested:

**Robert Parker, Inc.,**  
a Nevada corporation

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Robert A. Cashell, Jr.

President

**BENEFICIARY:**

Attested:

**AMRESKO Commercial Finance, Inc.,** a  
Nevada corporation, as servicing agent for  
Wells Fargo Bank Minnesota, N.A., as  
Trustee of the ACLC Business Loan  
Receivables Trust 2002-1

By: *Matt Moore*

~~D. Craig Christensen~~

~~Secretary~~

Matt Moore, Vice President

By: *Michael Westover*

Michael Westover

Vice President

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TRUST ACKNOWLEDGEMENT

STATE OF NEVADA )  
 )  
COUNTY OF WASHOE ) ss.

On this 31<sup>st</sup> day of JANUARY, 2003, personally appeared before me, a Notary Public, Roger H. Elton, personally known (or proved) to me to be the person whose name is subscribed to the foregoing instrument who acknowledged that he executed the instrument in his capacity and within his authority as Trustee of the RHE Trust dated May 1, 1990.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 8/30/04

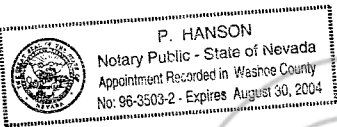


STATE OF NEVADA )  
 )ss.  
COUNTY OF WASHOE )

This instrument was acknowledged before me on JANUARY 31, 2003 by Robert A. Cashell, Jr. as President of **Topaz Lodge, Inc.**

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 8/30/04

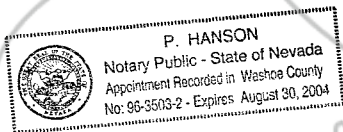


STATE OF NEVADA )  
 )ss.  
COUNTY OF WASHOE )

This instrument was acknowledged before me on JANUARY 31, 2003 by Robert A. Cashell, Jr. as President of **Topaz Lake Water Co., Inc.**

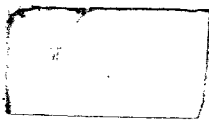
  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 8/30/04



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STATE OF NEVADA )  
 ) ss.  
COUNTY OF WASHOE )

This instrument was acknowledged before me on JANUARY 31, 2003 by Robert A. Cashell, Jr.  
as President of **Robert Parker, Inc.**



NOTARY PUBLIC

My commission expires: 8/30/04



STATE OF IDAHO )  
 ) ss.  
COUNTY OF ADA )

On this \_\_\_\_ day of \_\_\_\_\_, 2003, personally appeared before me, a Notary Public, Michael Westover, personally known to me to be the person whose name is subscribed to the foregoing instrument who acknowledged that he executed the instrument in his capacity and within his authority as Vice President of AMRESKO Commercial Finance, Inc., a Nevada corporation, as servicing agent for Wells Fargo Bank Minnesota, N.A., as Trustee of the ACLC Business Loan Receivables Trust 2002-1, on behalf of said trusts.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_





STATE OF NEVADA )  
 )ss.  
COUNTY OF WASHOE )

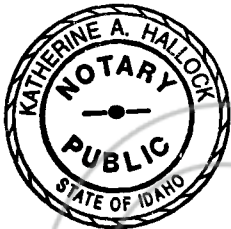
This instrument was acknowledged before me on \_\_\_\_\_ by Robert A. Cashell, Jr.  
as President of Robert Parker, Inc.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

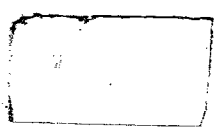
STATE OF IDAHO )  
 ) ss.  
COUNTY OF ADA )

On this 30th day of January, 2003, personally appeared before me, a Notary Public, Michael Westover, personally known to me to be the person whose name is subscribed to the foregoing instrument who acknowledged that he executed the instrument in his capacity and within his authority as Vice President of AMRESKO Commercial Finance, Inc., a Nevada corporation, as servicing agent for Wells Fargo Bank Minnesota, N.A., as Trustee of the ACLC Business Loan Receivables Trust 2002-1, on behalf of said trusts.



Katherine A. Hallock  
NOTARY PUBLIC  
Katherine A. Hallock  
My commission expires: April 9, 2005

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**SCHEDULE A**

**PREMISES**

All that property situate in the County of Douglas, State of Nevada, described as follows:

**PARCEL 1**

Lots 120, 121, 122, 123, 152, 153 and 154, of TOPAZ SUBDIVISION, according to the map thereof, filed in the office of the County Recorder of Douglas County, State of Nevada, on August 10, 1954, as File No. 9774.

TOGETHER WITH that real property lying and being in Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, State of Nevada, and more particularly described as follows:

COMMENCING at a point on the Northwest corner of Lot 123 of the Topaz Subdivision as recorded August 10, 1954, in the Official Records of Douglas County, Nevada; said point being the TRUE POINT OF BEGINNING;

Thence West, a distance of 60.00 feet;

Thence South  $00^{\circ} 04'$  West, a distance of 420.00 feet;

Thence East, a distance of 60.00 feet to the Southwest corner of Lot 120 of aforesaid subdivision;

Thence North  $00^{\circ} 04'$  East, a distance of 420.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH all that certain piece or parcel of land situated in the Southwest Quarter of Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, State of Nevada, and more particularly described as follows:

BEGINNING at the intersection of the West line of Genoa Street and the South line of Topaz Subdivision, as shown on the map thereof, filed in the office of the County Recorder of Douglas County, Nevada, on August 10, 1954;

Thence North  $0^{\circ} 4'$  East along said West line of Genoa Street, a distance of 154.86 feet to the TRUE POINT OF BEGINNING;

Thence continuing North  $0^{\circ} 4'$  East 265.14 feet to the South line of Kit Carson Avenue, as shown on the map of Topaz Subdivision;

Thence West 385.87 feet to a point on the Easterly right of way curve of U.S. Highway 395 as described in the conveyance to the State of Nevada, recorded August 31, 1948, in Book Y of Deeds, Page 474, Douglas County, Nevada, records;

Thence Southeasterly along a curve having a radius of 4,575 feet subtending a central angle of  $3^{\circ} 28' 38''$  an arc distance of 277.71 feet to a point;

Thence leaving said right of way line East, a distance of 303.29 feet to the TRUE POINT OF BEGINNING.

All that certain piece or parcel situate in the Southwest Quarter of Section 29, Township 10 North, Range 22, East, M.D.B. & M., described as follows:

BEGINNING at a 7/8 inch iron bar at the intersection of the West line of Genoa Street and the South line of TOPAZ SUBDIVISION, according to the map thereof, filed in the office of the County Recorder of Douglas County, Nevada, on August 10, 1954, under Document No. 9774, Douglas County, Nevada Records;

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Thence from the POINT OF BEGINNING North 0° 04' East along the West line of Genoa Street a distance of 154.86 feet to a 7/8 inch iron bar;  
Thence West 303.29 feet, to a point in the Easterly right of way line of U.S. Highway 395, as described in the conveyance to the State of Nevada, recorded August 31, 1948, in Book Y of Deeds, Page 473, Douglas County, Nevada Records;  
Thence along said highway right of way line along a curve to the right having a radius of 4575 feet, through an angle of 2° 00' 12", for an arc distance of 160.00 feet, to the intersection thereof, with the North line of the parcel conveyed to the M.K. & D. Company, recorded April 1, 1955, in Book B-1 of Deeds, Page 316, Douglas County, Nevada Records;  
Thence East along the line common to said M.K. & D. Company parcel, a distance of 263.06 feet to the POINT OF BEGINNING.

ALSO TOGETHER WITH all that certain piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

A parcel of land being a portion of the Northwest ¼ of the Southwest ¼ of Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, Nevada and more particularly described as follows:

COMMENCING at the Southwest corner of Lot 152, of TOPAZ SUBDIVISION, according to the map thereof, filed in the office of the County Recorder of Douglas County, State of Nevada, on August 10, 1954;

Thence West a distance of 60 feet to the TRUE POINT OF BEGINNING;  
Thence continuing West, a distance of 406.39 feet more or less, to a point in the curve of the Easterly right of way line of U.S. Highway 395, and  
Thence a Radial bearing South 70° 20' 59" West;  
Thence Northerly along said right of way line through a curve whose central angle is 3° 45' 26" having a radius of 4,574.00 feet, an arc length of 300.00 feet to a point;  
Thence South 89° 57' 00" East, a distance of 516.88 feet to a point in the Westerly line of Genoa Street (60 feet in width);  
Thence South 0° 04' 00" West along said Westerly line, a distance of 288.50 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH all that real property lying and being in the Southwest ¼ of Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, State of Nevada, and more particularly described as follows:

COMMENCING at the Southwest corner of Lot 152 of TOPAZ SUBDIVISION, as recorded August 10, 1954;

Thence West 60.00 feet to the TRUE POINT OF BEGINNING;  
Thence West, a distance of 406.39 feet more or less to a point on the Easterly right of way of U.S. Highway 395;  
Thence in a generally Southerly direction along the Easterly right of way of U.S. Highway 395 to the Northwest corner of that certain parcel of land as defined on Page 4 of Exhibit A as recorded in Book 784, Page 138, of County Records, said point being further defined as lying on the South right of way line of Kit Carson Avenue per aforesaid subdivision;  
Thence East, a distance of 385.87 feet more or less to the Southwest corner of Kit Carson Avenue with Genoa Street per aforesaid subdivision;  
Thence North 00° 04' East, a distance of 60.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH commencing at a point on the Northeast corner of that certain parcel of land as defined in Book 1084, Page 2650, of County records, said point being the TRUE POINT OF BEGINNING;



Thence East, 60.00 feet, to the Easterly right of way line of Genoa Street as shown on the TOPAZ SUBDIVISION (as recorded August 10, 1954)  
Thence South 00° 04' West along the Easterly right of way line of Genoa Street to the Southwest corner of Lot 152 of the aforesaid TOPAZ SUBDIVISION;  
Thence East 200 feet to the Southeast corner of aforesaid Lot 152;  
Thence South 00° 04' West, 60 feet to the Northeast corner of Lot 123 of the aforesaid TOPAZ SUBDIVISION;  
Thence West along the Southerly right of way line of Kit Carson Avenue to the Southwest corner at the intersection of Kit Carson Avenue with Genoa Street;  
Thence North 00° 04' East along the Westerly right of way of Genoa Street to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM a general Public Utility Easement being a strip of land, 10 feet in width, (measured at right angles) lying 5 feet on both sides of the following described centerline being in portions of the former Kit Carson Avenue right of way as shown on the TOPAZ SUBDIVISION, recorded August 10, 1954 and being more particularly described as follows:

**Section 1**

Beginning at the Northeast corner of Lot 123 of said TOPAZ SUBDIVISION;  
Thence North 0° 04' 00" East, 5.00 feet to the TRUE POINT OF BEGINNING;  
Thence 89° 59' 04" West, 524.00 feet to an angle point in said centerline;  
Thence South 55° 14' 05" West, 5 feet to the end thereof.

**Section 2**

Beginning at the angle point in the above described Section 1;  
Thence North 89° 59' 04" West, 22.00 feet to the end thereof.

**PARCEL 2**

A parcel of land on the East side of U.S. Highway 395 in the South ½ of the Southwest ¼ of Section 29, Township 10 North, Range 22 East, M.D.B. & M. in Douglas County, Nevada, more fully described as follows:

BEGINNING at a point which the ¼ corner of the South boundary of said Section 29 lies East 1,070.00 feet and South 225 feet;  
Thence West parallel to the South line of Section 29, 416.84 feet to a point on the East right of way line of Highway 395;  
Thence following the said right of way line Northerly on a curve to the left with a radius of 4,575 feet from a tangent bearing to the left with a radius of 4,575 feet from a tangent bearing North 5° 23' 40" West, a distance of 608.90 feet,  
Thence East 519.13 feet.  
Thence South 600 feet to the POINT OF BEGINNING.

**PARCEL 3**

All that certain property situate in the County of Douglas, State of Nevada, located in the South ½ of the Southwest ¼ of Section 29, Township 10 North, Range 22, East, M.D.B. & M., in Douglas County, Nevada, more particularly described as follows:

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BEGINNING at a point on the South line of said Section 29, from which the South ¼ corner thereof bears East, 1,076.30 feet;  
Thence along the said Section line West 394.00 feet to the Easterly right of way line of U.S. Highway 395;  
Thence Northerly along said right of way line following a curve to the left with a radius of 4,575 feet, through an angle of 2° 49' 35" from a tangent bearing of 2° 56' 44" length of 225.69 feet;  
Thence East 411.24 feet;  
Thence South 225.00 feet to the TRUE POINT OF BEGINNING

**PARCEL 4**

All that real property situate in the County of Douglas, State of Nevada, described as follows:

Lots 18, 24 and 38, as shown on the Amended Map of TOPAZ LODGE SUBDIVISION, FIRST AND SECOND SECTIONS, filed in the office of the County Recorder of Douglas County, State of Nevada, on September 16, 1958, in Book 3 of Maps, Page 3, as File No. 13594

NOTE (NRS 111.312): The above metes and bounds description appeared previously in that certain MEMORANDUM OF Ground Lease, recorded in the office of the County Recorder of Douglas County, Nevada on March 29, 2001, in Book 301, Page 7611, as Document No. 511284, of Official Records.

1979 U.S. Highway 395 S.  
Gardnerville, Nevada

Unit: Topaz Lodge

REQUESTED BY  
**WESTERN TITLE COMPANY, INC.**  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2003 JAN 31 PM 4: 08

WERNER CHRISTEN  
RECORDER

\$26 PAID *Kg* DEPUTY

G:\FundIng\Loan Pools\Assumptions-Collateral Swaps\Cashell Enterprises, Inc\Loan Docs\Modification DOT rev-4.doc

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