

Assessor Parcel No(s):
1420-29-701-001

030102641

RECORDATION

REQUESTED BY:
COLONIAL BANK,
N.A.
Commercial Real
Estate - Reno
2330 South Virginia
Street
Reno, NV 89502

WHEN RECORDED MAIL

TO:
COLONIAL BANK,
N.A.
Commercial Real
Estate - Reno
2330 South Virginia
Street
Reno, NV 89502

SEND TAX NOTICES TO:

H & S
CONSTRUCTION,
INC.
P.O. Box 2077
Minden, NV 89423

FOR RECORDER'S USE ONLY

REQUESTED BY
Stewart Title of Douglas County
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

2003 NOV 20 PM 3:44

WERNER CHRISTEN
RECORDER

PAID DEPUTY

HAZARDOUS SUBSTANCES CERTIFICATE AND INDEMNITY AGREEMENT

THIS HAZARDOUS SUBSTANCES AGREEMENT dated October 16, 2003, is made and executed among and COLONIAL BANK, N.A., Commercial Real Estate - Reno, 2330 South Virginia Street, Reno, NV 89502 (referred to below as "Lender"). For good and valuable consideration and to induce Lender to make a Loan to Borrower, each party executing this Agreement hereby represents and agrees with Lender as follows:

PROPERTY DESCRIPTION. The word "Property" as used in this Agreement means the following Real Property located in Douglas County, State of Nevada:

See Exhibit "A" attached hereto and made a part thereof

The Real Property or its address is commonly known as 17 lots at Saratoga Springs Estates Unit 7, Minden, NV 89423. The Real Property tax identification number is 1420-29-701-001

REPRESENTATIONS. The following representations are made to Lender, subject to disclosures made and accepted by Lender in writing:

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**HAZARDOUS SUBSTANCES AGREEMENT
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No Notices. Indemnitor has received no summons, citation, directive, letter or other communication, written or oral, from any agency or department of any county or state or the U.S. Government concerning any intentional or unintentional action or omission on, under, or about the Property which has resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances into any waters or onto any lands or where damage may have resulted to the lands, waters, fish, shellfish, wildlife, biota, air or other natural resources.

AFFIRMATIVE COVENANTS. Subject to disclosures made and accepted by Lender in writing, Indemnitor covenants with Lender as follows:

Notices. Indemnitor shall immediately notify Lender upon becoming aware of any of the following:

- (1) Any spill, release or disposal of a Hazardous Substance on any of the Property, or in connection with any of its operations if such spill, release or disposal must be reported to any governmental authority under applicable Environmental Laws.
- (2) Any contamination, or imminent threat of contamination, of the Property by Hazardous Substances, or any violation of Environmental Laws in connection with the Property or the operations conducted on the Property.
- (3) Any order, notice of violation, fine or penalty or other similar action by any governmental authority relating to Hazardous Substances or Environmental Laws and the Property or the operations conducted on the Property.
- (4) Any judicial or administrative investigation or proceeding relating to Hazardous Substances or Environmental Laws and to the Property or the operations conducted on the Property.
- (5) Any matters relating to Hazardous Substances or Environmental Laws that would give a reasonably prudent Lender cause to be concerned that the value of Lender's security interest in the Property may be reduced or threatened or that may impair, or threaten to impair, Indemnitor's ability to perform any of its obligations under this Agreement when such performance is due.

Access to Records. Indemnitor shall deliver to Lender, at Lender's request, copies of any and all documents in Indemnitor's possession or to which it has access relating to Hazardous Substances or Environmental Laws and the Property and the operations conducted on the Property, including without limitation results of laboratory analyses, site assessments or studies, environmental audit reports and other consultants' studies and reports.

PAYMENT: FULL RECOURSE TO INDEMNITOR. Indemnitor intends that Lender shall have full recourse to Indemnitor for Indemnitor's obligations under this Agreement as they become due to Lender. Such liabilities, losses, claims, damages and expenses shall be reimbursable to Lender as Lender's obligations to make payments with respect thereto are incurred, without any requirement of waiting for the ultimate outcome of any litigation, claim or other proceeding, and Indemnitor shall pay such liability, losses, claims, damages and expenses to Lender as so incurred within thirty (30) days after written notice from Lender. Lender's notice shall contain a brief itemization of the amounts incurred to the date of such notice.

SURVIVAL. The covenants contained in this Agreement shall survive (A) the repayment of the

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Indebtedness, (B) any foreclosure, whether judicial or nonjudicial, of the Property, and (C) any delivery of a deed in lieu of foreclosure to Lender or any successor of Lender. The covenants contained in this Agreement shall be for the benefit of Lender and any successor to Lender, as holder of any security interest in the Property or the indebtedness secured thereby, or as owner of the Property following foreclosure or the delivery of a deed in lieu of foreclosure.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Agreement, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Indemnitor also will pay any court costs, in addition to all other sums provided by law. Fees and expenses shall include attorneys' fees that Lender, Trustee, or both incur, if either or both are made parties to any action to enjoin foreclosure or to any legal proceeding that Indemnitor institutes. The fees and expenses are secured by this Agreement and are recoverable from the Collateral.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Governing Law. This Agreement will be governed by, construed and enforced in accordance with federal law and the laws of the State of Nevada. This Agreement has been accepted by Lender in the State of Nevada.

Choice of Venue. If there is a lawsuit, Indemnitor agrees upon Lender's request to submit to the jurisdiction of the courts of Washoe County, State of Nevada. (Initial Here *PH*)

Joint and Several Liability. All obligations of Indemnitor under this Agreement shall be joint and several, and all references to Indemnitor shall mean each and every Indemnitor. This means that each Indemnitor signing below is responsible for all obligations in this Agreement.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a

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waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Indemnitor, shall constitute a waiver of any of Lender's rights or of any of Indemnitor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender. Indemnitor hereby waives notice of acceptance of this Agreement by Lender.

Notices. Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Indemnitor agrees to keep Lender informed at all times of Indemnitor's current address. Unless otherwise provided or required by law, if there is more than one Indemnitor, any notice given by Lender to any Indemnitor is deemed to be notice given to all Indemnitors.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Successors and Assigns. Subject to any limitations stated in this Agreement on transfer of Indemnitor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Collateral becomes vested in a person other than indemnitor, Lender, without notice to Indemnitor, may deal with Indemnitor's successors with reference to this Agreement and the Indebtedness by way of forbearance or extension without releasing Indemnitor from the obligations of this Agreement or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

Waive Jury. All parties to this Agreement hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

(Initial Here *WJ* *AK* *S*)

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

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Agreement. The word "Agreement" means this Hazardous Substances Agreement, as this Hazardous Substances Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Hazardous Substances Agreement from time to time.

Collateral. The word "Collateral" means all of Indemnitor's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Indebtedness. The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Indemnitor's obligations or expenses incurred by Lender to enforce Indemnitor's obligations under this Agreement, together with interest on such amounts as provided in this Agreement.

Lender. The word "Lender" means COLONIAL BANK, N.A., its successors and assigns.

Property. The word "Property" means all of Indemnitor's right, title and interest in and to all the Property as described in the "Collateral Description" section of this Agreement.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Agreement.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND EACH AGREES TO ITS TERMS. NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS AGREEMENT EFFECTIVE. THIS AGREEMENT IS DATED OCTOBER 16, 2003.

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BORROWER:

x [Signature]
Borrower Randall S. Harris

x [Signature]
Borrower Martin L. Stahl

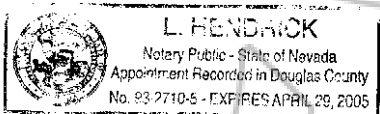
LENDER:

x [Signature]
Authorized Signer
Laura E. McKinney

CORPORATE ACKNOWLEDGMENT

STATE OF Nevada)
) SS
COUNTY OF Douglas)

This instrument was acknowledged before me on 10-16-03 by Randall S. Harris and Martin L. Stahl as designated agent(s) of HHS Construction



(Seal, if any)

[Signature]
(Signature of notarial officer)
Notary Public in and for State of Nevada

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CORPORATE ACKNOWLEDGMENT

STATE OF ^R Florida

COUNTY OF ^R Washington

)

) SS

)

This instrument was acknowledged before me on ^R November 13, 2003 by _____
as designated agent(s) of _____.

(Signature of notarial officer)

Notary Public in and for State of _____

(Seal, if any)

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LENDER ACKNOWLEDGMENT

STATE OF Nevada

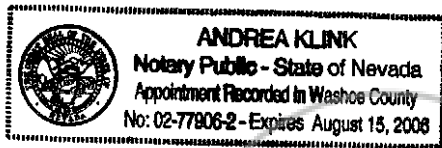
)

) SS

COUNTY OF Washoe

)

This instrument was acknowledged before me on November 13, 2003 by Laura E. McKinney as designated agent of Colonial Bank, N.A.



(Seal, if any)

Andrea Klink

(Signature of notarial officer)

Notary Public in and for State of Nevada

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EXHIBIT "A"
LEGAL DESCRIPTION

Order No.: 030702641

The land referred to herein is situated in the State of Nevada,
County of Douglas, described as follows:

PARCEL 1:

Lots 240 through 243, inclusive, in Block C; Lots 250 through 252, inclusive, in Block D; and Lots 259 through 266, inclusive, in Block B, as shown on the Final Map #PD99-02-07 of SARATOGA SPRINGS ESTATES UNIT 7, A PLANNED DEVELOPMENT, filed August 19, 2003 in Book 0803, Page 10079, Document No. 587125, Official Records of Douglas County, Nevada.

APN's 1420-28-215-007, 1420-28-114-008, 1420-28-114-007, 1420-28-114-006, 1420-28-215-016, 1420-28-215-015, 1420-28-215-014, 1420-28-215-024, 1420-28-215-023, 1420-28-215-022, 1420-28-215-021, 1420-28-215-020, 1420-28-215-019, 1420-28-215-018, 1420-28-215-017

PARCEL 2:

Lot 239, in Block C, and Lot 258, in Block B, as shown on the Final Map #PD99-02-07 of SARATOGA SPRINGS ESTATES UNIT 7, A PLANNED DEVELOPMENT, filed August 19, 2003 in Book 0803, Page 10079, Document No. 587125, Official Records of Douglas County, Nevada.

APN's 1420-28-215-008 AND 1420-28-215-025

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