

A.P.N. # 1220-30-002-011

RECORDING REQUESTED BY:  
STEWART TITLE COMPANY

1663 US Highway 395 N, Suite 101  
Minden, Nevada 89423

*046102930*

DOC # 0633845  
01/06/2005 10:40 AM Deputy: KLJ  
**OFFICIAL RECORD**  
Requested By:  
STEWART TITLE

Douglas County - NV  
Werner Christen - Recorder  
Page: 1 Of 8 Fee: 21.00  
BK-0105 PG- 1893 RPTT: 0.00



(space above for recorder's use only)

CONSTRUCTION LOAN AGREEMENT

**(Title of Document)**

\*\*THIS DOCUMENT WAS EXECUTED IN COUNTERPART AND  
IS TO BE DEEMED ONE DOCUMENT

This page added to provide additional information required by NRS 111.312 Sections 1-2.  
(Additional recording fee applies)

## CONSTRUCTION LOAN AGREEMENT

The parties agree as follows: DUBIN INVESTMENTS, LLC, located at 30431 Villa Toscana, CA. 92003, herein referred to as "Lender", and John J. McCarthy, Sr. and Debra A. McCarthy. As Trustees of the MCCARTHY FAMILY TRUST, DTD June 13, 1989 residing now at 14771 Cherry Circle, Chino Hills, Ca. 91709 \* \* \* \*, \* \*, herein referred to as "Borrower". (If there is more than one Borrower, the term "Borrower" includes them.)

1. Loan. Lender agrees to lend to Borrower NINE HUNDRED THOUSAND \* \* \* \* \* AND 00/100 DOLLARS (\$ 900,000.00\*). The purpose of the loan is to pay for construction of a single-family residence on property described in Exhibit "A" which is attached to this Contract and incorporated herein by reference. Borrower agrees to pay interest on money advanced in accordance with the provisions of a Promissory Note, secured by a Deed of Trust, referred to below.

2. Improvements, Plans and Specifications. The Plans and Specifications shall be approved by Lender. No changes shall be made thereafter without Lender's consent.

3. Advances. Lender shall place monies in trust with Stewart Title, with the monies being held subject to the draw schedule as approved by Asher Abravanel (Construction Control Manager). Stewart Title shall advance monies to Borrower in accordance with Schedule B attached hereto, in the Construction Control Manager's discretion.

4. How Work is to be Done. Borrower agrees to construct and complete the improvements according to the Plans and Specifications. Work is to begin promptly after the date of this contract. Borrower shall carry on the work with reasonable diligence.

5. Preliminary Title Report. Borrower has provided to Lender a Preliminary Title Report and has provided authority to review the same. Borrower represents that the Preliminary Title Report is current and no other liens or encumbrances affect title except as otherwise stated in the Preliminary Title Report.

6. Note and Deed of Trust. On this date, Borrower has signed a Promissory Note for the loan. The payment of the Note is secured by a Deed of Trust on the property signed by Borrower on this date. The Deed of Trust is to be recorded on the date this Contract is signed. This Contract is subject to the terms of the Promissory Note and Deed of Trust.

7. Approval of Work. No installment shall be due unless: (a) all work usually done at that stage of construction is done in a good and workmanlike manner; and (b) all materials and fixtures usually installed and furnished by that stage of construction are installed and furnished. Lender or the Construction Control Manager shall inspect the work prior to the making of any installment. Work is to be done to Lender's satisfaction. No installment is to be paid unless construction is first approved by an engineer, architect or other party designated by, or satisfactory to, Lender.



8. Certificate of No Encumbrances. No installment is due and payable while there is any lien or other encumbrance on the Property (except, the Deed of Trust securing this Contract). Before any installment becomes due and payable, Borrower shall deliver to Lender a report, furnished by an abstract corporation or title company acceptable to the Lender, stating that no liens, orders or assignments of contract have been filed against the Property after the recording of the Deed of Trust. This can be done by a verbal report if the Lender or its Attorney so agrees in writing.

9. Lender's Right to Complete Work; Make Payments. If the construction work stops or does not proceed at a reasonable speed, Lender may employ workmen and purchase materials to complete or protect the work. If mechanics liens or orders or assignments of contract are filed against the property, Lender may pay and satisfy them. If any taxes, assessments, sewer rents or water rates charged against the property are not paid when due, Lender may pay them. Payments made by Lender under this paragraph are secured by the Note and Deed of Trust as if they were installments paid to Borrower.

10. Indemnification. Borrower agrees to pay for and indemnify Lender for all claims or liens for materials, labor or services furnished to make the improvements on the Property. Borrower shall pay for and defend against any action or proceeding brought against Lender on these liens or claims, using an attorney of Lender's choice.

11. Defaults; Remedies. The following are events resulting in an immediate default:

- (a) Assignment of this Contract or any installment by Borrower without prior written consent of Lender.
- (b) Death of Borrower before receipt of the last installment.
- (c) The improvements on the Property are, in the judgment of Lender, materially injured or destroyed by fire or other casualty.
- (d) A petition in bankruptcy is filed by or against Borrower; a receiver or trustee of the Property is appointed; Borrower files a petition for reorganization under any of the provisions of the Bankruptcy Act or of any other law; Borrower makes an assignment for the benefit of creditors; or Borrower is judged insolvent by any state or federal court.
- (e) Borrower does not make the improvements in accordance with the Plans and Specifications.
- (f) The Plans and Specifications are not approved by the government departments having authority to approve them.
- (g) In the sole judgment of Lender, the work either stops or does not proceed at a reasonable speed.
- (h) Borrower gives a security interest in any materials, fixtures or articles used in the construction or placed in the improvements.



- (i) Borrower fails to produce, on Lender's demand, documents proving Borrower's unconditional ownership of the materials, fixtures or articles used in the construction or placed in the improvements.
- (j) Borrower fails to make any payment of principal and/or interest due on any deed of trust on the property.
- (k) At the time any installment is due, the title to the Property is not satisfactory to the Lender and/or its attorney.
- (l) Borrower fails to keep any other condition in this Contract, or in the Note or Deed of Trust.

12. In the event of a Default:

- (a) Lender's obligation to pay further installments ceases.
- (b) At Lender's option, the Note and Deed of Trust shall become immediately due and payable.
- (c) Lender may continue to pay installments without giving up any of Lender's rights or waiving them.

13. Advances of Loan Funds. Borrower will receive the advances secured by the Deed of Trust. The advances will be applied first to pay the cost of the improvements. Borrower agrees to apply the advances first to pay the cost of the improvements before using any part of the advances for any other purpose.

14. Oral Changes. This Contract cannot be changed or ended orally.

15. Successors. This Contract shall apply to and bind Lender's and Borrower's distributees, executors, administrators, successors and assigns.

SIGNED, this 23<sup>rd</sup> day of December, 2004

LENDER:

DUBIN INVESTMENTS, LLC

By: \_\_\_\_\_  
DONALD DUBIN, MANAGER

BORROWER:

THE MCCARTHY FAMILY TRUST  
JUNE 13, 1989.

John J. McCarthy Trustee  
JOHN J. MCCARTHY, TRUSTEE

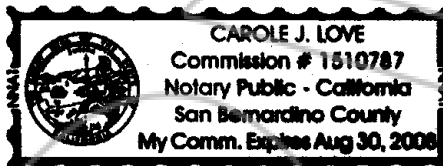
Debra A. McCarthy  
DEBRA A. MC CARTHY, TRUSTEE  
trustee

STATE OF California )  
COUNTY OF San Bernardino : ss.

On this 23<sup>rd</sup> day of December, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared John + Debra McCartney, personally known or proved to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Carole J. Love  
Notary Public

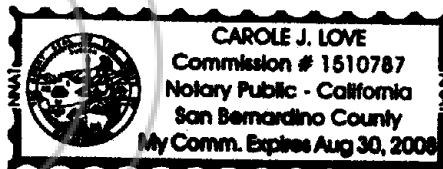


STATE OF California )  
COUNTY OF San Bernardino : ss.

The above-instrument was subscribed before me this 23<sup>rd</sup> day of December, 2004 by John McCartney

WITNESS my hand and official seal.

Carole J. Love  
Notary Public

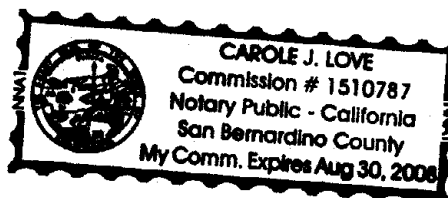


STATE OF California )  
COUNTY OF San Bernardino : ss.

The above-instrument was subscribed before me this 23<sup>rd</sup> day of December, 2004 by Debra McCartney

WITNESS my hand and official seal.

Carole J. Love  
Notary Public



- (i) Borrower fails to produce, on Lender's demand, documents proving Borrower's unconditional ownership of the materials, fixtures or articles used in the construction or placed in the improvements.
- (j) Borrower fails to make any payment of principal and/or interest due on any deed of trust on the property.
- (k) At the time any installment is due, the title to the Property is not satisfactory to the Lender and/or its attorney.
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15. Successors. This Contract shall apply to and bind Lender's and Borrower's distributees, executors, administrators, successors and assigns.

SIGNED, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

LENDER:

DUBIN INVESTMENTS, LLC

By:   
DONALD DUBIN, MANAGER

BORROWER:

THE MCCARTHY FAMILY TRUST  
JUNE 13, 1989.

\_\_\_\_\_  
JOHN J. MCCARTHY, TRUSTEE

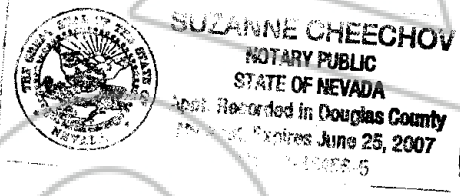
\_\_\_\_\_  
DEBRA A. MC CARTHY, TRUSTEE

STATE OF NV )  
COUNTY OF Douglas ) : ss.

On this 3rd day of Jan, 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared DON DUBIN, personally known or proved to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Suzanne Cheechov  
Notary Public



STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) : ss.

The above-instrument was subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_ by \_\_\_\_\_.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) : ss.

The above-instrument was subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_ by \_\_\_\_\_.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

**LEGAL DESCRIPTION**

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

Parcel B-2, as set forth on that Parcel Map LDA 98-002 for  
David L. and Lisa Graham, recorded September 23, 1999, in Book  
999, at Page 4509, as Document No. 477266, Official Records of  
Douglas County, Nevada.

Assessor's Parcel No. 1220-30-002-011

