

APN PTN 132029-000-010
Recording Requested by
HOUSING CAPITAL COMPANY,
a Minnesota partnership

And when recorded return to:
HOUSING CAPITAL COMPANY
1825 South Grant Street, Suite 630
San Mateo, CA 94402
Attention: Loan Administration Manager
Loan No. 1381-08-10

1012848 CC

DOC # 733553
11/25/2008 12:41PM Deputy: DW
OFFICIAL RECORD
Requested By:
STEWART TITLE - CARSON
Douglas County - NV
Karen Ellison - Recorder
Page: 1 of 6 Fee: 44.00
BK-1108 PG-4605 RPTT: 0.00



MEMORANDUM OF THIRD MODIFICATION AGREEMENT (Cross-Default / Cross-Collateralization)

THIS MEMORANDUM OF THIRD MODIFICATION AGREEMENT is dated as of October 30, 2008 ("Modification Agreement"), by and between HOUSING CAPITAL COMPANY, a Minnesota partnership ("Beneficiary") and MONTERRA 270, LLC, a Nevada limited liability company ("Trustor").

RECITALS

- A. Trustor has executed and delivered to Beneficiary that certain promissory note dated August 12, 2005 in the principal amount of Thirteen Million Seven Hundred Fifty-Seven Thousand Two Hundred Fifty Dollars (\$13,757,250) (the "Loan") payable to the order of Beneficiary (the "Note");
- B. The Note evidences the Loan made by Beneficiary to Trustor and is secured by, among other things, that certain Deed of Trust, as modified and amended from time to time (the "Deed of Trust"), as executed by Trustor in favor of Beneficiary, dated as of August 12, 2005 and recorded on September 7, 2005, as Instrument No. 0654491, in the Official Records of Douglas County, Nevada encumbering certain real property more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and
- C. The Note and Deed of Trust and any and all other documents executed in connection with the Loan, as previously amended, are hereinafter collectively referred to as the "Loan Documents".
- D. Trustor and Beneficiary are entering into that certain Third Modification Agreement dated of even date herewith to amend and modify certain provisions of the Loan Documents and the Deed of Trust.

NOW THEREFORE, in consideration of the covenants and agreements contained herein and other valuable consideration, the receipt of which is hereby acknowledged:

1. The terms and provisions of the Third Modification Agreement are incorporated herein by reference as though set forth herein in full.

2. **The Deed of Trust is hereby amended and modified as follows:**

- a. The definition of "Secured Obligations" provided in the Deed of Trust is hereby amended to include the payment and performance of all obligations secured by:
- (i) that certain deed of trust, as modified and amended from time to time, dated August 5, 2004 and recorded August 31, 2004 as Instrument No. 0623085, Book 0804, Page 13697 in the office of the County Recorder of Douglas County, Nevada, which deed of trust was executed in connection with a loan made by Beneficiary to Borrower evidenced by a building loan agreement dated August 5, 2004, a promissory note dated August 5, 2004, and additional advance note dated June 21, 2007, a second additional advance note dated October 30, 2008 in the current aggregate principal amount of Three Million Eight Hundred Seventy Thousand Dollars (\$3,870,000) payable to the order of Beneficiary (Loan No. **1341**); (ii) that certain deed of trust, as modified and amended from time to time, dated August 5, 2004, and recorded August 31, 2004 as Instrument No. 0623086, Book 0804, Page 13728 in the office of the County Recorder of Douglas County, Nevada, which deed of trust was executed in connection with a loan made by Beneficiary to Borrower evidenced by a building loan agreement dated August 5, 2004 and a promissory note dated August 5, 2004 in the current aggregate principal amount of Three Million Two Hundred Seventy-Six Thousand Dollars (\$3,276,000) payable to the order of Beneficiary ("**Loan 1341L**"); (iii) that certain deed of trust, as modified and amended from time to time, dated October 18, 2005, which recorded on November 7, 2005 as Instrument No. 0660145, Book 1105, Page 3485 and re-recorded on July 9, 2007 as Instrument No. 0704660, Book 0707, Page 2140 in the office of the County Recorder of Douglas County, Nevada which deed of trust was executed in connection with a loan made by Beneficiary to Borrower evidenced by a revolving loan agreement dated October 18, 2005 and a revolving promissory note dated October 18, 2005, as modified by the second modification dated June 21, 2007, the third modification dated December 19, 2007 and the fourth modification dated June 6, 2008 in the current aggregate principal amount of Five Million Dollars (\$5,000,000.00) payable to the order of Beneficiary ("**Loan 1341R**"); (iv) that certain deed of trust as modified and amended from time to time, dated July 14, 2006 and recorded August 9, 2006 as Instrument No. 3424057 in the office of the County Recorder of Washoe County, Nevada which deed of trust was executed in connection with a loan by Beneficiary to McCauley Ranch Estates, LLC a Nevada limited liability company ("McCauley Ranch") and McCauley Inc., a Nevada corporation ("McCauley Inc") and pursuant to the terms of that certain loan assumption and second modification agreement dated January 8, 2007, McCauley Ranch assumed the loan as evidenced by the building loan agreement dated July 14, 2006 and a promissory note dated July 14, 2006 in the current aggregate principal amount of Eighteen Million Two Hundred Forty Thousand Dollars (\$18,240,000) payable to the order of Beneficiary ("**Loan 1470**"); and (v) that certain deed of trust, as modified and amended from time to time, dated May 17, 2007 and recorded June 1, 2007 as Instrument No. 0702257 in the office of the County Recorder of Douglas County, Nevada, which deed of trust was executed in connection with a loan by Beneficiary to Monterra 270, a Nevada limited liability company ("Monterra 270") evidenced by a revolving loan agreement dated May 17, 2007, and a revolving promissory note dated May 17, 2007 in



the current aggregate principal amount of Five Million Dollars (\$5,000,000.00) payable to the order of Beneficiary ("Loan 1381R").

- b. The Deed of Trust, as so modified, continues to be effective as, and to constitute, a first and prior lien and charge on the Property, leases, rents and other property described therein to the full extent of all obligations secured or to be discharged thereby.

3. **The Loan Documents are hereby modified as follows:**

- a. The Loan Documents, as so modified, continue to be effective as, and to constitute, a first and prior lien and charge on the Property, leases, rents and other property described therein to the full extent of all obligations secured or to be discharged thereby.

4. **WAIVER OF MARSHALLING RIGHTS.** Trustor waives all rights to have all or part of the property covered by the Deed of Trust and/or by the other deed of trust listed in Section 2(a)(i)-(v) above (the "Other Deeds of Trust") (described in each of said deeds of trust, respectively, as the "Subject Property"), marshalled upon any foreclosure of the Deed of Trust or any Other Deeds of Trust. Beneficiary shall have the right to sell, and any court in which foreclosure proceedings may be brought shall have the right to order a sale of Subject Property, or any part thereof, as a whole or in separate parcels, in any order that Beneficiary may designate. Trustor makes this waiver for itself, and for all persons and entities claiming through or under Trustor, and for persons and entities who may acquire a lien on all or any part of the Subject Property or on any interest therein.

5. **WARRANTIES AND REPRESENTATIONS.** Trustor represents and warrants that the lien of the Deed of Trust is a first lien on the property described therein and covered thereby and that this Modification Agreement will not cause intervening liens to become prior to the lien of the Deed of Trust. If any intervening lien exists or hereafter arises, Trustor shall cause the same to be released or subordinated to the lien of the Deed of Trust, without limiting any other right or remedy available to Beneficiary. Trustor further warrants that Trustor has no legal or equitable claim against any trustor named in the Other Deeds of Trust which would entitle Trustor to a judgment entitling Trustor to an equitable lien on all or any portion of that property prior in lien to the Other Deeds of Trust.

6. **NON-IMPAIRMENT.** Except as amended by this Agreement, all of the terms, covenants, and conditions contained in the Deed of Trust and any Loan Documents executed in connection therewith shall remain unmodified and in full force and effect.

7. **EXECUTION IN COUNTERPART.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered will be deemed to be an original and all of which, taken together, will be deemed to be one and the same instrument.



Dated: October 30, 2008

“Beneficiary”

HOUSING CAPITAL COMPANY,
a Minnesota partnership

By: DFP Financial, Inc., a California corporation,
its Managing General Partner

By: *y. Armas*
L. Armas
Its: *Vice President*

“Trustor”

MONTERRA 270, LLC,
a Nevada limited liability company

By: SYNCON HOMES,
a Nevada corporation
Manager

By: *Andrew W. Mitchell CFO*
Andrew W. Mitchell, Chief Financial Officer

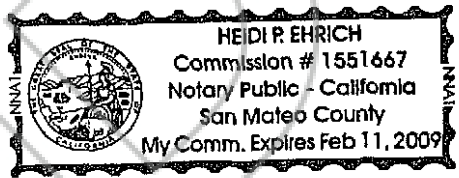


STATE OF CALIFORNIA)
)
COUNTY OF SAN MATEO) ss.

On 11/13, 2008, before me, Heidi P. Ehrich, a Notary Public, personally appeared V. Armas, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
Signature [Handwritten Signature]



STATE OF Nevada)
)
COUNTY OF Douglas) ss.

On November 12, 2008, before me, Judith A. Lyons, a Notary Public, personally appeared Andrew W. Mitchell, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
Signature Judith A. Lyons

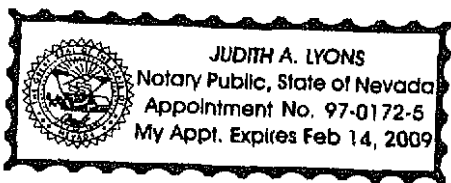


EXHIBIT A
(Description of Property)

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

Lots 1 through 21, Block A; Lots 22 through 37, Block B; Lots 38 through 51, Block C; Lots 52 through 63, Block D, Lots 64 through 75, Block E; Lots 76 through 87, Block F; Lots 88 through 93 and 95 through 101, Block G; Lots 102 through 105, Block H; Lot 106, Block I; Lots 107 through 112, Block J; and Lots 113 through 118, Block K, as set forth on Final Subdivision Map, Planned Unit Development, PD 02-05 of Monterra Phase 1, filed for record in the office of the County Recorder of Douglas County, State of Nevada, on August 24, 2005, in Book 0805, Page 11150, Document No. 653145.

A portion of 1320-29-000-010

