

DOC # 824625
05/31/2013 02:10PM Deputy: AR
OFFICIAL RECORD
Requested By:
Northern Nevada Title CC
Douglas County - NV
Karen Ellison - Recorder
Page: 1 of 10 Fee: \$23.00
BK-513 PG-8444 RPTT: 0.00



APN: 1220-03-310-029

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Bank of America, N.A.
Doc Retention - GCF
CT2-515-BB-03
70 Batterson Park Road
Farmington, CT 06032

Space above for Recorder's Use

Title of Document: SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

Please complete Affirmation Statement below:

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain the personal information (as defined in NRS 603A.040) of any person or persons. (Per NRS 239B.030)

Bank of America, N.A.

Signature

Date

Typed Name

Title

This page added to provide additional information required by NRS 111.312 Sections 1-2 and NRS 239B.030 Section 4.



**SUBORDINATION, NONDISTURBANCE AND
ATTORNMEN T AGREEMENT**

This Subordination, Nondisturbance and Attornment Agreement ("Agreement") is entered into as of May 14, 2013, by Bank of America, N.A. ("Bank"), Tybee, LLC ("Landlord") and **All-American Title & Auto** ("Tenant"). Tire

RECITALS

A. Landlord and Tenant have entered into a lease agreement dated as of November 1, 2004 ("Lease"), covering certain premises located at 1415 Industrial Way, Gardnerville, NV 89701 ("Property"). The Property is more particularly described in Exhibit A attached hereto and incorporated herein.

B. Bank is the beneficiary of Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing ("Deed of Trust"), dated as of May 14, 2013, which Deed of Trust will be recorded concurrently herewith in the Official Records of Nevada County, Nevada, encumbering the Property. The Deed of Trust secures certain obligations to Bank as more particularly described therein.

C. On the terms and conditions in this Agreement, the parties desire to subordinate Tenant's leasehold interest in the Property to the lien of the Deed of Trust and to assure Tenant possession of the Property for the entire term of the Lease, even though Bank may foreclose the lien of the Deed of Trust before expiration of the Lease.

Therefore, in consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

Section 1. Subordination.

The Lease, the leasehold estate created thereby, and all rights and privileges of Tenant thereunder shall be subject and subordinate to the lien of the Deed of Trust and to any renewals, modifications, consolidations, replacements and extensions of the Deed of Trust to the full extent of the obligations now or hereafter secured by the Deed of Trust.

Section 2. Nondisturbance.

So long as Tenant is not in default, beyond any period given to Tenant to cure a default, in the payment of rent or in the performance of any of the terms, covenants, or conditions of the Lease, Tenant's possession of the Property and Tenant's rights and privileges under the Lease, including any extensions or renewals, shall not be diminished or interfered with by Bank during the term of the Lease or any extensions or renewals. So long as Tenant is not in default, beyond any period given Tenant to cure such default, in the payment of rent or in the performance of any of the terms, covenants, or conditions of the Lease, Bank will not join Tenant as a party for the purpose of terminating or otherwise affecting Tenant's interest under the Lease, in any action of foreclosure or other proceeding brought by Bank to enforce any rights arising because of any default under the Deed of Trust. Bank may, however, join Tenant as a party if joinder is necessary under any statute or law to secure the remedies available to Bank under the Deed of Trust, but joinder shall be for that purpose only and not for the purpose of terminating the Lease or affecting Tenant's right to possession of the Property.

Section 3. Attornment.

If the Landlord's interest is transferred to and owned by Bank or any successor of Bank ("Acquiring Party") because of foreclosure or other proceedings brought by Bank, or by any other manner, and Bank succeeds to Landlord's interest under the Lease, Tenant shall be bound to the Acquiring Party, and Acquiring Party shall be bound to Tenant under all of the terms, covenants and conditions of the



Lease for the balance of the remaining term, including any extensions or renewals, with the same effect as if Acquiring Party were Landlord under the Lease. Tenant agrees to attorn to Acquiring Party as the Landlord, with the attornment being effective and self-operable immediately upon Acquiring Party succeeding to the interest of Landlord under the Lease, all without the execution by the parties of any further instruments. However, Tenant shall not be obligated to pay rent to Acquiring Party until Tenant receives written notice from Acquiring Party, together with evidence satisfactory to Tenant, demonstrating that Acquiring Party has succeeded to Landlord's interest under the Lease and directing where rent should be mailed. The respective rights and obligations of Tenant and Acquiring Party upon attornment, to the extent of the then-remaining balance of the term of the Lease, shall be the same as in the Lease, which is incorporated by reference in this Agreement. If Acquiring Party succeeds to Landlord's interest in the Lease, Acquiring Party shall be bound to Tenant under all the terms, covenants and conditions of the Lease, and Tenant shall, after Acquiring Party's succession to Landlord's interest, have the same remedies against Acquiring Party for the breach of any agreement in the Lease that Tenant might have had against Landlord.

Section 4. Tenant's Purchase Option.

The lien of the Deed of Trust shall unconditionally be and remain at all times a lien on the Property prior and superior to any existing or future option or right of first refusal of Tenant to purchase the Property or any portion thereof. In the event of any transfer of Landlord's interest in the Property by foreclosure, trustee's sale, or other action or proceeding for the enforcement of the Deed of Trust or by deed in lieu thereof, Tenant specifically waives any right, whether arising out of the Lease or otherwise, to exercise any purchase option or right of first refusal which remains unexercised at the time of such transfer.

Section 5. No Change in Lease.

Landlord and Tenant agree not to change, alter, amend or otherwise modify the Lease without the prior written consent of Bank. Any change, alteration, amendment, or other modification to the Lease without the prior written consent Bank shall be void as to Bank.

Section 6. Notices.

In this Agreement, wherever it is required or permitted that notice and demand be given by any party to another party, that notice or demand shall be given in writing and forwarded by certified mail, addressed as follows:

For Landlord:

TYBEE, LLC
123 W Nye LN Ste 103
Carson City, NV 89706

For Tenant:

Tire
All-American Tire & Auto
1415 Industrial Way Unit A & B
Gardnerville, NV 89701

For Bank:

Bank of America, N.A.
Doc Retention - GCF
CT2-515-BB-03
70 Batterson Park Road
Farmington, CT 06032

Any party may change an address given for notice by giving written notice of that change by certified mail to all other parties.



Any party may change an address given for notice by giving written notice of that change by certified mail to all other parties.

Section 7. Authority.

If any party is a corporation, limited liability company, or a partnership, all individuals executing this Agreement on behalf of such corporation, limited liability company, or partnership represent and warrant that they are authorized to execute and deliver this Agreement on behalf of the corporation, limited liability company, or partnership and that this Agreement is binding upon such corporation, limited liability company, or partnership.

Section 8. Miscellaneous.

This Agreement may not be modified other than by an agreement in writing signed by the parties or by their respective successors in interest. If any party commences any action against any other party based on this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees, expenses, and costs of suit. This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns. The headings of this Agreement are for reference only and shall not limit or define any meaning of this Agreement. This Agreement may be executed in one or more counterparts, each of which is an original, but all of which shall constitute one and the same instrument. This Agreement shall be construed in accordance with and governed by Nevada law.

The parties have duly executed this Agreement as of the date first above written.

BANK:

BANK OF AMERICA, N.A.

By:

Patricia Ferdinand

Patricia Ferdinand, Assistant Vice President

LANDLORD:

TYBEE, LLC

By:

SIGNED IN COUNTERPART

Mark C. Lesker, Member Member

TENANT:

Tire

All-American Title & Auto

By:

SIGNED IN COUNTERPART

Name, Title

[All signatures must be acknowledged]



Any party may change an address given for notice by giving written notice of that change by certified mail to all other parties.

Section 7. Authority.

If any party is a corporation, limited liability company, or a partnership, all individuals executing this Agreement on behalf of such corporation, limited liability company, or partnership represent and warrant that they are authorized to execute and deliver this Agreement on behalf of the corporation, limited liability company, or partnership and that this Agreement is binding upon such corporation, limited liability company, or partnership.

Section 8. Miscellaneous.

This Agreement may not be modified other than by an agreement in writing signed by the parties or by their respective successors in interest. If any party commences any action against any other party based on this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees, expenses, and costs of suit. This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns. The headings of this Agreement are for reference only and shall not limit or define any meaning of this Agreement. This Agreement may be executed in one or more counterparts, each of which is an original, but all of which shall constitute one and the same instrument. This Agreement shall be construed in accordance with and governed by Nevada law.

The parties have duly executed this Agreement as of the date first above written.

BANK:

BANK OF AMERICA, N.A.

By: SIGNED IN COUNTERPART
Patricia Ferdinand, Assistant Vice President

LANDLORD:

TYBEE, LLC

By: [Signature]
Mark C. Lesker, Member Member

TENANT:

Tire
All-American Tire & Auto

By: SIGNED IN COUNTERPART
Name, Title

[All signatures must be acknowledged]



Any party may change an address given for notice by giving written notice of that change by certified mail to all other parties.

Section 7. Authority.

If any party is a corporation, limited liability company, or a partnership, all individuals executing this Agreement on behalf of such corporation, limited liability company, or partnership represent and warrant that they are authorized to execute and deliver this Agreement on behalf of the corporation, limited liability company, or partnership and that this Agreement is binding upon such corporation, limited liability company, or partnership.

Section 8. Miscellaneous.

This Agreement may not be modified other than by an agreement in writing signed by the parties or by their respective successors in interest. If any party commences any action against any other party based on this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees, expenses, and costs of suit. This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns. The headings of this Agreement are for reference only and shall not limit or define any meaning of this Agreement. This Agreement may be executed in one or more counterparts, each of which is an original, but all of which shall constitute one and the same instrument. This Agreement shall be construed in accordance with and governed by Nevada law.

The parties have duly executed this Agreement as of the date first above written.

BANK:

BANK OF AMERICA, N.A.

By: Patricia Ferdinand
Patricia Ferdinand, Assistant Vice President

LANDLORD:

TYBEE, LLC

By: SIGNED IN COUNTERPART
Mark C. Lesker, Member Member

TENANT:

Tire
All-American Tires & Auto
By: John H. Christl
Name, Title
John H. Christl, OWNER

[All signatures must be acknowledged]



BANK

ACKNOWLEDGMENT

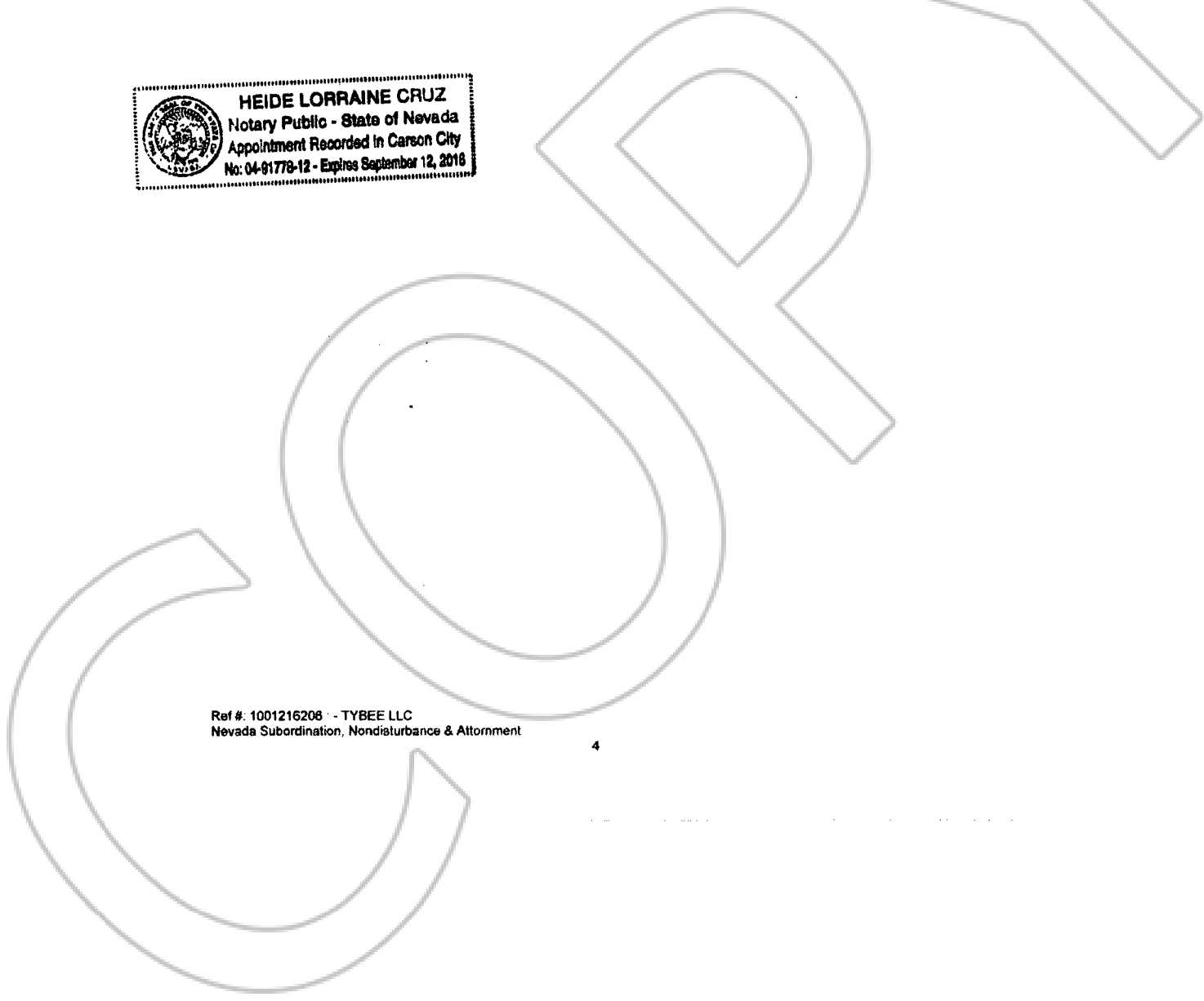
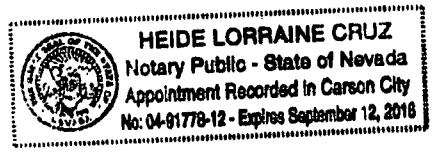
STATE OF NEVADA

COUNTY OF Douglas

This instrument was acknowledged before me on May 23, 2013 by JOHN H. CHRISTL as OWNER of ALL AMERICAN TIRE & AUTOMOTIVE.

Heide Lorraine Cruz
NOTARY PUBLIC

My commission expires: 9-12-2016





BANK

ACKNOWLEDGMENT

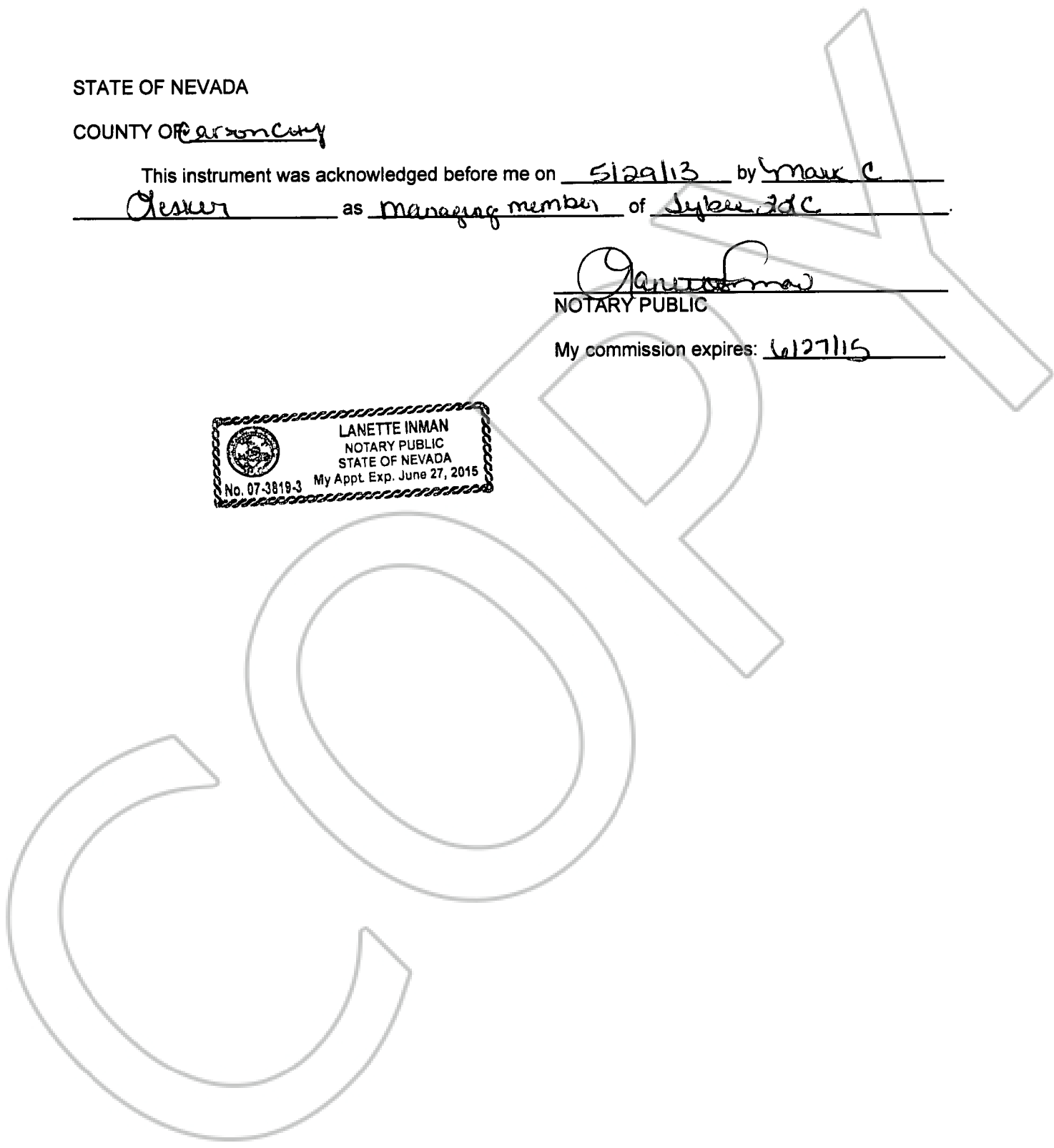
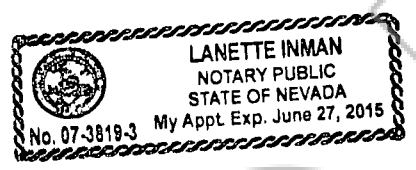
STATE OF NEVADA

COUNTY OF Carson City

This instrument was acknowledged before me on 5/29/13 by Mark C
Decker as managing member of Tybee LLC

[Signature]
NOTARY PUBLIC

My commission expires: 6/27/15





ACKNOWLEDGMENT

State of California }
 }
County of Los Angeles }

On May 30, 2013 before me, Wendy L. Strickland-Busby, Notary Public, personally appeared Patricia Ferdinand, 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 she executed the same in her authorized capacity, and that by her 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 *Wendy L. Strickland-Busby* (Seal)





Escrow No.: 1099775-LI

EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS DESCRIBED AS FOLLOWS:

That portion of Parcel B, as shown on that certain map entitled Final Map Carson Valley Industrial Park, recorded as Document No. 47572, on March 30, 1970, Official Records of Douglas County, Nevada, described as follows:

COMMENCING at the Southeast corner of said Parcel B on the Westerly right of way of Industrial Way; thence along the Southerly boundary of said Parcel B South 71°18'00" West 491.44 feet to the True Point of Beginning; thence continuing along said Southerly Boundary South 71°18'00" West 133.02 feet; thence leaving said boundary North 05°00'00" West 448.14 feet to a point on the Southerly right of way of Industrial Way; thence Easterly along said right of way South 87°23'00" East 183.31 feet; thence leaving said right of way South 02°37'00" West 395.82 feet to The Point of Beginning.

Note: Legal description previously contained in document recorded May 2, 2012 in Book 512, Page 597, Document No. 801811, Official Records of Douglas County, State of Nevada.