

9-13-2012

Bank of Commerce v. Jefferson Enterprises Clerk's Record v. 1 Dckt. 40034

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Vol. 1 of 3

SUPREME COURT OF THE STATE OF IDAHO

THE BANK OF COMMERCE, an Idaho Banking Corp.

Plaintiff-Respondent

vs.

LAW CLERK
JEFFERSON ENTERPRISES, LLC, AN

Idaho Limited Liability Company

Defendant-Appellant

Hon. Robert C. Naftz District Judge

Appealed from the District Court of the Sixth
Judicial District of the State of Idaho, in and for
Bannock County.

A. Bruce Larson

ABLE LAW PC

Attorney X For Appellant X

Brian T. Tucker

NELSON HALL PARRY TUCKER, P.A.

Attorney X For Respondent X

Filed this FILED - COPY day of

2012

SEP 13 2012

Clerk

Deputy

Supreme Court Cliff of Appellate
Entered on A/S by

40034

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
Banking corporation,

Plaintiff-Respondent,

vs.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company,

Defendant-Appellant,

)
)
)
) Supreme Court No. 40034-2012
)
)

Volume I

CLERK'S RECORD

Appeal from the District Court of the Sixth Judicial District of the State of
Idaho, in and for the County of Bannock.

Before **HONORABLE Robert C. Naftz** District Judge.

For Appellant:

A. Bruce Larson
ABLE LAW PC
P.O. Box 6369
Pocatello, Idaho 83201

For Respondent:

Brian T. Tucker
NELSON HALL PARRY TUCKER, P.A.
P.O. Box 51630
Idaho Falls, Idaho 83405-1630

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VOLUME III

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User		Judge
10/21/2008	LOCT	MARLEA	Clerk's Vault	Peter D. McDermott
	NCOC	MARLEA	New Case Filed-Other Claims	Peter D. McDermott
	COMP	MARLEA	Complaint to Foreclose Real Estate Mortgage.	Peter D. McDermott
	SMIS	MARLEA	Summons Issued (4)	Peter D. McDermott
		MARLEA	Filing: A - Civil Complaint for more than \$1,000.00 Paid by: anerson Receipt number: 0039209 Dated: 10/21/2008 Amount: \$88.00 (Check) For:	Peter D. McDermott
	ATTR	CINDYBF	Plaintiff: The Bank Of Commerce Attorney Retained Brian T Tucker	Peter D. McDermott
		CINDYBF	Notice of Lis Pendens- by pltf thru PA Tucker.	Peter D. McDermott
11/12/2008	AFFD	CAMILLE	Affidavit of service - srvd on Rhonda Johnson on 10-29-08	Peter D. McDermott
11/13/2008	AMCO	CAMILLE	Amended Complaint to Foreclose Real Estate Mortgage; aty Brian Tucker for plntf	Peter D. McDermott
11/14/2008		MARLEA	Filing: I7 - All Other Cases Paid by: robinson and associates Receipt number: 0042733 Dated: 11/14/2008 Amount: \$58.00 (Check) For: Morrison, Dustin (defendant)	Peter D. McDermott
	NOAP	CAMILLE	Notice Of Appearance; aty Brent Robinson for Scott and Jennifer Dayley Snake River Jerseys	Peter D. McDermott
	NOAP	CAMILLE	Notice Of Appearance; aty Brent Robinson for Jefferson Enterprises, LLC and Idaho Limited Liability Company, Dustin Morrison and Sonya Kidd aka Sonya Morrison;	Peter D. McDermott
	ATTR	CAMILLE	Defendant: Jefferson Enterprises LLC Attorney Retained Brent T Robinson	Peter D. McDermott
	ATTR	CAMILLE	Defendant: Morrison, Dustin Attorney Retained Brent T Robinson	Peter D. McDermott
	ATTR	CAMILLE	Defendant: Morrison, Sonya Attorney Retained Brent T Robinson	Peter D. McDermott
11/17/2008	AFDS	CINDYBF	Affidavit of Service - Summons & Complaint served Dustin Morrison thru Sonya Morrison, wife, on 11-8-08.	Peter D. McDermott
	AFDS	CINDYBF	Affidavit of Service - Summons & Complaint served Sonya Kidd aka Sonya Morrison 11-8-08.	Peter D. McDermott
	AFDS	CINDYBF	Affidavit of Service - Summons & Complaint served Jefferson Enterprises thru Dustin Morrison, 11-11-08.	Peter D. McDermott
11/24/2008	HRSC	CAMILLE	Hearing Scheduled (Court Trial 03/10/2009 09:00 AM)	Peter D. McDermott
12/2/2008	NOTC	CAMILLE	Notice of Appearance to Amended Complaint to Foreclose Real Estate Mortgage; aty Kirk Bybee for def City of Pocatello	Peter D. McDermott
	ATTR	CAMILLE	Defendant: City of Pocatello Attorney Retained D Kirk Bybee	Peter D. McDermott

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User	Judge
12/8/2008	NOTC	CAMILLE	Notice of intent to take default; aty Brian Tucker for Bank of commerce Peter D. McDermott
12/12/2008	ANSW	CAMILLE	Answer to Amended Complaint to Foreclose Real Estate Mortgage and Counterclaim and Demand for Jury Trial; aty Brent Robinson for Jefferson Enterprises, LLC Dustin Morrison and Sonya Kidd aka Sonya Morrison Peter D. McDermott
	NOTC	DCANO	Notice of Service of Jefferson Enterprises, LLC, Dustin Morrison and Sonya Morrison's First Set of Interrogatories and Request for Production of Documents to Plaintiff. Brent T. Robinson, Attorney for Dfdts. Robert C Naftz
12/18/2008	NOTC	CAMILLE	Notice of service - Plntfs first Set of Interrog and REq for Production of Documents to Defs Jefferson Enterprises, LIC Dustin Morrison and Sonya Kidd aka Morrison : aty Brian Tucker for Bank of Commerce Peter D. McDermott
2/9/2009		DCANO	Plaintiff's Exhibit List; Brian T. Tucker, Atty for Bank of Commerce. Peter D. McDermott
		DCANO	Plaintiff's witness List; Brian T. Tucker, Atty for Bank of commerce. Peter D. McDermott
2/26/2009		CAMILLE	Ex Parte Motion to set aside the Order setting the Matter for Trial and Deadlines and Requesting that this matter be set for a Telephonic Status Conference; aty Brent Robinson for Jefferson Enterprises, LLC Dustin Morrison and Sonya Kidd aka sonya Morrison Peter D. McDermott
		CAMILLE	Ex Parte Order setting aside the ORder setting the Matter for Trial and Deadlines and to set Telephonic Status Conference; aty Brent Robinson : J Mcdermott 2-19-09 Peter D. McDermott
	ORDR	CAMILLE	Order; this matter is set for Status Conference on 3-16-09 at 1:15 pm: J Mcdermott 2-25-09 Peter D. McDermott
3/6/2009		CAMILLE	Notice of service of Jefferson Enterprises, LLC Dustin Morrison and Sonya Morrisons Responses to Plaintiffs First set fo Interrog. and Req for Production of Documents; aty Brent Robinson for Jefferson Enterprises Dustin Morrison and Sonya Kidd Peter D. McDermott
3/24/2009	ORDR	CAMILLE	Order; this matter is reset for Jury Trial on 1-12-2010 @ 9am: Peter D. McDermott
	HRSC	CAMILLE	Hearing Scheduled (Jury Trial 01/12/2010 09:00 AM) Peter D. McDermott
3/4/2009		CAMILLE	Notice of Bankruptcy Peter D. McDermott
	INAC	CAMILLE	Inactive Peter D. McDermott
3/18/2009		CAMILLE	Order ; all further proceedings in this case are STAYED and the Jury Trial on 1-12-10, is VACATED: J Mcdermott 8-14-09 Peter D. McDermott

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User		Judge
10/20/2009		CAMILLE	Motion to Place Matter Back on Trial Calendar; aty Brian Tucker	Robert C Naftz
11/20/2009	HRSC	NICOLE	Hearing Scheduled (Status Conference 12/21/2009 01:30 PM)	Robert C Naftz
		CAMILLE	Order for Status conference; s/ Judge Naftz 11-20-10	Robert C Naftz
12/1/2009		CAMILLE	Request to participate in hearing by telephone; aty Brent Robinson for Jefferson enterprises	Robert C Naftz
12/2/2009		CAMILLE	Notice of intent to appear telephonically; aty Brian Tucker	Robert C Naftz
12/21/2009	DCHH	NICOLE	Hearing result for Status Conference held on 12/21/2009 01:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages Telephonic	Robert C Naftz
12/30/2009	HRSC	NICOLE	Hearing Scheduled (Status Conference 03/22/2010 01:30 PM)	Robert C Naftz
		CAMILLE	Minute Entry and Order; this matter is set another Status Conference: s/ Judge Naftz 12-30-2010	Robert C Naftz
3/26/2010	DCHH	NICOLE	Hearing result for Status Conference held on 03/22/2010 01:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages	Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Status Conference 05/03/2010 02:00 PM)	Robert C Naftz
		CAMILLE	Minute Entry and Order; Mr. Morrisons bankruptcy action is moving forward, all parties will be discussing a settlement : s/ Judge 3-26-2010	Robert C Naftz
5/11/2010	DCHH	NICOLE	Hearing result for Status Conference held on 05/03/2010 02:00 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages	Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Status Conference 07/06/2010 01:30 PM)	Robert C Naftz
		CAMILLE	Minute Entry and Order; Mr. Robinson represented to the court that the Morrisons bankruptcy action is closer to being finalized and jointly recommended another status conference be scheduled: s/ Judge Naftz 5-11-2010	Robert C Naftz
7/16/2010	DCHH	NICOLE	Hearing result for Status Conference held on 07/06/2010 01:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages	Robert C Naftz

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User	Judge
7/16/2010	HRSC	NICOLE	Hearing Scheduled (Status Conference 08/30/2010 02:00 PM) Robert C Naftz
7/20/2010		CAMILLE	Minute Entry and Order; Status Conference is scheduled in this matter for 8-30-2010 @ 2pm: s/ Judge Naftz 7-18-2010 Robert C Naftz
9/10/2010	DCHH	NICOLE	Hearing result for Status Conference held on 08/30/2010 02:00 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Status Conference 10/18/2010 01:30 PM) Robert C Naftz
		CAMILLE	Order setting Status Conference; s/ Judge Naftz Robert C Naftz
10/18/2010	INHD	BRANDY	Hearing result for Status Conference held on 10/18/2010 01:30 PM: Interim Hearing Held Robert C Naftz
10/22/2010	HRSC	NICOLE	Hearing Scheduled (Status Conference 11/29/2010 01:30 PM) Robert C Naftz
10/26/2010		CAMILLE	Order setting another Status Conference; s/ Judge Naftz Robert C Naftz
12/9/2010	DCHH	NICOLE	Hearing result for Status Conference held on 11/29/2010 01:30 PM: District Court Hearing Held Court Reporter: no court reporter Number of Transcript Pages for this hearing estimated: telephonic Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Status Conference 12/20/2010 03:30 PM) telephonic Robert C Naftz
12/10/2010		CAMILLE	Notice of Appearance on Behalf of Jefferson Enterprises, LLC; aty Bruce Larson for def Robert C Naftz
	ATTR	NICOLE	Defendant: Jefferson Enterprises LLC Attorney Retained A Bruce Larson Robert C Naftz
		CAMILLE	Minute Entry and Order; Status conference is scheduled for 12-20-10 Robert C Naftz
12/29/2010	DCHH	NICOLE	Hearing result for Status Conference held on 12/20/2010 03:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages telephonic (Robinson) Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Jury Trial 11/29/2011 09:00 AM) First week of first setting Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Jury Trial 12/06/2011 09:00 AM) Second week of first setting Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Jury Trial 01/31/2012 09:00 AM) First week of backup setting Robert C Naftz
	HRSC	NICOLE	Hearing Scheduled (Jury Trial 02/07/2012 09:00 AM) Second week of backup setting Robert C Naftz

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User	Judge
12/30/2010		CAMILLE	Minute Entry and Order; this matter be set for trial pending the filing of other motions and completion of discovery; court will not order the parties to participate in mediation but highly recommends they consider mediation as an option for resolving the issues in this case: s/ Judge Naftz 12-29-2010
		CAMILLE	Scheduling Order, Notice of Trial Setting and initial pretrial order; s/ Judge Naftz 12-29-2010
1/26/2011	HRSC	NICOLE	Hearing Scheduled (Motion 02/22/2011 01:30 PM) Motion for Leave to Amended Answer to Amended Complaint to Foreclose Real Estate Mortgage and to Amended Counterclaim
		CAMILLE	Motion for leave to Amended Answer to Amended complaint to foreclosure real estate mortgage and to amended cunterclaim; aty Bruce Larson
2/22/2011		CAMILLE	Amended Answer to Amended complaint to foreclose real estate mortgage, Amended counterclaim and demand for Jury Trial; aty Bruce Larson
3/11/2011	DCHH	NICOLE	Hearing result for Motion held on 02/22/2011 01:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages Motion for Leave to Amended Answer to Amended Complaint to Foreclose Real Estate Mortgage and to Amended Counterclaim
		CAMILLE	Minute Entry and Order; (order on Defs Motin for leave to Amended Answer , amended counterclaim was GRANTED) crt encourages parties to participate in mediation: s/ Judge Naftz 3-11-2011
3/28/2011		CAMILLE	Notice of service of discovery; Requests for admission, interrog. and requests for production of documents on the plntf/counterdefendant Bank of Comerce; aty Bruce Larson
4/28/2011		CAMILLE	Notice of service - The Bank of Commerce's Response to Jefferson Enterprises, LLC requests for admissions: aty Brian Tucker
5/3/2011		CAMILLE	Notice of service - The Bank of Commerces Response to Jefferson Enterprises, LLC's Interrog and requests for production of documents: aty Brian Tucker
7/8/2011		CAMILLE	Notice of Deposition of the Bank of Commerce on 7-25-2011 @ 1pm:
		CAMILLE	Notice of Deposition of Steve Worton; on 7-26-2011 @ 9am:
9/16/2011		CAMILLE	Motion to vacate first Trial setting; aty Bruce Larson

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User	Judge
9/20/2011		CAMILLE	Response to Motion to vacate first Trial setting; aty Brent Robinson for def /counterclaimants
10/28/2011		CAMILLE	Notice of taking deposition of Dustin Morrison; on 11-4-2011 @ 9:30 : aty Brian Tucker
		CAMILLE	Notice of taking deposition of Sonya Morrison on 11-4-2011 @ 1pm: aty Brian Tucker
11/7/2011	HRVC	NICOLE	Hearing result for Jury Trial scheduled on 11/29/2011 09:00 AM: Hearing Vacated First week of first setting per motion
	HRVC	NICOLE	Hearing result for Jury Trial scheduled on 12/06/2011 09:00 AM: Hearing Vacated Second week of first setting; per motion and order signed by the court
		CAMILLE	Order to vacate first Trial setting; s/ Judge Naftz 11-5-2011
11/14/2011	HRSC	NICOLE	Hearing Scheduled (Motion for Summary Judgment 12/12/2011 02:30 PM) Plaintiff's
		CAMILLE	Memorandum in support of motion for summary judgment; aty Brian Tucker for Bank of Commerce
		CAMILLE	Affidavit of Thomas J Romrell; aty Brian Tucker for The Bank of Commerce
		CAMILLE	Affidavit of Steve Worton; aty Brian Tucker for Bank of Commerce
		CAMILLE	Affidavit of A Michael Morrison; aty Brian Tucker for The Bank of Commerce
		CAMILLE	Affidavit of Brian Tucker; aty Brian Tucker for The Bank of Commerce
		CAMILLE	Motion for Summary Judgment; aty BrianTucker for The Bank of Commerce
11/15/2011	NOTC	BRANDY	Notice of hearing; aty for pltf; Motion for Summary Judgment 12-12-11 at 2:30
11/16/2011	CONT	NICOLE	Continued (Motion for Summary Judgment 12/19/2011 02:30 PM) Plaintiff's motion; conflict with the Court's calendar
11/18/2011	ORDR	NICOLE	Order Continuing Hearing on Motion for Summary Judgment; pursuant to conflict with the Court's calendar, Plaintiff's/Counterdefendant's Motion for Summary Judgment will be continued to 12-19-11 at 2:30 pm; s/ J. Naftz 11-18-11
		CAMILLE	Expert witness disclosures; aty Bruce larson
		CAMILLE	Fact witness disclosure; aty Bruce Larson for Jefferson enterprises LLC
11/21/2011		CAMILLE	Notice of service - Plntfs second set of interrog and requests for productjion of documents to def Jefferson enterprises, LLC: aty Brian Tucker

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User		Judge
11/21/2011		CAMILLE	Objection to late expert witness disclosure; aty Brian Tucker	Robert C Naftz
12/5/2011	MEMO	NICOLE	Memorandum in Opposition to Plaintiff's Motion for Summary Judgment filed by A. Bruce Larson for Jefferson Enterprises, LLC	Robert C Naftz
	AFFD	NICOLE	Affidavit of Eric R. Polatis filed by A. Bruce Larson	Robert C Naftz
	AFFD	NICOLE	Affidavit of A. Bruce Larson filed by A. Bruce Larson	Robert C Naftz
12/13/2011		CAMILLE	Reply Memorandum in support of motion for summary judgment; aty Brian Tucker for Bank of Commerce	Robert C Naftz
12/21/2011		CAMILLE	Expert witness disclosure; aty Brian Tucker	Robert C Naftz
12/30/2011	DCHH	NICOLE	Hearing result for Motion for Summary Judgment scheduled on 12/19/2011 02:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages Plaintiff's motion	Robert C Naftz
	ADVS	NICOLE	Case Taken Under Advisement 12-19-11	Robert C Naftz
		CAMILLE	Motion to vacate Trial setting; aty Bruce Larson	Robert C Naftz
1/4/2012	HRSC	NICOLE	Hearing Scheduled (Motion 01/09/2012 03:30 PM) Motion to Vacate Trial Setting	Robert C Naftz
	MEOR	NICOLE	Minute Entry and Order; parties came before the court on 12-19-11 for Plaintiff's Motion for Summary Judgment; the court heard argument from counsel and considered all documents in support of and in opposition to Plaintiff's motion; the Court will take Plaintiff's Motion for Summary Judgment under advisement and enter a written decision; the court will further address Plaintiff's Objection to Late Expert Witness Disclosure in its written decision as to Defendant's, Jefferson Enterprises' timeliness for disclosure of expert witnesses as it relates to the Scheduling Order previously issued in this matter; s/ J. Naftz 12-31-11	Robert C Naftz
1/6/2012		CAMILLE	Notice of hearing on motion to vacate trial setting; aty Bruce Larson	Robert C Naftz
1/11/2012	STIP	NICOLE	Stipulation to Vacate First Trial Setting and Amend Pretrial Order filed by A. Bruce Larson	Robert C Naftz

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User		Judge
1/17/2012	MEMO	NICOLE	Memorandum Decision and Order; summary judgment in favor of Plaintiff must be entered; statute of frauds prevents Jefferson from prevailing on issue of breach of contract; no sufficient facts to create material issue of facts regarding claim of interference with prospective economic advantage; no evidence submitted by Jefferson as to claim of fraudulent misrepresentation; Jefferson's claim regarding promissory estoppel does not raise material issue of fact; the court dismisses Defendant's, Jefferson's, amended counterclaims with prejudice; Jefferson did not present any evidence or objection to bank's request to foreclose on the mortgages; bank is entitled to foreclose on both mortgages, sell the property and apply the proceeds of any sale to the outstanding debts owed by Jefferson; s/ J. Naftz 1-17-12	Robert C Naftz
	JDMT	NICOLE	Judgment; pursuant to memorandum decision and order, this court dismissed Jefferson Enterprises' Amended Counterclaim in its entirety finding that the Bank of Commerce was entitled to Summary Judgment; Plaintiffs were entitled to foreclose upon the two mortgages it held, sell the property and apply the proceeds of the sale to any debt owed by Jefferson; Plaintiffs have the highest priority with regard to the two mortgaged properties that are a part of this lawsuit; each party shall pay their respective attorney fees and court costs; s/ J. Naftz 1-17-12	Robert C Naftz
1/18/2012	DCHH	NICOLE	Hearing result for Motion scheduled on 01/09/2012 03:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages Motion to Vacate Trial Setting	Robert C Naftz
	CONT	NICOLE	Continued (Jury Trial 04/24/2012 09:00 AM) First Week of Trial Setting	Robert C Naftz
	CONT	NICOLE	Continued (Jury Trial 05/01/2012 09:00 AM) First Week of Trial Setting	Robert C Naftz

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User	Judge	
1/18/2012	MEOR	NICOLE	Minute Entry and Order; parties came before court on 1-9-12 for hearing on Jefferson Enterprises' Motion to Vacate Trial Setting; parties appeared telephonically; the court heard argument from counsel and received no objection as to allowing a continuance of the trial pending the Court's decision on Plaintiff's Motion for Summary Judgment and for additional discovery and deposition to be taken; it is ordered that Defendant's motion is granted; Jury Trial currently scheduled to begin 1-31-12 is vacated and continued until 4-24-12 at 9:00 am through 4-27-12 and again on 5-1-12; any and all deadlines as outlined in the Court's previous Scheduling Order now pertain to the new trial date of April 24, 2012; s/ J. Naftz 1-18-12	Robert C Naftz
1/30/2012	AFFD	DCANO	Affidavit of Brian T. Tucker in Support of Motion for Award of Attorney's Fees and Costs. Brian T. Tucker, Attorney for Plntfs.	Robert C Naftz
	MEMO	DCANO	Memorandum in Support of Motion for Award of Attorney's Fees and Costs. Brian T. Tucker, Atty. for Plntfs.	Robert C Naftz
1/31/2012		CAMILLE	Motion to reconsider, vacate summary judgment and in the alternative to alter or amend judgment; aty Bruce Larson	Robert C Naftz
		CAMILLE	Memorandum in support of motin to reconsider, vacate summay judgment, and in the alternative to alter or amend judgment; aty Bruce Larson	Robert C Naftz
2/13/2012		CAMILLE	Objection to award of costs and attorney fees: aty Bruce Larson	Robert C Naftz
2/22/2012	HRSC	NICOLE	Hearing Scheduled (Motion 03/19/2012 01:30 PM) Motion for Award of Attorney's Fees	Robert C Naftz
2/23/2012	HRSC	NICOLE	Hearing Scheduled (Motion 03/19/2012 01:30 PM) Motion to Reconsider, Vacate Summary Judgment and in the Alternative to alter or Amend Judgment	Robert C Naftz
2/27/2012		CAMILLE	Notice of hearing; set for 3-19-2012 @ 1:30 pm:	Robert C Naftz
3/12/2012		CAMILLE	Objection to motion to reconsider; aty Brian Tucker for plntf	Robert C Naftz
4/19/2012	DCHH	NICOLE	Hearing result for Motion scheduled on 03/19/2012 01:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages; Motion for Award of Attorney's Fees; court took under advisement	Robert C Naftz

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User	Judge
4/19/2012	DCHH	NICOLE	Hearing result for Motion scheduled on 03/19/2012 01:30 PM: District Court Hearing Held Court Reporter: Stephanie Davis Number of Transcript Pages for this hearing estimated: less than 100 pages Motion to Reconsider, Vacate Summary Judgment and in the Alternative to alter or Amend Judgment; court took under advisement
		CAMILLE	Memorandum Decision and Order on Attorney fees and costs; Plaintiff Bank of Commerce is entitled to a total judgment in the amount of \$54,898.76: s/ Judge Naftz
		CAMILLE	Memorandum Decision and Order on motion to reconsider; (Court DENIES Def/Counterclaimants Motion to reconsider, Vacate Summary Judgment and in the Alternative to Alter or Amend Judgment) s/ Judge Naftz 4-18-2012
		CAMILLE	Decree of Foreclosure and Order of Sale; s/ Judge Naftz 4-19-2012
	JDMT	CAMILLE	Judgment RE: Attorney fees and costs; Plaintiff be awarded and recover from Defendant, Jefferson Enterprises, LLC the total amount of \$54,898.76: s/ Judge Naftz 4-19-2012
	CSTS	CAMILLE	Case Status Changed: Closed
4/26/2012	HRVC	NICOLE	Hearing result for Jury Trial scheduled on 04/24/2012 09:00 AM: Hearing Vacated First Week of Trial Setting; Plaintiff has no further action in this matter
	HRVC	NICOLE	Hearing result for Jury Trial scheduled on 05/01/2012 09:00 AM: Hearing Vacated Second Week of Trial Setting; Plaintiff has no remaining issues in this matter
5/31/2012		DCANO	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: A. Bruce Larson Receipt number: 0020187 Dated: 5/31/2012 Amount: \$101.00 (Check) For: Jefferson Enterprises LLC (defendant)
	APSC	DCANO	Appealed To The Supreme Court
	MISC	DCANO	Received Check # 6149 in the amount of \$100.00 for deposit of Clerk's Record.
3/7/2012	MISC	DCANO	CLERK'S CERTIFICATE OF APPEAL: Signed and Mailed to Supreme Court on 6-7-12. (Received file from Dist. Court on 6-6-12.)
3/12/2012	MISC	DCANO	IDAHO SUPREME COURT; Received Notice of Appeal on 6-8-12. Docket Number #40034-2012. Clerk's Record must be filed with SC on 8-14-12. (7-10-12 5 weeks prior)

The Bank Of Commerce vs. Jefferson Enterprises LLC, Dustin Morrison, Sonya Morrison, City of Pocatello

Date	Code	User	Judge
6/12/2012	MISC	DCANO	IDAHO SUPREME COURT: Received Clerk's Cert. on 6-8-12. Carefully examine the title and Cert. and advise the Dist. Clerk of any corrections. The Title in the Cert. must appear on all documents filed in SC.
6/13/2012	MISC	DCANO	REQUEST FOR ADDITIONAL CLERK'S RECORD: Brian T. Tucker, Attorney for Bank of Commerce.
7/3/2012		CAMILLE	Affidavit of amount due; under IRCP noo 69: aty Brian Tucker for plntf
7/6/2012	WRIT	CAMILLE	Writ Issued and mailed back to counsel
7/16/2012		CAMILLE	Miscellaneous Payment: Writs Of Execution Paid by: Nelson Hall Parry Tucker Receipt number: 0025671 Dated: 7/16/2012 Amount: \$2.00 (Check)
7/19/2012	MISC	DCANO	CLERK'S RECORD received in Court Records on 7-19-12.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL SMITH, P.A.
490 Memorial Drive
Post Office Box 51630
Idaho Falls, Idaho 83405-1630
Telephone (208) 522-3001
Fax (208) 523-7254
Idaho State Bar Nos. 1580 & 5236
Attorney for Plaintiff

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CJ
CLERK

PETER D. McDERMOTT

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality,

Defendants.

Case No. CV 08 4231 DC

**COMPLAINT TO FORECLOSE
REAL ESTATE MORTGAGE**

Plaintiff for cause of suit against the above-named Defendants complains and alleges:

1. **Status of Plaintiff.** At all times herein mentioned, Plaintiff has been and now is a banking corporation organized and existing under and by virtue of the law of the State of Idaho. Plaintiff has its principal place of business at Idaho Falls, Idaho and is authorized, among other things, to loan money and to take notes and collateral as security therefore.

2. **Status of Defendants.** The Defendant, Jefferson Enterprises, LLC is an Idaho limited liability company. Defendant Jefferson Enterprises, LLC is now and at all times hereafter mentioned was the maker of the Note, Mortgage, and other security documents herein

sought to be foreclosed and is the fee simple owner of the Premises. Dustin Morrison and Sonya Kidd a/k/a Sonya Morrison, are now and were at all times hereinafter mentioned, husband and wife and personally guaranteed the obligation of the Defendant Jefferson Enterprises, LLC. The City of Pocatello is an Idaho municipality and is listed as a Defendant because they may claim interest in the property based on an annexation agreement with Defendant Jefferson Enterprises, LLC and recorded November 2, 2007 as Instrument No. 20726324 and an Easement for Water Lines recorded February 20, 2008 as Instrument No. 20803642.

3. **Inferior Interests.** The above-named Defendants, and each of them, claim some right, title, lien or interest in the property in Plaintiff's Mortgage described, but their interest, if any, in and to said property is junior, subordinate and subsequent to the right and lien of the Plaintiff.

COUNT I MORTGAGE FORECLOSURE

4. **Promissory Notes.** On the 9th day of May, 2006, Plaintiff loaned to Jefferson Enterprises, LLC the sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE DOLLARS (\$2,223,805.00) and as evidence of said loan Jefferson Enterprises made their Promissory Note in writing, which said Note was dated the May 9, 2006 in the principal sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE DOLLARS (\$2,223,805.00) both principal and interest being payable in the words and figures as set forth in Exhibit "A" attached, which is a true and correct copy of said Promissory Note, hereby incorporated by reference as set forth in full at this place.

On the 27th day of June, 2007, Plaintiff loaned to Jefferson Enterprises, LLC the sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) and as evidence of said loan Jefferson Enterprises made their Promissory Note in writing, which said Note was dated the June 27, 2007 in the principal sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) both principal and interest being payable in the words and figures as set forth in Exhibit "B" attached, which is a true and correct copy of said Promissory Note, hereby incorporated by reference as set forth in full at this place.

5. **Description of Real Property Security.** As security for the repayment of said loan, together with interest, costs and attorney fees, the Defendant Jefferson Enterprises, LLC made, executed and delivered to Plaintiff their certain Mortgage dated the 5th day of May, 2006, and attached hereto as Exhibit "C" and incorporated herein as though set forth in full on the real property situated in Bannock County, State of Idaho described in said mortgage. Said Mortgage was recorded May 10, 2006 in the records of Bannock County, Idaho under Instrument No. 20609793.

As security for the repayment of said loans, together with interest, costs and attorney fees, the Defendant Jefferson Enterprises, LLC made, executed and delivered to Plaintiff their certain Mortgage dated the 27th day of June, 2007, and attached hereto as Exhibit "D" and incorporated herein as though set forth in full on the real property situated in Bannock County, State of Idaho, described in said mortgage. Said Mortgage was recorded June 27, 2007 in the records of Bannock County, Idaho under Instrument No. 20715644.

6. **Modification to Notes and Mortgages.** The above described Promissory Notes and Mortgages were modified pursuant to Corporate Note and Deed of Trust/Mortgage Agreement to Amend Terms. Copies of both modifications are attached as Exhibit "E". As a result of the modifications, both Notes became due and payable in full on May 1, 2008.

7. **Default and Acceleration.** Plaintiff is the owner and holder of said Notes and Mortgages. On May 1, 2008, the Defendant, Jefferson Enterprises, LLC, was in default in that it failed to pay the balance of said notes. On the 1st day of August, 2008, Plaintiff declared and does hereby declare, all sums owing under said Notes, Mortgages and related security documents due and payable in full.

Plaintiff incurred and paid the sum of SIX THOUSAND TWO HUNDRED TWENTY-SIX DOLLARS AND NINETY-NINE CENTS (\$6,226.99) for a Foreclosure Litigation Guaranty.

That as of the 15th day of July, 2008 the Defendant, Jefferson Enterprises, LLC, owed to the Plaintiff under the terms and provisions of said Notes and Mortgages the sum of Two

Million Six Hundred Forty Seven Thousand Two Thousand Seventeen Dollars and 13\100 (\$2,723,497.40) calculated as follows:

Principal balance due as of 7/15/08	\$2,647,217.13
Interest through 7/15/08	<u>\$ 76,280.27</u>
Total P & I due 7/15/08	\$2,723,497.40

Said Note accrues interest at the combined per diem of \$507.68548.

8. **Use of Premises.** Said mortgaged premises have at all times heretofore been used together as one (1) lot or parcel and every part thereof is necessary for the best use and enjoyment of said mortgaged property and the same cannot be sold in separate parcels without material injury to the parties hereto.

9. **Reasonable Value.** Plaintiff intends to determine the reasonable value of the property prior to Entry of Decree herein and to introduce to evidence supporting such value. In the event said reasonable value should be less than the amount of the Judgement requested, plus accruing interest, costs, and fees, Plaintiff intends to apply to the Court for the Entry of a Deficiency Judgment against Defendants Jefferson Enterprises, and for any deficiency remaining after application of the foreclosure sale proceeds to payment of the Judgement herein, plus accruing interest herein, costs and fees.

10. **No Other Action.** The Plaintiff has no plain, speedy or adequate remedy at law, and at no other proceeding at law or inequity has been commenced or is pending to collect said Note or any portion thereof or to foreclose this Mortgage. That all conditions precedent to the initiation and prosecution of the suit on said Note and said foreclosure of Mortgage have been satisfied.

COUNT II PERSONAL GUARANTY

11. **Personal Guaranty.** The Defendants DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON personally guaranteed each and every obligation of Jefferson Enterprises described above. A said copy of said guarantees are attached hereto as Exhibit "F".

12. The Defendant Jefferson Enterprises has defaulted on the obligation as described above.

13. Plaintiff has made demand on the Defendant Jefferson Enterprises, LLC for payment but Jefferson Enterprises has failed to pay as required by the Promissory Note.

14. Plaintiff has made demand on the Defendants DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON for payment based upon the guaranty but each of them has refused and continues to refuse to pay Plaintiff.

15. As the Guarantor, the Defendants, DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON are obligated to the Plaintiff in the principal amount of \$2,723,497.40 plus interest accruing after July 15, 2008 at the per diem interest accrual of \$507.68548 as of July 15, 2008 based on the loan documents.

ATTORNEY'S FEES

16. Plaintiff has had to employ counsel to represent it in this action and has obligated itself to pay a reasonable fee for such services. Plaintiff is entitled to recover reasonable attorney's fees from the Defendants by virtue of the attorney's fees provision contained in the Promissory Note/Mortgage, and other security documents herein described and attached and pursuant to Idaho Code §12-120 and §112-121. Plaintiff alleges that \$10,000.00 is a reasonable sum to be allowed as attorney's fees if this action is contested, plus such additional sums as the Court may adjudge as a reasonable attorney's fees in the event of contest, trial, or appeal.

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT AS FOLLOWS:

1. That Plaintiff have Judgment against JEFFERSON ENTERPRISES, LLC, DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON, and their marital community and each of them for the sum of (\$2,723,497.40), together with interest at the per diem rate of \$507.68548 from July 15, 2008 until entry of Decree; for any sums advanced by Plaintiff or which Plaintiff becomes obligated to advance for the payment of ground rents, taxes, assessments, hazard insurance premiums, mortgage insurance premiums, water charges and other governmental charges, fines or impositions levied, assessed or charged against the mortgaged property during the pendency of this action, including interest on such advance from the date of advance; for the sum of TEN THOUSAND DOLLARS \$10,000.00 as attorney fees if this action is uncontested, plus such additional sums as the Court may adjudge as reasonable

in the event of contest, trial or appeal; for Plaintiff's taxable costs and disbursements herein; and for interest on the entire amount of said Judgment at the maximum rate allowed by law.

2. That Plaintiff's Mortgages herein described be adjudged a first and prior lien upon the mortgaged property superior to any right, title, claim, lien or interest on the part of the named Defendants or any persons claiming by, through, or under said Defendants.

3. That the Court, in the Decree, establish the reasonable value of the property herein described according to proof.

4. That the Plaintiff's Mortgage described herein be foreclosed and said real property, together with water rights, however evidenced, be sold in one (1) parcel in accordance with and in the manner provided by law; that Plaintiff be permitted to be a purchaser at sale; that the net proceeds of said sale be applied first toward the payment of the costs of said sale and then toward the payment of Plaintiff's Judgment; that Plaintiff have and retain a Deficiency Judgement against Defendants, JEFFERSON ENTERPRISES, LLC, DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON, and each of them, in the event that bid at sale is less than the sum of Plaintiff's entire Judgment, plus costs of sale.

5. That the Decree provide that after the sale of said property, all right, title, claim, lien, or interest in the above-named Defendants, and of every person claiming by, through, or under said Defendants, in or to said property, including the right of possession thereof from and after said sale, be forever barred and foreclosed and that the purchaser at said sale be entitled to immediate possession of the premises as allowed by law subject only to such statutory right of redemption as said Defendants may have by law.

6. That in the event that Plaintiff is the purchaser at sale and possession of said premises is not surrendered to the Plaintiff, a Writ of Assistance be issued directing the sheriff of Bannock County, Idaho, to deliver possession of said premises to the Plaintiff; and

7. That the Plaintiff may have such other and further relief as may be just and equitable in the premises.

Dated this 14 day of ~~September~~^{October}, 2008



Brian T. Tucker, Attorney for Plaintiff

VERIFICATION

STATE OF IDAHO)
 : ss.
County of Bonneville)

Mike Morrison of THE BANK OF COMMERCE, being first duly sworn on oath, deposes and states:

That as a Senior Vice President of THE BANK OF COMMERCE, Plaintiff in the attached document; I have read the foregoing Complaint to Foreclose Real Estate Mortgage and know the contents thereof; I am informed and believe, and on that ground state, that the matters set forth therein are true.

THE BANK OF COMMERCE

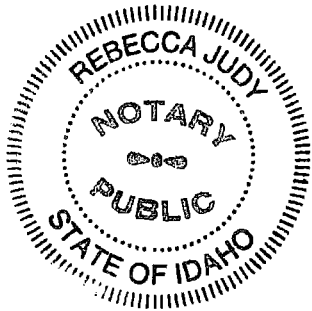
Mike Morrison, Sr

By: Mike Morrison

Its: Senior Vice President

SUBSCRIBED AND SWORN TO, before me, the undersigned, a Notary Public in and for said State, this 10 day of October, 2008.

(Seal)



Rebecca Judy
Notary Public for Idaho
Residing at: Idaho Falls Idaho
My commission expires: April 17, 2009

JEFFERSON ENTERPRISES, LLC
4755 HEIDI COURT
CHUBBUCK, ID 83202

THE : COMMERCE-AMERICAN FALLS
580 T
AMERICAN FALLS, ID 83211

Loan Number 1802021
Date 05-09-2006
Maturity Date 06-01-2007
Loan Amount \$ 2,223,805.00
Renewal Of _____

BORROWER'S NAME AND ADDRESS
"I" includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns.

For value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE AND NO/100 Dollars \$2,223,805.00

Single Advance: I will receive all of this principal sum on 05-09-2006. No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On _____ I will receive the amount of \$ _____ and future principal advances are contemplated.
Conditions: The conditions for future advances are _____

Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on _____.

Closed End Credit: You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from 05-09-2006 at the rate of 9.750 per year until 05-10-2006.

Variable Rate: This rate may then change as stated below.
 Index Rate: The future rate will be 2.000 PERCENT ABOVE the following index rate: HIGHEST PUBLISHED WALL STREET JOURNAL PRIME RATE SEE "LIMITATIONS" BELOW
THE RESULT OF THIS CALCULATION WILL BE ROUNDED TO THE NEAREST 0.001

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as EVERY DAY BEGINNING 05-10-2006
A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than 18.000 % or less than 7.000 %. The rate may not change more than _____ % each _____.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:
 The amount of each scheduled payment will change. The amount of the final payment will change.

ACCUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:
 on the same fixed or variable rate basis in effect before maturity (as indicated above).
 at a rate equal to _____

LATE CHARGE: If a payment is made more than _____ days after it is due, I agree to pay a late charge of _____.

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: \$30.00 OFFICIALS-\$1,475.00 TITLE POLICY-\$300.00 LEGAL-\$250.00 DOC FEE-\$21,750.00 ORIGINATION FEE

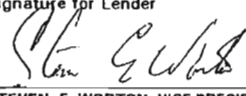
PAYMENTS: I agree to pay this note as follows:
ON DEMAND, BUT IF NO DEMAND IS MADE THEN 1 PAYMENT OF \$2,454,288.68 ON 06-01-2007. THIS IS A VARIABLE RATE LOAN AND THE FINAL PAYMENT AMOUNT MAY CHANGE.

ADDITIONAL TERMS:

SECURITY: This note is separately secured by (describe separate document by type and date):
MORTGAGE DATED 5-09-2006 AND PERSONAL GUARANTEES OF DUSTIN MORRISON AND SONYA KIDD AKA SONYA MORRISON
(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

PURPOSE: The purpose of this loan is BUSINESS R/F: TO REFINANCE LAND
SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

JEFFERSON ENTERPRISES, LLC

Signature for Lender

STEVEN E. WORTON, VICE PRESIDENT


DUSTIN MORRISON, MEMBER

SONYA KIDD AKA SONYA MORRISON, MEMBER



DEFINITIONS: As used on page 1, "I" means me. The terms "you" and "your" apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW: The law of the state in which you are located will govern this note. Any term of this note which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

COMMISSIONS OR OTHER REMUNERATION: I understand and agree that any insurance premiums paid to insurance companies as part of this note will involve money retained by you or paid back to you as commissions or other remuneration.

In addition, I understand and agree that some other payments to third parties as part of this note may also involve money retained by you or paid back to you as commissions or other remuneration.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE: The index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
(2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
(3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree

to hold you harmless from any such claims as a result of your exercise of your right of set-off.

REAL ESTATE OR RESIDENCE SECURITY: If this note is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default if any one or more of the following occur: (1) fail to make a payment on time or in the amount due; (2) I fail to keep the property insured, if required; (3) I fail to pay, or keep any promise, on an debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declare incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral security this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season if I am a producer of crops; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce a agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES: If I am in default on this note you have, but are not limited to the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued charges)
(2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "Set-Off" paragraph herein.
(3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using an other remedy.
(4) You may refuse to make advances to me or allow purchases of credit by me.
(5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up your right to later use any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to later consider that event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees an costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
(2) obtain official certification of nonpayment (protest); or
(3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT: I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, sign this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may do so without any notice that has not been paid (notice of dishonor). You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

FINANCIAL INFORMATION: I agree to provide you, upon request, an financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform you in writing of any change in my address. I will give any notice to you by mailing it first class to your address stated on page 1 of this agreement, or to any other address that you have designated.

PAYMENT BY CHECK: If any payment on this note is made with a check that is dishonored, I agree to pay you a \$20.00 fee.

Table with 8 columns: DATE OF TRANSACTION, PRINCIPAL ADVANCE, BORROWER'S INITIALS (not required), PRINCIPAL PAYMENTS, PRINCIPAL BALANCE, INTEREST RATE, INTEREST PAYMENTS, INTEREST PAID THROUGH. The table contains 12 rows of data, all of which are empty.

Handwritten signature and 'Page 2 of 2' text.

FFERSON ENTERPRISES, LLC
10 EAST CLARK STREET SUITE A
JCATELLO, ID 83201

THE BANK OF FORCE-AMERICAN FALLS
590 TYHEE
AMERICAN FALLS, ID 83211

Loan Number 401 2275
Date 06-27-2007
Maturity Date 01-01-2008
Loan Amount \$ 400,000.00
Renewal Of
PROCESSOR KLA

BORROWER'S NAME AND ADDRESS
includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns.

value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of FOUR HUNDRED THOUSAND AND NO/100
Dollars \$ 400,000.00

Single Advance: I will receive all of this principal sum on . No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On 06-27-2007
I will receive the amount of \$ and future principal advances are contemplated.

Conditions: The conditions for future advances are UPON REQUEST OF CUSTOMER AND APPROVAL OF LOAN OFFICER

Open End Credit: You and I agree that I may borrow up to the maximum principal sum more than one time. This feature is subject to all other conditions and expires on .

Closed End Credit: You and I agree that I may borrow (subject to all other conditions) up to the maximum principal sum only one time.

INTEREST: I agree to pay interest on the outstanding principal balance from 06-27-2007 at the rate of 10.250% per year until 06-28-2007.

Variable Rate: This rate may then change as stated below.

Index Rate: The future rate will be 2.000 PERCENT ABOVE the following index rate: HIGHEST PUBLISHED WALL STREET JOURNAL PRIME RATE SEE "LIMITATIONS" BELOW
THE RESULT OF THIS CALCULATION WILL BE ROUNDED TO THE NEAREST 0.001

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as EVERY DAY BEGINNING 06-28-2007

A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than 18.000% or less than 8.250%. The rate may not change more than % each .

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

The amount of each scheduled payment will change. The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

on the same fixed or variable rate basis in effect before maturity (as indicated above).

at a rate equal to

LATE CHARGE: If a payment is made more than 15 days after it is due, I agree to pay a late charge of 5.000% OF THE LATE AMOUNT WITH A MIN OF \$5.00

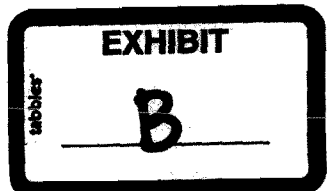
ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: IN CASH \$33.00 OFFICIALS:\$1,430.00 TITLE POLICY:\$1,000.00 LOAN DOC FEE

PAYMENTS: I agree to pay this note as follows:

MONTHLY PAYMENTS OF ACCRUED INTEREST CALCULATED ON THE AMOUNT OF CREDIT OUTSTANDING BEGINNING ON 07-01-2007 AND PRINCIPAL DUE ON 01-01-2008. THIS IS A VARIABLE RATE LOAN AND THE PAYMENT AMOUNTS MAY CHANGE. THE FINAL PAYMENT MAY ALSO CHANGE.

PURPOSE: The purpose of this loan is BUSINESS R/E: CONSTRUCTION COSTS AND INTEREST

ADDITIONAL TERMS:



SECURITY

CURITY INTEREST: I give you a security interest in all of the property described below that I own or have sufficient rights in to transfer an interest, now or in the future, wherever the Property is located, and all proceeds and products of the Property. "Proceeds" includes all parts, accessories, repairs, replacements, improvements, and additions to the Property; any original evidence of title to the Property; and all obligations that support the payment or performance of the Property. "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

- [X] Accounts and Other Rights to Payment: All rights to payment, whether or not earned by performance, including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned. This includes any rights and interests (including all liens) which I have by law or agreement against any account debtor or obligor.
[] Inventory: All inventory held for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.
[] Equipment: All equipment including, but not limited to, machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and record keeping equipment, parts, and tools. The Property includes any equipment described in a list or schedule I give to you, but such a list is not necessary to create a valid security interest in all of my equipment.
[] Instruments and Chattel Paper: All instruments, including negotiable instruments and promissory notes and any other writings or records that evidence the right to payment of a monetary obligation, and tangible and electronic chattel paper.
[] General Intangibles: All general intangibles including, but not limited to, tax refunds, patents and applications for patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.
[] Documents: All documents of title including, but not limited to, bills of lading, dock warrants and receipts, and warehouse receipts.
[] Farm Products and Supplies: All farm products including, but not limited to, all poultry and livestock and their young, along with their produce, products, and replacements; all crops, annual or perennial, and all products of the crops; and all feed, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.
[X] Government Payments and Programs: All payments, accounts, general intangibles, and benefits including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance and diversion payments, production flexibility contracts, and conservation reserve payments under any preexisting, current, or future federal or state government program.
[] Investment Property: All investment property including, but not limited to, certificated securities, uncertificated securities, securities entitlements, securities accounts, commodity contracts, commodity accounts, and financial assets.
[X] Deposit Accounts: All deposit accounts including, but not limited to, demand, time, savings, passbook, and similar accounts.
[X] Specific Property Description: The Property includes, but is not limited by, the following:

PERSONAL GUARANTEES OF JUSTIN MORRISON AND SONJA MORRISON

If applicable, enter real estate description and record owner information: MORTGAGE DATED JUNE 27, 2007

The Property will be used for a [] personal [X] business [] agricultural [] purpose. Borrower/Owner State of organization/registration (if applicable)

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

GENERALLY - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you fail with respect to such other debts, to make any required disclosure about this security agreement or if you fail to give any required notice of the right of rescission. If property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is located.

NAME AND LOCATION - My name indicated on page 1 is my exact legal name. If I am an individual, my address is my principal residence. If I am not an individual, my address is the location of my chief executive offices or sole place of business. If I am an entity organized and registered under state law, my address is located in the state in which I am registered, unless otherwise indicated on page 2. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

OWNERSHIP AND DUTIES TOWARD PROPERTY - I represent that I own all of the Property, or to the extent this is a purchase money security interest I will acquire ownership of the Property with the proceeds of the loan. I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position. I will not use the Property for a purpose that will violate any laws or subject the Property to forfeiture or seizure.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property in my possession and will keep it in good repair and use it only for the purposes described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Property at my address listed on page 1 of this agreement, unless we agree I may keep it at another location. If the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt[s] if the debtor is not a natural person and without your prior written consent: (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of any loss or damage to the Property.

If I fail to perform any of my duties under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preclude you from exercising any of your other rights under the law or this security agreement.

PURCHASE MONEY SECURITY INTEREST - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order in which the items of collateral were acquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

PAYMENTS BY LENDER - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state of Idaho. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance (or fail to name you as loss payee) you may purchase it yourself.

WARRANTIES AND REPRESENTATIONS - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which are returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will do so. You may exercise my rights with respect to obligations of any account debtors, or other persons obligated on the Property, to pay or perform, and you may enforce any security interest that secures such obligations.

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

Any person who signs within this box does so to give you a security interest in the Property described on this page. This person does not promise to pay the note. "I" as used in this security agreement will include the borrower and any person who signs within this box. Date _____ Signed _____

If this agreement covers farm products I will sell through the agents, to or through whom I may sell my farm products. I authorize you to those parties named on this written list, I authorize you to my discretion any additional parties regarding your security interest in my farm products. I remain subject to all applicable penalties for selling my farm products in violation of my agreement with you and the Food Security Act. In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meanings given to them in the Federal Food Security Act of 1985.

If this agreement covers chattel paper or instruments, either as original collateral or proceeds of the Property, I will note your interest on the face of the chattel paper or instruments.

REMEDIES - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fail to keep any promise contained in the terms of this agreement. If I default, you have all of the rights and remedies provided in the note and under the Uniform Commercial Code. You may require me to make the secured property available to you at a place which is reasonably convenient. You may take possession of the secured property and sell it as provided by law. The proceeds will be applied first to your expenses and then to the debt. I agree that 10 days written notice sent to my last known address by first class mail will be reasonable notice under the Uniform Commercial Code. My current address is on page 1.

PERFORMANCE OF SECURITY INTEREST - I authorize you to file a financing statement covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining possession of or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code.

ADDITIONAL TERMS OF THE NOTE

DEFINITIONS - As used on pages 1 and 2, "X" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW - The law of the state of Idaho will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

PAYMENTS - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE - The index will serve only as a device for setting the interest rate on this note. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

POST MATURITY RATE - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph on page 2.

MULTIPLE ADVANCE LOANS - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

- "Right to receive money from you" means:
- (1) any deposit account balance I have with you;
 - (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
 - (3) any repurchase agreement or other nondeposit obligation.

amount of which you are liable to demand payment under the terms of this note at the time you set off. This total includes the balance the due date for which you properly accelerate under this note. If someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

DEFAULT - I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the Property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart 5, Exhibit M.

REMEDIES - If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges).
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- (4) You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.
- (6) You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES - I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

FINANCIAL INFORMATION - I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

PAYMENT BY CHECK - If any payment on this note is made with a check that is dishonored, I agree to pay you a \$20.00 fee.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1 AND 2). I have received a copy on today's date.

JEFFERSON ENTERPRISES, LLC

DUSTIN MORRISON, MANAGING MEMBER


SONYA KIDD AKA SONYA MORRISON, MANAGING MEMBER


SIGNATURE FOR LENDER: STEVEN E. WORTON, VICE PRESIDENT

ACKNOWLEDGMENT: STATE OF IDAHO, _____ County ss:
On this _____ day of _____ before me _____, a Notary Public in and for said county and state, personally appeared _____, known or identified to me (or proved on the oath of _____), to be the person(s) who executed this instrument, and acknowledged to me that _____ executed the same.
In Witness whereof I have set my hand and affixed my seal the day and year first above written.

Notary Public residing at: _____

206097

FIRST AMERICAN TITLE
RECORDED AT REQUEST OF

FEE 33⁰⁰ DEPUTY SB

MAY 10 PM 4 38

OFFICIAL RECORD BOOK # 883

State of Idaho

Space Above This Line For Recording Data

BANNOCK COUNTY IDAHO

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 05-09-2006 and the parties and their addresses are as follows:

MORTGAGOR:
JEFFERSON ENTERPRISES, LLC
4755 HEIDI COURT
CHUBBUCK, ID 83202

Refer to the Addendum which is attached and incorporated herein for additional Mortgages.

LENDER:
THE BANK OF COMMERCE-AMERICAN FALLS
590 TYHEE
AMERICAN FALLS, ID 83211

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells and conveys to Lender the following described property:
SEE EXHIBIT 'A' WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

The property is located in BANNOCK at SEE ATTACHED EXHIBIT 'A' LEGAL
(County)

DESCRIPTION _____, Idaho _____
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

IDAHO - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES) (page 1 of 8)

ExpensSM © 1993, 2001 Bankers Systems, Inc., St. Cloud, MN Form AGCORESIM-ID 1/7/2003

[Handwritten signatures]



3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 2,223,805.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:
 A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate, maturity date):

NOTE DATED 5-09-2006 IN THE AMOUNT OF \$2,223,805.00 TO MATURE ON 6-01-2007.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
- E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.

- 5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage. If any note evidencing the Secured Debt contains a variable rate feature, Grantor acknowledges that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated.
- 6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.
- 7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
- 8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
 - A. To make all payments when due and to perform or comply with all covenants.
 - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
 - C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
- 9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
- 10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.

11. ENTITY WARRANTIES AND REPRESENTATIONS. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:

- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. AUTHORITY TO PERFORM. If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

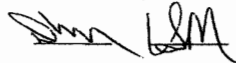
14. ASSIGNMENT OF LEASES AND RENTS. Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains and conveys to Lender all the right, title and interest in the following (Property).

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents as long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

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As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

- 15. CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
- 16. DEFAULT.** Mortgagor will be in default if any of the following occur:
- Any party obligated on the Secured Debt fails to make payment when due;
 - A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
 - The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
 - The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
 - A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
 - A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
 - Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
- 17. REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default.
- At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
- 18. REDEMPTION.** The period of redemption after sale on foreclosure shall be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.
- 19. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
- 20. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
- No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
 - Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
 - Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of

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any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

- D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
- E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
- F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
- G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
- H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
- I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
- J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
- K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
- L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

21. CONDEMNATION. Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

22. INSURANCE. Mortgagor agrees to maintain insurance as follows:

- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding sentence can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

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[Handwritten signatures]

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
23. **NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
24. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.
25. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.
If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.
26. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.
27. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
28. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all rights to homestead exemption, appraisalment or the marshalling of liens and assets relating to the Property.
29. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:
- Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.
 - Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.
 - Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
 - Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
 - Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.
30. **OTHER TERMS.** If checked, the following are applicable to this Mortgage:
- Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.
 - Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

(page 6 of 8)



Additional Terms.

11-7

20609793

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: JEFFERSON ENTERPRISES, LLC

[Signature] 5.10.06
(Signature) DUSTIN MORRISON, MEMBER (Date)

[Signature] 5.10.06
(Signature) SONYA KIDD AKA SONYA MORRISON, MEMBER (Date)

(Signature) (Date)

(Signature) (Date)

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

ACKNOWLEDGMENT:

STATE OF _____, COUNTY OF _____ } ss.
On this _____ day of _____, before me, a Notary Public, personally appeared

(Individual)

known or identified to me (or proved to me on the oath of _____),
to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that she/he/they
executed the same.

My commission expires: _____

(Notary Public)

STATE OF IDAHO, COUNTY OF Bannock } ss.

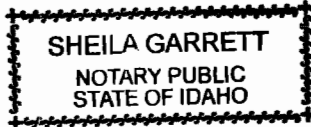
On this 8TH 10th day of MAY, 2006, before me, a Notary Public, personally appeared

DUSTIN MORRISON; SONYA KIDD AKA SONYA MORRISON

(Business
or Entity
Acknowledgment)

known or identified to me (or proved to me on the oath of _____),
to be the MEMBER; MEMBER OF JEFFERSON ENTERPRISES, LLC

My commission expires: 9-17-2011



[Handwritten Signature]

(Notary Public)

[Handwritten Signature]

LEGAL DESCRIPTION

Exhibit "A"

Real property in the County of Bannock, State of Idaho, described as follows:

PARCEL 1:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THE SAME BEING THE SOUTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 373461; THENCE NORTH $00^{\circ}15'43''$ EAST FOR A DISTANCE OF 1320.91 FEET TO A FOUND $3/4$ INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, THENCE NORTH $89^{\circ}50'47''$ WEST ALONG THE NORTH BOUNDARY LINE OF SOUTH VALLEY VIEW ESTATES FOR A DISTANCE OF 659.93 FEET; THENCE NORTH $00^{\circ}06'14''$ EAST ALONG THE WEST BOUNDARY LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9 FOR A DISTANCE OF 1315.23 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 9; THENCE SOUTH $88^{\circ}55'17''$ EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 9 FOR A DISTANCE OF 1976.72 FEET TO THE EAST $1/16$ TH CORNER ON SAID CENTERLINE; THENCE SOUTH $00^{\circ}05'41''$ WEST FOR A DISTANCE OF 2638.63 FEET TO THE EAST $1/16$ TH CORNER ON THE SOUTH LINE OF SECTION 9; THENCE NORTH $88^{\circ}51'13''$ WEST FOR A DISTANCE OF 1320.88 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER, THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THENCE SOUTH $88^{\circ}50'35''$ EAST ALONG THE NORTH LINE OF SECTION 16 FOR A DISTANCE OF 800.00 FEET TO THE NORTHEAST CORNER OF PIEDMONT ACRES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 601980; THENCE SOUTH $00^{\circ}46'58''$ WEST ALONG THE EAST SIDE OF PIEDMONT ACRES FOR A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH $88^{\circ}50'35''$ EAST ALONG THE SOUTH RIGHT OF WAY LINE OF PIEDMONT ROAD FOR A DISTANCE OF 519.31 FEET TO THE WEST $1/16$ TH LINE OF SECTION, THENCE NORTH $00^{\circ}37'47''$ EAST FOR A DISTANCE OF 25.00 FEET TO THE WEST $1/16$ TH CORNER ON THE NORTH LINE OF SECTION 16, THENCE SOUTH $88^{\circ}50'35''$ EAST FOR A DISTANCE OF 1319.24 FEET TO THE NORTH QUARTER CORNER OF SECTION 16, THENCE SOUTH $88^{\circ}51'13''$ EAST FOR A DISTANCE OF 2641.77 FEET TO THE NORTHEAST CORNER OF SECTION 16, THENCE SOUTH $00^{\circ}32'19''$ WEST ALONG THE EAST LINE OF SECTION 16 FOR A DISTANCE OF 2091.20 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 788114; THENCE NORTH $89^{\circ}20'56''$ WEST FOR A DISTANCE OF 1046.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE SOUTH $00^{\circ}32'19''$ WEST FOR A DISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE SAID LAND; THENCE SOUTH $89^{\circ}20'56''$ EAST ALONG THE SOUTH LINE OF SAID LAND, THE SAME BEING THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 56.81 FEET; THENCE SOUTH $00^{\circ}33'48''$ WEST FOR A DISTANCE OF 528.00 FEET; THENCE NORTH $89^{\circ}20'55''$ WEST FOR A DISTANCE OF 329.11 FEET TO A POINT ON THE EAST $1/16$ TH LINE OF SECTION 16; THENCE NORTH $00^{\circ}29'48''$ EAST FOR A DISTANCE OF 528.00 FEET TO THE EAST $1/16$ TH CORNER ON THE LATITUDINAL CENTERLINE OF SECTION 16; THENCE NORTH $89^{\circ}20'56''$ WEST ALONG THE SAID LATITUDINAL CENTERLINE FOR A DISTANCE OF 1023.90 FEET TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH $00^{\circ}27'19''$ EAST FOR A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH $89^{\circ}20'56''$ WEST FOR A

DISTANCE OF 295.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE NORTH 00°27'19" EAST ALONG THE MERIDIONAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 1236.51 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE FOLLOWING THE BOUNDARY LINES OF THE LAND DESCRIBED IN INSTRUMENT 621688 FOR THE NEXT FIVE (5) COURSES: (1) SOUTH 89°06'35" EAST FOR A DISTANCE OF 260.00 FEET; THENCE (2) NORTH 14°06'45" EAST FOR A DISTANCE OF 140.00 FEET; THENCE (3) NORTH 41°32'41" EAST FOR A DISTANCE OF 450.00 FEET; THENCE (4) NORTH 41°17'29" WEST FOR A DISTANCE OF 180.00 FEET; THENCE (5) SOUTH 48°42'31" WEST FOR A DISTANCE OF 907.24 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 88°35'51" WEST ALONG THE SAID NORTH BOUNDARY LINE FOR A DISTANCE OF 490.35 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 00°37'47" EAST ALONG THE EAST BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 675569 FOR A DISTANCE OF 435.85 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 264.18 FEET; THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 66.00 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 360.03 FEET TO A POINT ON THE WEST 1/16TH LINE OF SECTION 16, SAID POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 95003247; THENCE SOUTH 00°37'47" WEST ALONG THE WEST 1/16TH LINE FOR A DISTANCE OF 302.77 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 790.30 FEET; THENCE SOUTH 00°37'47" WEST FOR A DISTANCE OF 423.23 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD; THENCE NORTH 88°37'03" WEST ALONG THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD FOR A DISTANCE OF 193.21 FEET TO A POINT ON A CURVE IN THE EAST RIGHT OF WAY LINE OF OLD US HIGHWAY 30; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE, FOLLOWING A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF 05°02'19" AND AN ARC DISTANCE OF 507.38 FEET TO A POINT ON THE WEST LINE OF SECTION 16, THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH 41°10'59" WEST A DISTANCE OF 507.21 FEET; THENCE NORTH 00°46'58" EAST ALONG THE SAID WEST LINE FOR A DISTANCE OF 218.97 FEET TO THE SOUTHWEST CORNER OF PIEDMONT ACRES; THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 800.00 FEET TO THE SOUTHEAST CORNER OF PIEDMONT ACRES; THENCE NORTH 00°46'58" EAST ALONG THE EAST BOUNDARY LINE OF PIEDMONT ACRES FOR A DISTANCE OF 653.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BEING THAT PARCEL OF LAND DESCRIBED IN INSTRUMENT 634749 OF THE RECORDS OF BANNOCK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN; THENCE SOUTH 89°20' 56" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 294.26 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 459.93 FEET; THENCE NORTH 48°49'49" WEST 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 48°49'49" WEST FOR A DISTANCE OF 208.71 FEET; THENCE SOUTH 53°40'56" WEST FOR A DISTANCE OF 213.80 FEET; THENCE SOUTH 48°49'49" EAST FOR A DISTANCE OF 208.71 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 213.80 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

11-11

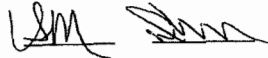
LOT 1, BLOCK 1; LOTS 1 THROUGH 7 AND 9 THROUGH 11, BLOCK 2, LOTS 1 THROUGH 12 AND 15 THROUGH 18, BLOCK 3; LOTS 1 THROUGH 11 AND 13 THROUGH 15, BLOCK 4; LOTS 1 THROUGH 9, BLOCK 5; LOTS 1 AND 2, BLOCK 6; LOTS 1, 3, 4, 7 THROUGH 11 AND 14 THROUGH 36, BLOCK 7; LOTS 2 THROUGH 20, BLOCK 8; LOTS 1 THROUGH 7, BLOCK 9, ALL LOCATED IN SOUTH VALLEY VIEW ESTATES SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED OCTOBER 16, 1961 AS INSTRUMENT NO. 373461.

PARCEL 4:

LOT ALL, BLOCK ALL, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

EXCEPTING THEREFROM:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10, BLOCK 2 AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9, BLOCK 3, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.



20075644

OFFICIAL RECORD BK# 8910
BANNOCK COUNTY IDAHO

RECORDED AT REQUEST OF
FEE \$38 DEPUTY BP

FIRST AMERICAN TITLE

20075644

2007 JUN 27 10 2 00

FA 21932A

State of Idaho _____ Space Above This Line For Recording Data _____

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 06-27-2007 and the parties and their addresses are as follows:

MORTGAGOR:
JEFFERSON ENTERPRISES, LLC
440 EAST CLARK STREET SUITE A
POCATELLO, ID 83201

Refer to the Addendum which is attached and incorporated herein for additional Mortgages.

LENDER:
THE BANK OF COMMERCE-AMERICAN FALLS
590 TYHEE
AMERICAN FALLS, ID 83211

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells and conveys to Lender the following described property:
SEE EXHIBIT 'A' WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

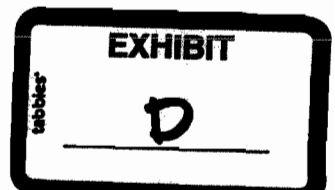
The property is located in BANNOCK _____ at A TRACT OF LAND IN THE SOUTH HALF OF _____
(County)
SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M. _____, Idaho _____
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

IDAHO - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES) (page 1 of 8)

ExpereSM © 1993, 2001 Bankers Systems, Inc., St. Cloud, MN Form AGCORESIM-ID 1/7/2003

27 JM



3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 400,000.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:
A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate, maturity date):

NOTE DATED JUNE 27, 2007 IN THE AMOUNT OF \$400,000.00 TO MATURE ON JANUARY 1, 2008.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage. If any note evidencing the Secured Debt contains a variable rate feature, Grantor acknowledges that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated.

6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.

7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.

8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:

- A. To make all payments when due and to perform or comply with all covenants.
B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.

9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.

10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.

(page 2 of 8)

27 JM

11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:

- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains and conveys to Lender all the right, title and interest in the following (Property).

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents as long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

D7 LJM

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
- A party obligated on the Secured Debt fails to make payment when due;
 - A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
 - The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
 - The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
 - A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
 - A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
 - Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default.
- At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
18. **REDEMPTION.** The period of redemption after sale on foreclosure shall be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.
19. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
20. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
- No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
 - Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
 - Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of

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any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

- D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
 - E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
 - L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
- 21. CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
- 22. INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding sentence can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage. All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor. Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given. Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

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- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
 - C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
- 23. NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
- 24. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.
- 25. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.
If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.
- 26. APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.
- 27. NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
- 28. WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all rights to homestead exemption, appraisalment or the marshalling of liens and assets relating to the Property.
- 29. U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:
- Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.
 - Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.
 - Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
 - Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
 - Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.
- 30. OTHER TERMS.** If checked, the following are applicable to this Mortgage:
- Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.
 - Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

(page 6 of 8)

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Additional Terms.

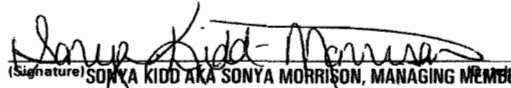
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SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: JEFFERSON ENTERPRISES, LLC


(Signature) DUSTIN MORRISON, MANAGING MEMBER (Date)


(Signature) SONYA KIDD AKA SONYA MORRISON, MANAGING MEMBER

(Signature) (Date)

(Signature) (Date)

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

ACKNOWLEDGMENT:

STATE OF _____, COUNTY OF _____) ss.
On this _____ day of _____, before me, a Notary Public, personally appeared

(Individual

known or identified to me (or proved to me on the oath of _____),
to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that she/he/they
executed the same.

My commission expires:

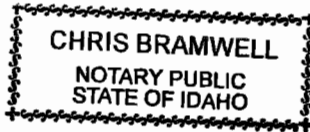
(Notary Public)

STATE OF IDAHO, COUNTY OF Bannock) ss.
On this 29th day of JUNE, 2007, before me, a Notary Public, personally appeared

(Business
or Entity
Acknowledgment)

DUSTIN MORRISON; SONYA KIDD AKA SONYA MORRISON
known or identified to me (or proved to me on the oath of _____),
to be the MANAGING MEMBER; MANAGING MEMBER

My commission expires: 10-30-12



Chris Bramwell
(Notary Public)
Residing at: Pocatello, Id.

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Exhibit "A"

20715644

Real property in the County of Bannock, State of Idaho, described as follows:

PARCEL 1:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THE SAME BEING THE SOUTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 373461; THENCE NORTH 00°15'43" EAST FOR A DISTANCE OF 1320.91 FEET TO A FOUND 3/4 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, THENCE NORTH 89°50'47" WEST ALONG THE NORTH BOUNDARY LINE OF SOUTH VALLEY VIEW ESTATES FOR A DISTANCE OF 659.93 FEET; THENCE NORTH 00°06'14" EAST ALONG THE WEST BOUNDARY LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9 FOR A DISTANCE OF 1315.23 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 9; THENCE SOUTH 88°55'17" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 9 FOR A DISTANCE OF 1976.72 FEET TO THE EAST 1/16TH CORNER ON SAID CENTERLINE; THENCE SOUTH 00°05'41" WEST FOR A DISTANCE OF 2638.63 FEET TO THE EAST 1/16TH CORNER ON THE SOUTH LINE OF SECTION 9; THENCE NORTH 88°51'13" WEST FOR A DISTANCE OF 1320.88 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER, THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THENCE SOUTH 88°50'35" EAST ALONG THE NORTH LINE OF SECTION 16 FOR A DISTANCE OF 800.00 FEET TO THE NORTHEAST CORNER OF PIEDMONT ACRES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 601980; THENCE SOUTH 00°46'58" WEST ALONG THE EAST SIDE OF PIEDMONT ACRES FOR A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°50'35" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF PIEDMONT ROAD FOR A DISTANCE OF 519.31 FEET TO THE WEST 1/16TH LINE OF SECTION, THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 25.00 FEET TO THE WEST 1/16TH CORNER ON THE NORTH LINE OF SECTION 16, THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 1319.24 FEET TO THE NORTH QUARTER CORNER OF SECTION 16, THENCE SOUTH 88°51'13" EAST FOR A DISTANCE OF 2641.77 FEET TO THE NORTHEAST CORNER OF SECTION 16, THENCE SOUTH 00°32'19" WEST ALONG THE EAST LINE OF SECTION 16 FOR A DISTANCE OF 2091.20 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN

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INSTRUMENT 788114; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 1046.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 00°32'19" WEST FOR A DISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 89°20'56" EAST ALONG THE SOUTH LINE OF SAID LAND, THE SAME BEING THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 56.81 FEET; THENCE SOUTH 00°33'48" WEST FOR A DISTANCE OF 528.00 FEET; THENCE NORTH 89°20'55" WEST FOR A DISTANCE OF 329.11 FEET TO A POINT ON THE EAST 1/16TH LINE OF SECTION 16; THENCE NORTH 00°29'48" EAST FOR A DISTANCE OF 528.00 FEET TO THE EAST 1/16TH CORNER ON THE LATITUDINAL CENTERLINE OF SECTION 16; THENCE NORTH 89°20'56" WEST ALONG THE SAID LATITUDINAL CENTERLINE FOR A DISTANCE OF 1023.90 FEET TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 00°27'19" EAST FOR A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 295.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE NORTH 00°27'19" EAST ALONG THE MERIDIONAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 1236.51 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE FOLLOWING THE BOUNDARY LINES OF THE LAND DESCRIBED IN INSTRUMENT 621688 FOR THE NEXT FIVE (5) COURSES: (1) SOUTH 89°06'35" EAST FOR A DISTANCE OF 260.00 FEET; THENCE (2) NORTH 14°06'45" EAST FOR A DISTANCE OF 140.00 FEET; THENCE (3) NORTH 41°32'41" EAST FOR A DISTANCE OF 450.00 FEET; THENCE (4) NORTH 41°17'29" WEST FOR A DISTANCE OF 180.00 FEET; THENCE (5) SOUTH 48°42'31" WEST FOR A DISTANCE OF 907.24 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 88°35'51" WEST ALONG THE SAID NORTH BOUNDARY LINE FOR A DISTANCE OF 490.35 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 00°37'47" EAST ALONG THE EAST BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 675569 FOR A DISTANCE OF 435.85 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 264.18 FEET; THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 66.00 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 360.03 FEET TO A POINT ON THE WEST 1/16TH LINE OF SECTION 16, SAID POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 95003247; THENCE SOUTH 00°37'47" WEST ALONG THE WEST 1/16TH LINE FOR A DISTANCE OF 302.77 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 790.30 FEET; THENCE SOUTH 00°37'47" WEST FOR A DISTANCE OF 423.23 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD; THENCE NORTH 88°37'03" WEST ALONG THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD FOR A DISTANCE OF 193.21 FEET TO A POINT ON A CURVE IN THE EAST RIGHT OF WAY LINE OF OLD US HIGHWAY 30; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE, FOLLOWING A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF 05°02'19" AND AN ARC DISTANCE OF 507.38 FEET TO A POINT ON THE WEST LINE OF SECTION 16, THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH 41°10'59" WEST A DISTANCE OF 507.21 FEET; THENCE NORTH 00°46'58" EAST ALONG THE SAID WEST LINE FOR A DISTANCE OF 218.97 FEET TO THE SOUTHWEST CORNER OF PIEDMONT ACRES; THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 800.00 FEET TO THE SOUTHEAST CORNER OF PIEDMONT ACRES; THENCE NORTH 00°46'58" EAST ALONG THE EAST BOUNDARY LINE OF PIEDMONT ACRES FOR A DISTANCE OF 653.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BEING THAT PARCEL OF LAND DESCRIBED IN INSTRUMENT 634749 OF THE RECORDS OF BANNOCK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN; THENCE SOUTH 89°20' 56" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 294.26 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 459.93 FEET; THENCE NORTH 48°49'49" WEST 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 48°49'49" WEST FOR A DISTANCE OF 208.71 FEET; THENCE SOUTH 53°40'56" WEST FOR A DISTANCE OF 213.80 FEET; THENCE SOUTH 48°49'49' EAST FOR A DISTANCE OF 208.71 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 213.80 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

LOT 1, BLOCK 1; LOTS 1 THROUGH 7 AND 9 THROUGH 11, BLOCK 2, LOTS 1 THROUGH 12 AND 15 THROUGH 18, BLOCK 3; LOTS 1 THROUGH 11 AND 13 THROUGH 15, BLOCK 4; LOTS 1 THROUGH 9, BLOCK 5; LOTS 1 AND 2, BLOCK 6; LOTS 1, 3, 4, 7 THROUGH 11 AND 14 THROUGH 36, BLOCK 7; LOTS 2 THROUGH 20, BLOCK 8; LOTS 1 THROUGH 7, BLOCK 9, ALL LOCATED IN SOUTH VALLEY VIEW ESTATES SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED OCTOBER 16, 1961 AS INSTRUMENT NO. 373461.

PARCEL 4:

LOT ALL, BLOCK ALL, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

EXCEPTING THEREFROM:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10, BLOCK 2 AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9, BLOCK 3, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

CORPORATE
NOTE AND DEED OF TRUST/MORTGAGE
AGREEMENT TO AMEND TERMS

20803692

THIS AGREEMENT is made and entered into this 21st day of February, 2008, by and between Jefferson Enterprises, LLC, as Grantor(s), whose address is 440 East Clark Street, Suite A, Pocatello, ID 83201 and THE BANK OF COMMERCE, as Beneficiary, whose address is 590 Tyhee, American Falls, ID 83211 to modify a NOTE and DEED OF TRUST/MORTGAGE dated June 27, 2007 recorded June 29, 2007 as Instrument No. 20715644 records of Bannock County, Idaho, by which the Grantor(s) conveyed the real property therein described to First American Title (as trustee), to secure payment to Beneficiary of the promissory note therein identified and also such other sums and/or the performance of such other obligations as provided in said Deed of Trust/Mortgage which by this reference is incorporated herein for all necessary and proper purposes. REAL PROPERTY DESCRIBED AS: See attached exhibit "A"

Grantor(s) and Beneficiary now desire and do hereby modify the original Note and Deed of Trust in the following respects: To modify the maturity date of 01/01/08 to now become due 05/01/08 and to increase the original loan amount from \$400,000.00 to 420,062.20.

All the terms and conditions of the original Note and Deed of Trust/Mortgage, shall remain in full force and effect except as herein modified.

THE BANK OF COMMERCE

By: Ron F Crystal EUP

Jefferson Enterprises, LLC

(1) [Signature]

Dustin Morrison Managing Member

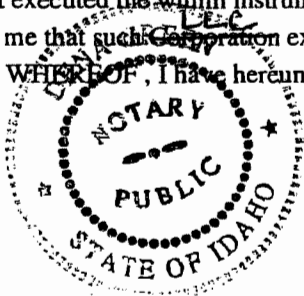
(2) [Signature] [Signature]

Sonya Kidd AKA Sonya Morrison Managing Member

STATE OF
COUNTY OF

On this 21st day of February 2008, before me, a Notary Public in and for said State, personally appeared Dustin Morrison & Sonya Morrison known to me to be the Managing Members respectively, of the Jefferson Enterprises, LLC Corporation that executed the within instrument or the person(s) who executed the instrument in behalf of said Corporation, and acknowledge to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written,

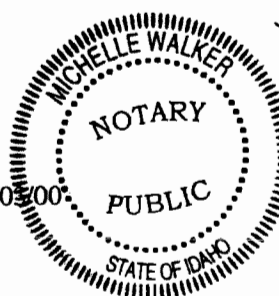


[Signature]
Notary Public
Residing at Pocatello, Id
My commission Expires 9.3.10

STATE OF
COUNTY OF

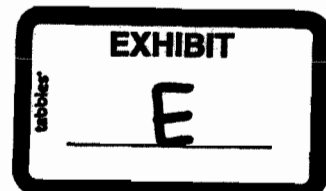
On this 20 day of FEBRUARY in the year 2008, before me, a Notary Public in and for said State, personally appeared RON F. CRYSTAL to me known to be the EVP of THE BANK OF COMMERCE of Idaho Falls, Idaho, and acknowledged to me that said corporation had executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written.



Michelle Walker
Notary Public
Residing at Idaho Falls
My commission Expires February 4, 2014

RE/MOD-14 Revised 01/03/00



CORPORATE
NOTE AND DEED OF TRUST/MORTGAGE
AGREEMENT TO AMEND TERMS

20 3693

THIS AGREEMENT is made and entered into this 21st day of February, 2008, by and between Jefferson Enterprises, LLC, as Grantor(s), whose address is 440 East Clark Street, Suite A, Pocatello, ID 83201 and THE BANK OF COMMERCE, as Beneficiary, whose address is 590 Tyhee, American Falls, ID 83211 to modify a NOTE and DEED OF TRUST/MORTGAGE dated May 09, 2006 recorded May 10, 2006 as Instrument No. 20609793 records of Bannock County, Idaho, by which the Grantor(s) conveyed the real property therein described to First American Title (as trustee), to secure payment to Beneficiary of the promissory note therein identified and also such other sums and/or the performance of such other obligations as provided in said Deed of Trust/Mortgage which by this reference is incorporated herein for all necessary and proper purposes. REAL PROPERTY DESCRIBED AS: See attached exhibit "A"

Grantor(s) and Beneficiary now desire and do hereby modify the original Note and Deed of Trust in the following respects: To modify maturity date of 06/01/07 to now become due 05/01/08

All the terms and conditions of the original Note and Deed of Trust/Mortgage, shall remain in full force and effect except as herein modified.

THE BANK OF COMMERCE

By: Ron F. Crystal EVP

Jefferson Enterprises, LLC

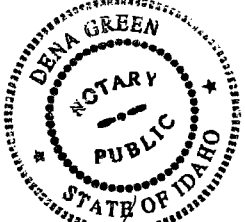
(1) [Signature]
Dustin Morrison Managing Member
(2) [Signature] [Signature]
Sonja Kidd AKA Sonja Morrison Managing Member

STATE OF

COUNTY OF St

On this 21st day of February, 2008, before me, a Notary Public in and for said State, personally appeared Dustin Morrison & Sonja Morrison known to me to be the Managing Member respectively, of the LLC Corporation that executed the within instrument or the person(s) who executed the instrument in behalf of said Corporation, and acknowledge to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written,



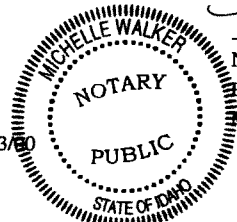
[Signature]
Notary Public
Residing at Pocatello, Id.
My commission Expires 9.3.10

STATE OF

COUNTY OF

On this 20 day of FEBRUARY in the year 2008, before me, a Notary Public in and for said State, personally appeared RON F. CRYSTAL to me known to be the EVP of THE BANK OF COMMERCE of Idaho Falls, Idaho, and acknowledged to me that said corporation had executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written.



[Signature]
Notary Public
Residing at Idaho Falls
My commission Expires February 4, 2014

RE/MOD-14 Revised 01/03/00

GUARANTY

AMERICAN FALLS

(City)

IDAHO

(State)

FEBRUARY 21, 2008

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: NOTE DATED 02/21/08 FOR JEFFERSON ENTERPRISES, LLC IN THE AMOUNT OF \$420,062.20 TO MATURE 05/01/08. and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s):

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ 420062.20 (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

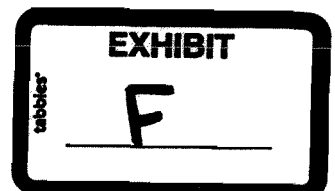
This guaranty is [X] unsecured; [] secured by a mortgage or security agreement dated 2-21-08; [] secured by

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON

SONJA KIDD AKA SONJA MORRISON

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.



6. Whether [redacted] any existing relationship between the Undersigned [redacted] and Borrower has been changed or ended and whether [redacted] this guaranty has been revoked, Lender [redacted] shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

AMERICAN FALLS

(City)

IDAHO

(State)

JUNE 27, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): NOTE DATED JUNE 27, 2007 IN THE NAME OF JEFFERSON ENTERPRISES, LLC. IN THE AMOUNT OF \$400,000.00.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ _____ (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is unsecured; secured by a mortgage or security agreement dated _____; secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONYA KIDD AKA SONYA MORRISON

Undersigned shall refer to all persons who sign this guaranty, severally and jointly.

6. Whether [redacted] at any existing relationship between the Undersigned [redacted] and Borrower has been changed or ended and whether [redacted] this guaranty has been revoked, Lender [redacted] but shall not be obligated to, enter into transactions resulting in the creation or continuance of indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

AMERICAN FALLS

(City)

IDAHO

(State)

MAY 09, 2006

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): NOTE DATED 5-09-2006 IN THE NAME OF JEFFERSON ENTERPRISES, LLC IN THE AMOUNT OF \$2,223,805.00.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ _____ (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is unsecured; secured by a mortgage or security agreement dated _____; secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONYA KIDD AKA SONYA MORRISON

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL SMITH, P.A.
490 Memorial Drive
Post Office Box 51630
Idaho Falls, Idaho 83405-1630
Telephone (208) 522-3001
Fax (208) 523-7254
Idaho State Bar Nos. 1580 & 5236
Attorney for Plaintiff

FILED
BY: *CW*
2008 NOV 13 AM 10:08
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality,

Defendants.

Case No. CV-08-4231-OC

**AMENDED COMPLAINT TO
FORECLOSE REAL ESTATE
MORTGAGE**

Plaintiff for cause of suit against the above-named Defendants complains and alleges:

1. **Status of Plaintiff.** At all times herein mentioned, Plaintiff has been and now is a banking corporation organized and existing under and by virtue of the law of the State of Idaho. Plaintiff has its principal place of business at Idaho Falls, Idaho and is authorized, among other things, to loan money and to take notes and collateral as security therefore.

2. **Status of Defendants.** The Defendant, Jefferson Enterprises, LLC is an Idaho limited liability company. Defendant Jefferson Enterprises, LLC is now and at all times hereafter mentioned was the maker of the Note, Mortgage, and other security documents herein

sought to be foreclosed and is the fee simple owner of the Premises. Dustin Morrison and Sonya Kidd a/k/a Sonya Morrison, are now and were at all times hereinafter mentioned, husband and wife and personally guaranteed the obligation of the Defendant Jefferson Enterprises, LLC. The City of Pocatello is an Idaho municipality and is listed as a Defendant because they may claim interest in the property based on an annexation agreement with Defendant Jefferson Enterprises, LLC and recorded November 2, 2007 as Instrument No. 20726324 and an Easement for Water Lines recorded February 20, 2008 as Instrument No. 20803642. The City of Pocatello is an Idaho municipality is listed because the Annexation Agreement and Easement. In addition, the City of Pocatello is listed as the vested owner of the real property described in Exhibit "G". Said property was deeded by the Defendant Jefferson Enterprises, LLC to the City of Pocatello but said deed was subject to the prior mortgages of The Bank of Commerce.

3. **Inferior Interests.** The above-named Defendants, and each of them, claim some right, title, lien or interest in the property in Plaintiff's Mortgage described, but their interest, if any, in and to said property is junior, subordinate and subsequent to the right and lien of the Plaintiff.

COUNT I MORTGAGE FORECLOSURE

4. **Promissory Notes.** On the 9th day of May, 2006, Plaintiff loaned to Jefferson Enterprises, LLC the sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE DOLLARS (\$2,223,805.00) and as evidence of said loan Jefferson Enterprises made their Promissory Note in writing, which said Note was dated the May 9, 2006 in the principal sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE DOLLARS (\$2,223,805.00) both principal and interest being payable in the words and figures as set forth in Exhibit "A" attached, which is a true and correct copy of said Promissory Note, hereby incorporated by reference as set forth in full at this place.

On the 27th day of June, 2007, Plaintiff loaned to Jefferson Enterprises, LLC the sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) and as evidence of said loan Jefferson Enterprises made their Promissory Note in writing, which said Note was dated the

June 27, 2007 in the principal sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) both principal and interest being payable in the words and figures as set forth in Exhibit "B" attached, which is a true and correct copy of said Promissory Note, hereby incorporated by reference as set forth in full at this place.

5. **Description of Real Property Security.** As security for the repayment of said loan, together with interest, costs and attorney fees, the Defendant Jefferson Enterprises, LLC made, executed and delivered to Plaintiff their certain Mortgage dated the 5th day of May, 2006, and attached hereto as Exhibit "C" and incorporated herein as though set forth in full on the real property situated in Bannock County, State of Idaho described in said mortgage. Said Mortgage was recorded May 10, 2006 in the records of Bannock County, Idaho under Instrument No. 20609793.

As security for the repayment of said loans, together with interest, costs and attorney fees, the Defendant Jefferson Enterprises, LLC made, executed and delivered to Plaintiff their certain Mortgage dated the 27th day of June, 2007, and attached hereto as Exhibit "D" and incorporated herein as though set forth in full on the real property situated in Bannock County, State of Idaho, described in said mortgage. Said Mortgage was recorded June 27, 2007 in the records of Bannock County, Idaho under Instrument No. 20715644.

6. **Modification to Notes and Mortgages.** The above described Promissory Notes and Mortgages were modified pursuant to Corporate Note and Deed of Trust/Mortgage Agreement to Amend Terms. Copies of both modifications are attached as Exhibit "E". As a result of the modifications, both Notes became due and payable in full on May 1, 2008.

7. **Default and Acceleration.** Plaintiff is the owner and holder of said Notes and Mortgages. On May 1, 2008, the Defendant, Jefferson Enterprises, LLC, was in default in that it failed to pay the balance of said notes. On the 1st day of August, 2008, Plaintiff declared and does hereby declare, all sums owing under said Notes, Mortgages and related security documents due and payable in full.

Plaintiff incurred and paid the sum of SIX THOUSAND TWO HUNDRED TWENTY-SIX DOLLARS AND NINETY-NINE CENTS (\$6,226.99) for a Foreclosure Litigation Guaranty.

That as of the 15th day of July, 2008 the Defendant, Jefferson Enterprises, LLC, owed to the Plaintiff under the terms and provisions of said Notes and Mortgages the sum of Two Million Six Hundred Forty Seven Thousand Two Thousand Seventeen Dollars and 13\100 (\$2,723,497.40) calculated as follows:

Principal balance due as of 7/15/08	\$2,647,217.13
Interest through 7/15/08	<u>\$ 76,280.27</u>
Total P & I due 7/15/08	\$2,723,497.40

Said Note accrues interest at the combined per diem of \$507.68548.

8. **Use of Premises.** Said mortgaged premises have at all times heretofore been used together as one (1) lot or parcel and every part thereof is necessary for the best use and enjoyment of said mortgaged property and the same cannot be sold in separate parcels without material injury to the parties hereto.

9. **Reasonable Value.** Plaintiff intends to determine the reasonable value of the property prior to Entry of Decree herein and to introduce to evidence supporting such value. In the event said reasonable value should be less than the amount of the Judgement requested, plus accruing interest, costs, and fees, Plaintiff intends to apply to the Court for the Entry of a Deficiency Judgment against Defendants Jefferson Enterprises, and for any deficiency remaining after application of the foreclosure sale proceeds to payment of the Judgement herein, plus accruing interest herein, costs and fees.

10. **No Other Action.** The Plaintiff has no plain, speedy or adequate remedy at law, and at no other proceeding at law or inequity has been commenced or is pending to collect said Note or any portion thereof or to foreclose this Mortgage. That all conditions precedent to the initiation and prosecution of the suit on said Note and said foreclosure of Mortgage have been satisfied.

COUNT II PERSONAL GUARANTY

11. **Personal Guaranty.** The Defendants DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON personally guaranteed each and every obligation of Jefferson Enterprises described above. A said copy of said guarantees are attached hereto as Exhibit "F".

12. The Defendant Jefferson Enterprises has defaulted on the obligation as described above.

13. Plaintiff has made demand on the Defendant Jefferson Enterprises, LLC for payment but Jefferson Enterprises has failed to pay as required by the Promissory Note.

14. Plaintiff has made demand on the Defendants DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON for payment based upon the guaranty but each of them has refused and continues to refuse to pay Plaintiff.

15. As the Guarantor, the Defendants, DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON are obligated to the Plaintiff in the principal amount of \$2,723,497.40 plus interest accruing after July 15, 2008 at the per diem interest accrual of \$507.68548 as of July 15, 2008 based on the loan documents.

ATTORNEY'S FEES

16. Plaintiff has had to employ counsel to represent it in this action and has obligated itself to pay a reasonable fee for such services. Plaintiff is entitled to recover reasonable attorney's fees from the Defendants by virtue of the attorney's fees provision contained in the Promissory Note/Mortgage, and other security documents herein described and attached and pursuant to Idaho Code §12-120 and §112-121. Plaintiff alleges that \$10,000.00 is a reasonable sum to be allowed as attorney's fees if this action is contested, plus such additional sums as the Court may adjudge as a reasonable attorney's fees in the event of contest, trial, or appeal.

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT AS FOLLOWS:

1. That Plaintiff have Judgment against JEFFERSON ENTERPRISES, LLC, DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON, and their marital community and each of them for the sum of (\$2,723,497.40), together with interest at the per diem rate of \$507.68548 from July 15, 2008 until entry of Decree; for any sums advanced by Plaintiff or which Plaintiff becomes obligated to advance for the payment of ground rents, taxes, assessments, hazard insurance premiums, mortgage insurance premiums, water charges and

other governmental charges, fines or impositions levied, assessed or charged against the mortgaged property during the pendency of this action, including interest on such advance from the date of advance; for the sum of TEN THOUSAND DOLLARS \$10,000.00 as attorney fees if this action is uncontested, plus such additional sums as the Court may adjudge as reasonable in the event of contest, trial or appeal; for Plaintiff's taxable costs and disbursements herein; and for interest on the entire amount of said Judgment at the maximum rate allowed by law.

2. That Plaintiff's Mortgages herein described be adjudged a first and prior lien upon the mortgaged property superior to any right, title, claim, lien or interest on the part of the named Defendants or any persons claiming by, through, or under said Defendants.

3. That the Court, in the Decree, establish the reasonable value of the property herein described according to proof.

4. That the Plaintiff's Mortgage described herein be foreclosed and said real property, together with water rights, however evidenced, be sold in one (1) parcel in accordance with and in the manner provided by law; that Plaintiff be permitted to be a purchaser at sale; that the net proceeds of said sale be applied first toward the payment of the costs of said sale and then toward the payment of Plaintiff's Judgment; that Plaintiff have and retain a Deficiency Judgement against Defendants, JEFFERSON ENTERPRISES, LLC, DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON, and each of them, in the event that bid at sale is less than the sum of Plaintiff's entire Judgment, plus costs of sale.

5. That the Decree provide that after the sale of said property, all right, title, claim, lien, or interest in the above-named Defendants, and of every person claiming by, through, or under said Defendants, in or to said property, including the right of possession thereof from and after said sale, be forever barred and foreclosed and that the purchaser at said sale be entitled to immediate possession of the premises as allowed by law subject only to such statutory right of redemption as said Defendants may have by law.

6. That in the event that Plaintiff is the purchaser at sale and possession of said premises is not surrendered to the Plaintiff, a Writ of Assistance be issued directing the sheriff of Bannock County, Idaho, to deliver possession of said premises to the Plaintiff; and

7. That the Plaintiff may have such other and further relief as may be just and equitable in the premises.

Dated this _____ day of November, 2008

Brian T. Tucker, Attorney for Plaintiff

VERIFICATION

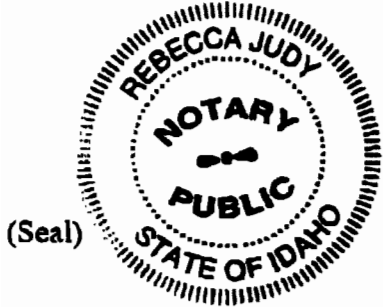
STATE OF IDAHO)
 : ss.
County of Bonneville)

Mike Morrison of THE BANK OF COMMERCE, being first duly sworn on oath, deposes and states:

That as a Senior Vice President of THE BANK OF COMMERCE, Plaintiff in the attached document; I have read the foregoing Complaint to Foreclose Real Estate Mortgage and know the contents thereof; I am informed and believe, and on that ground state, that the matters set forth therein are true.

THE BANK OF COMMERCE
Mike Morrison, SVP
By: Mike Morrison
Its: Senior Vice President

SUBSCRIBED AND SWORN TO, before me, the undersigned, a Notary Public in and for said State, this 12 day of November, 2008.

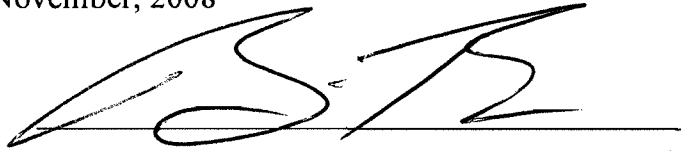


Rebecca Judy

Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My commission expires: April 17, 2009

LABTT0260.455Mortgage Foreclosure Complaint.Amended.wpd

Dated this 12 day of November, 2008



Brian T. Tucker, Attorney for Plaintiff

VERIFICATION

STATE OF IDAHO)
 : ss.
County of Bonneville)

Mike Morrison of THE BANK OF COMMERCE, being first duly sworn on oath, deposes and states:

That as a Senior Vice President of THE BANK OF COMMERCE, Plaintiff in the attached document; I have read the foregoing Complaint to Foreclose Real Estate Mortgage and know the contents thereof; I am informed and believe, and on that ground state, that the matters set forth therein are true.

THE BANK OF COMMERCE

By: Mike Morrison
Its: Senior Vice President

SUBSCRIBED AND SWORN TO, before me, the undersigned, a Notary Public in and for said State, this _____ day of November, 2008.

Notary Public for Idaho
Residing at: _____
My commission expires: _____

(Seal)

JEFFERSON ENTERPRISES, LLC
4755 HEIDI COURT
CHUBBUCK, ID 83202

HEE
AN FALLS, ID 83211

Loan Num: 14802021
Date: 05-
Maturity: 06-01-2007
Loan Amount \$ 2,223,805.00
Renewal Of _____

BORROWER'S NAME AND ADDRESS

"I" includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS

"You" means the lender, its successors and assigns.

For value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE AND NO/100 Dollars \$2,223,805.00

Single Advance: I will receive all of this principal sum on 05-09-2006. No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On _____ I will receive the amount of \$ _____ and future principal advances are contemplated.

Conditions: The conditions for future advances are _____

Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on _____.

Closed End Credit: You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from 05-09-2006 at the rate of 9.750 % per year until 05-10-2006.

Variable Rate: This rate may then change as stated below.

Index Rate: The future rate will be 2.000 PERCENT ABOVE the following index rate: HIGHEST PUBLISHED WALL STREET JOURNAL PRIME RATE SEE "LIMITATIONS" BELOW
THE RESULT OF THIS CALCULATION WILL BE ROUNDED TO THE NEAREST 0.001

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as EVERY DAY BEGINNING 05-10-2006

A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than 18.000 % or less than 7.000 %. The rate may not change more than _____ % each _____

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

The amount of each scheduled payment will change.

The amount of the final payment will change.

ACCUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

on the same fixed or variable rate basis in effect before maturity (as indicated above).

at a rate equal to _____

LATE CHARGE: If a payment is made more than _____ days after it is due, I agree to pay a late charge of _____

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: \$30.00 OFFICIALS-\$1,475.00 TITLE POLICY-\$300.00 LEGAL-\$250.00 DOC FEE-\$21,750.00 ORIGINATION FEE

PAYMENTS: I agree to pay this note as follows:

ON DEMAND, BUT IF NO DEMAND IS MADE THEN 1 PAYMENT OF \$2,454,288.68 ON 06-01-2007. THIS IS A VARIABLE RATE LOAN AND THE FINAL PAYMENT AMOUNT MAY CHANGE.

ADDITIONAL TERMS:

SECURITY: This note is separately secured by (describe separate document by type and date):
MORTGAGE DATED 5-09-2006 AND PERSONAL GUARANTEES OF DUSTIN MORRISON AND SONYA KIDD AKA SONYA MORRISON

(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

PURPOSE: The purpose of this loan is BUSINESS R/E: TO REFINANCE LAND

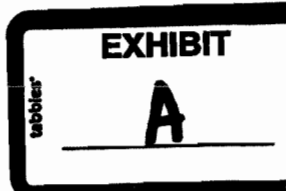
SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 21). I have received a copy on today's date.

JEFFERSON ENTERPRISES, LLC

Signature for Lender

Steven E. Worton
STEVEN E. WORTON, VICE PRESIDENT

Dustin Morrison
DUSTIN MORRISON, MEMBER
Sonya Kidd
SONYA KIDD AKA SONYA MORRISON, MEMBER



this loan. "I," "me" or "my" means each Borrower and each other person or legal entity (including partners, endorser, and sureties) who agrees to pay this note (together with "us"). "You" or "your" means the Lender and its successors.

APPLICABLE LAW: The law of the state in which you are located will govern this note. Any term of this note which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

COMMISSIONS OR OTHER REMUNERATION: I understand and agree that any insurance premiums paid to insurance companies as part of this note will involve money retained by you or paid back to you as commissions or other remuneration.

In addition, I understand and agree that some other payments to third parties as part of this note may also involve money retained by you or paid back to you as commissions or other remuneration.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE: The index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

ACCURAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may bring those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
- (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree

exercise of your right of set-off.

REAL ESTATE OR RESIDENCE SECURITY: This note is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default if any one or more of the following occur: (1) fail to make a payment on time or in the amount due; (2) I fail to keep the property insured, if required; (3) I fail to pay, or keep any promise, on an debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declare incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral security this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season if I am a producer of crops; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce a agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES: If I am in default on this note you have, but are not limited to the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued charges)
- (2) You may set off this debt against any right I have to the payer of money from you, subject to the terms of the "Set-Off" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using an other remedy.
- (4) You may refuse to make advances to me or allow purchases or credit by me.
- (5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up your right to later use any other remedy. By waiving your right to declare a event to be a default, you do not waive your right to later consider the event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees an costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT: I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may do so without any notice that has not been paid (notice of dishonor). You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

FINANCIAL INFORMATION: I agree to provide you, upon request, a financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform you in writing of any change in my address. I will give any notice to you by mailing it first class to your address stated on page 1 of this agreement, or to any other address that you have designated.

PAYMENT BY CHECK: If any payment on this note is made with a check that is dishonored, I agree to pay you a \$20.00 fee.

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S INITIALS (not required)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST RATE	INTEREST PAYMENTS	INTEREST PAID THROUGH:
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
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	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	

10 EAST CLARK STREET SUITE A
CATELLO, ID 83201

590 TY
AMERICA, ID 83211

Loan Number T 11211
Date 06-27-2007
Maturity Date 01
Loan Amount \$ 400,000.00
Renewal Of _____
PROCESSOR KLA

BORROWER'S NAME AND ADDRESS
includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns.

value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of FOUR HUNDRED THOUSAND AND NO/100
Dollars \$ 400,000.00

Single Advance: I will receive all of this principal sum on _____. No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On 06-27-2007
I will receive the amount of \$ _____ and future principal advances are contemplated.

Conditions: The conditions for future advances are UPON REQUEST OF CUSTOMER AND APPROVAL OF LOAN OFFICER

Open End Credit: You and I agree that I may borrow up to the maximum principal sum more than one time. This feature is subject to all other conditions and expires on _____.

Closed End Credit: You and I agree that I may borrow (subject to all other conditions) up to the maximum principal sum only one time.

INTEREST: I agree to pay interest on the outstanding principal balance from 06-27-2007 at the rate of 10.250% per year until 06-28-2007.

Variable Rate: This rate may then change as stated below.

Index Rate: The future rate will be 2.000 PERCENT ABOVE the following index rate: HIGHEST PUBLISHED WALL STREET JOURNAL PRIME RATE SEE "LIMITATIONS" BELOW
THE RESULT OF THIS CALCULATION WILL BE ROUNDED TO THE NEAREST 0.001

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as EVERY DAY BEGINNING 06-28-2007
A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than 18.000% or less than 8.250%. The rate may not change more than _____ % each _____.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

The amount of each scheduled payment will change. The amount of the final payment will change.

ACCURAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

on the same fixed or variable rate basis in effect before maturity (as indicated above).
 at a rate equal to _____

LATE CHARGE: If a payment is made more than 15 days after it is due, I agree to pay a late charge of 5.000% OF THE LATE AMOUNT WITH A MIN OF \$5.00

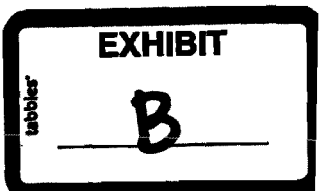
ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: IN CASH \$33.00 OFFICIALS: \$1,430.00 TITLE POLICY: \$1,000.00 LOAN DOC FEE

PAYMENTS: I agree to pay this note as follows:

MONTHLY PAYMENTS OF ACCRUED INTEREST CALCULATED ON THE AMOUNT OF CREDIT OUTSTANDING BEGINNING ON 07-01-2007 AND PRINCIPAL DUE ON 01-01-2008. THIS IS A VARIABLE RATE LOAN AND THE PAYMENT AMOUNTS MAY CHANGE. THE FINAL PAYMENT MAY ALSO CHANGE.

PURPOSE: The purpose of this loan is BUSINESS R/E CONSTRUCTION COSTS AND INTEREST

ADDITIONAL TERMS:



D-7 JM (page 1 of 3)

SECURITY INTEREST: I give you a security interest in all of my interest, now or in the future, wherever the Property is located, and all proceeds and products of the Property, including but not limited to, parts, accessories, repairs, replacements, improvements, additions, alterations, and any other changes to the Property; any original evidence of title, ownership, lease, license, or other rights in the Property; "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights, claims arising from the Property; and any collections and debts on account of the Property.

- Accounts and Other Rights to Payment:** All rights to payment, whether or not earned by performance, including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned. This includes any rights and interests (including all liens) which I have by law or agreement against any account debtor or obligor.
- Inventory:** All inventory held for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.
- Equipment:** All equipment including, but not limited to, machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and record keeping equipment, parts, and tools. The Property includes any equipment described in a list or schedule I give to you, but such a list is not necessary to create a valid security interest in all of my equipment.
- Instruments and Chattel Paper:** All instruments, including negotiable instruments and promissory notes and any other writings or records that evidence the right to payment of a monetary obligation, and tangible and electronic chattel paper.
- General Intangibles:** All general intangibles including, but not limited to, tax refunds, patents and applications for patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.
- Documents:** All documents of title including, but not limited to, bills of lading, dock warrants and receipts, and warehouse receipts.
- Farm Products and Supplies:** All farm products including, but not limited to, all poultry and livestock and their young, along with their produce, products, and replacements; all crops, annual or perennial, and all products of the crops; and all feed, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.
- Government Payments and Programs:** All payments, accounts, general intangibles, and benefits including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance and diversion payments, production flexibility contracts, and conservation reserve payments under any preexisting, current, or future federal or state government program.
- Investment Property:** All investment property including, but not limited to, certificated securities, uncertificated securities, securities entitlements, securities accounts, commodity contracts, commodity accounts, and financial assets.
- Deposit Accounts:** All deposit accounts including, but not limited to, demand, time, savings, passbook, and similar accounts.
- Specific Property Description:** The Property includes, but is not limited by, the following:

PERSONAL GUARANTEES OF DUSTIN MORRISON AND SONYA MORRISON

If applicable, enter real estate description and record owner information: MORTGAGE DATED JUNE 27, 2007

The Property will be used for a personal business agricultural _____ purpose.
Borrower/Owner State of organization/registration (if applicable) _____

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

GENERALLY - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you fail with respect to such other debts, to make any required disclosure about this security agreement or if you fail to give any required notice of the right of rescission. If property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is located.

NAME AND LOCATION - My name indicated on page 1 is my exact legal name. If I am an individual, my address is my principal residence. If I am not an individual, my address is the location of my chief executive offices or sole place of business. If I am an entity organized and registered under state law, my address is located in the state in which I am registered, unless otherwise indicated on page 2. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

OWNERSHIP AND DUTIES TOWARD PROPERTY - I represent that I own all of the Property, or to the extent this is a purchase money security interest I will acquire ownership of the Property with the proceeds of the loan. I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position. I will not use the Property for a purpose that will violate any laws or subject the Property to forfeiture or seizure.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property in my possession and will keep it in good repair and use it only for the purposes described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Property at my address listed on page 1 of this agreement, unless we agree I may keep it at another location. If the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt(s) if the debtor is not a natural person and without your prior written consent; (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of any loss or damage to the Property.

If I fail to perform any of my duties under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preclude you from exercising any of your other rights under the law or this security agreement.

PURCHASE MONEY SECURITY INTEREST - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order in which the items of collateral were acquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

PAYMENTS BY LENDER - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state of Idaho. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance (or fail to name you as loss payee) you may purchase it yourself.

WARRANTIES AND REPRESENTATIONS - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which are returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will do so. You may exercise my rights with respect to obligations of any account debtors, or other persons obligated on the Property, to pay or perform, and you may enforce any security interest that secures such obligations.

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

Any person who signs within this box does so to give you a security interest in the Property described on this page. This person does not promise to pay the note. "I" as used in this security agreement will include the borrower and any person who signs within this box.

Date _____

Signed _____

those parties named on this written list, I authorize you to act at your sole discretion any additional parties regarding your services in my farm products. I remain subject to all applicable provisions of the Food Security Act. In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meanings given to them in the Federal Food Security Act of 1985.

If this agreement covers chattel paper or instruments, either as original collateral or proceeds of the Property, I will note your interest on the face of the chattel paper or instruments.

REMEDIES - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fail to keep any promise contained in the terms of this agreement. If I default, you have all of the rights and remedies provided in the note and under the Uniform Commercial Code. You may require me to make the secured property available to you at a place which is reasonably convenient. You may take the possession of the secured property and sell it as provided by law. The proceeds will be applied first to your expenses and then to the debt. I agree that 10 days written notice sent to my last known address by first class mail will be reasonable notice under the Uniform Commercial Code. My current address is on page 1.

PERFECTION OF SECURITY INTEREST - I authorize you to file a financing statement covering the Property. I will comply with, facilitate, and otherwise assist you in connection with obtaining possession of, or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code.

ADDITIONAL TERMS OF THE NOTE

DEFINITIONS - As used on pages 1 and 2, "I" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW - The law of the state of Idaho will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

PAYMENTS - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE - The index will serve only as a device for setting the interest rate on this note. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

POST MATURITY RATE - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph on page 2.

MULTIPLE ADVANCE LOANS - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

- "Right to receive money from you" means:
- (1) any deposit account balance I have with you;
 - (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
 - (3) any repurchase agreement or other nondeposit obligation.

date for which you properly accelerate under this note. If my right to receive money from you is set off by someone who has not agreed to pay this note, your right to set off will apply to my interest in the obligation and to any other account I could withdraw on my sole request or endorsement. Your right to set off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

DEFAULT - I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the Property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES - If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges).
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- (4) You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.
- (6) You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES - I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

FINANCIAL INFORMATION - I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

PAYMENT BY CHECK - If any payment on this note is made with a check that is dishonored, I agree to pay you a \$20.00 fee.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1 AND 2). I have received a copy on today's date.
JEFFERSON ENTERPRISES, LLC


DUSTIN MORRISON, MANAGING MEMBER


SONYA KIDD AKA SONYA MORRISON, MANAGING MEMBER

SIGNATURE FOR LENDER: 
STEVEN E. WORTON, VICE PRESIDENT

ACKNOWLEDGMENT: STATE OF IDAHO, _____ County ss:
On this _____ day of _____ before me _____, a Notary Public in and for said county and state, personally appeared _____, known or identified to me (or proved on the oath of _____), to be the person(s) who executed this instrument, and acknowledged to me that _____ executed the same.
In Witness whereof I have set my hand and affixed my seal the day and year first above written.

Notary Public residing at: _____

(The Borrower's signature should be notarized when a secured interest is taken in a motor vehicle.)

FIRST AMERICAN TITLE
RECORDED AT REQUEST OF

FEE 33⁰⁰ DEPUTY SB

MAY 10 PM 4 38

OFFICIAL RECORD BOOK # 883

State of Idaho

Space Above This Line For Recording Data

BANNOCK COUNTY IDAHO

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 05-09-2006 and the parties and their addresses are as follows:

MORTGAGOR:

JEFFERSON ENTERPRISES, LLC
4755 HEIDI COURT
CHUBBUCK, ID 83202

Refer to the Addendum which is attached and incorporated herein for additional Mortgages.

LENDER:

THE BANK OF COMMERCE-AMERICAN FALLS
500 TYHEE
AMERICAN FALLS, ID 83211

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells and conveys to Lender the following described property:

SEE EXHIBIT 'A' WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

The property is located in BANNOCK at SEE ATTACHED EXHIBIT 'A' LEGAL

(County)

DESCRIPTION

(Address)

(City)

Idaho

(Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

IDAHO - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES)

(page 1 of 8)

ExpensSM © 1993, 2001 Bankers Systems, Inc., St. Cloud, MN Form AGCORESIM-1D 1/7/2003

[Handwritten signatures]



3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 2,223,805.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.
4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:
- A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate, maturity date):
- NOTE DATED 5-09-2006 IN THE AMOUNT OF \$2,223,805.00 TO MATURE ON 6-01-2007.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
- E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.
- If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.
5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage. If any note evidencing the Secured Debt contains a variable rate feature, Grantor acknowledges that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated.
6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.
7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
- A. To make all payments when due and to perform or comply with all covenants.
- B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.

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11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:
- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
 - B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
 - C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.
12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent. No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.
13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.
14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains and conveys to Lender all the right, title and interest in the following (Property).
- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
 - B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents as long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

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
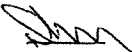
- As this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and that the Leases subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenant. Mortgagor, at its sole cost and expense, will keep, observe, perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe an applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume to become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional tort. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.
15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
- Any party obligated on the Secured Debt fails to make payment when due;
 - A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
 - The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
 - The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to Mortgagor or any person or entity obligated on the Secured Debt;
 - A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
 - A material adverse change in Mortgagor's business including ownership, management, and financial conditions which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
 - Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default. At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidence of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
18. **REDEMPTION.** The period of redemption after sale on foreclosure shall be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.
19. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
20. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
- No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
 - Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
 - Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of

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any Environmental Law concerning the Property. In such an event, Mortgagor will take any necessary remedial action in accordance with Environmental Law.

- D. Mortgagor has no knowledge or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
- E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
- F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
- G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
- H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
- I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
- J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
- K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
- L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
- 21. CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
- 22. INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding sentence can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.
- All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.
- Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.
- Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

(page 5 of 8)

Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against arising from any accident or occurrence in or on the Property.

C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed separately in writing), under a form of policy acceptable to Lender.

23. **NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

24. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

25. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so on behalf of mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

26. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

27. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

28. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all rights to homestead exemption, appraisal and the marshalling of liens and assets relating to the Property.

29. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:

Construction Loan. This Mortgage secures an obligation incurred for the construction of an improvement on the Property.

Fixture Filing. Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

Crops; Timber; Minerals; Rents, Issues and Profits. Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

Personal Property. Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

Filing As Financing Statement. Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.

30. **OTHER TERMS.** If checked, the following are applicable to this Mortgage:

Line of Credit. The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.

Separate Assignment. The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

(page 6 of 8)



Additional Terms.

11-7

20609793

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: JEFFERSON ENTERPRISES, LLC

[Signature] 5.10.06
(Signature) DUSTIN MORRISON, MEMBER (Date)

[Signature] 5.10.06
(Signature) SONYA KIDD AKA SONYA MORRISON, MEMBER (Date)

(Signature) _____ (Date)

(Signature) _____ (Date)

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

ACKNOWLEDGMENT:

STATE OF _____, COUNTY OF _____ } ss.

On this _____ day of _____, before me, a Notary Public, personally appeared _____,

(Individual)

known or identified to me (or proved to me on the oath of _____), to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that she/he/they executed the same.

My commission expires: _____

(Notary Public)

STATE OF IDAHO, COUNTY OF Bannock } ss.

On this 8TH 10th 5th day of MAY, 2006, before me, a Notary Public, personally appeared

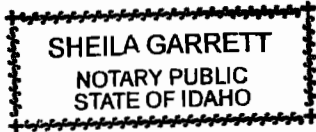
DUSTIN MORRISON; SONYA KIDD AKA SONYA MORRISON

(Business
or Entity
Acknowledgment)

known or identified to me (or proved to me on the oath of _____),

to be the MEMBER; MEMBER OF JEFFERSON ENTERPRISES, LLC

My commission expires: 9.17.2011



[Handwritten Signature]

(Notary Public)

(page 8 of 8)

[Handwritten Signature]

707003321

LEGAL DESCRIPTION
Exhibit "A"

Real property in the County of Bannock, State of Idaho, described as follows:

PARCEL 1:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THE SAME BEING THE SOUTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 373461; THENCE NORTH 00°15'43" EAST FOR A DISTANCE OF 1320.91 FEET TO A FOUND 3/4 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, THENCE NORTH 89°50'47" WEST ALONG THE NORTH BOUNDARY LINE OF SOUTH VALLEY VIEW ESTATES FOR A DISTANCE OF 659.93 FEET; THENCE NORTH 00°06'14" EAST ALONG THE WEST BOUNDARY LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9 FOR A DISTANCE OF 1315.23 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 9; THENCE SOUTH 88°55'17" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 9 FOR A DISTANCE OF 1976.72 FEET TO THE EAST 1/16TH CORNER ON SAID CENTERLINE; THENCE SOUTH 00°05'41" WEST FOR A DISTANCE OF 2638.63 FEET TO THE EAST 1/16TH CORNER ON THE SOUTH LINE OF SECTION 9; THENCE NORTH 88°51'13" WEST FOR A DISTANCE OF 1320.88 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER, THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THENCE SOUTH 88°50' 35" EAST ALONG THE NORTH LINE OF SECTION 16 FOR A DISTANCE OF 800.00 FEET TO THE NORTHEAST CORNER OF PIEDMONT ACRES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 601980; THENCE SOUTH 00°46'58" WEST ALONG THE EAST SIDE OF PIEDMONT ACRES FOR A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°50'35" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF PIEDMONT ROAD FOR A DISTANCE OF 519.31 FEET TO THE WEST 1/16TH LINE OF SECTION, THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 25.00 FEET TO THE WEST 1/16TH CORNER ON THE NORTH LINE OF SECTION 16, THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 1319.24 FEET TO THE NORTH QUARTER CORNER OF SECTION 16, THENCE SOUTH 88°51'13" EAST FOR A DISTANCE OF 2641.77 FEET TO THE NORTHEAST CORNER OF SECTION 16, THENCE SOUTH 00°32'19" WEST ALONG THE EAST LINE OF SECTION 16 FOR A DISTANCE OF 2091.20 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 788114; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 1046.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 00°32'19" WEST FOR A DISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 89°20'56" EAST ALONG THE SOUTH LINE OF SAID LAND, THE SAME BEING THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 56.81 FEET; THENCE SOUTH 00°33'48" WEST FOR A DISTANCE OF 528.00 FEET; THENCE NORTH 89°20'55" WEST FOR A DISTANCE OF 329.11 FEET TO A POINT ON THE EAST 1/16TH LINE OF SECTION 16; THENCE NORTH 00°29'48" EAST FOR A DISTANCE OF 528.00 FEET TO THE EAST 1/16TH CORNER ON THE LATITUDINAL CENTERLINE OF SECTION 16; THENCE NORTH 89°20'56" WEST ALONG THE SAID LATITUDINAL CENTERLINE FOR A DISTANCE OF 1023.90 FEET TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 00°27'19" EAST FOR A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 89°20'56" WEST FOR A

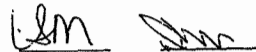
DISTANCE OF 295.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND THENCE NORTH 00°27'19" EAST ALONG THE MERIDIONAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 1236.51 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE FOLLOWING THE BOUNDARY LINES OF THE LAND DESCRIBED IN INSTRUMENT 621688 FOR THE NEXT FIVE (5) COURSES: (1) SOUTH 89°06'35" EAST FOR A DISTANCE OF 260.00 FEET; THENCE (2) NORTH 14°06'45" EAST FOR A DISTANCE OF 140.00 FEET; THENCE (3) NORTH 41°32'41" EAST FOR A DISTANCE OF 450.00 FEET; THENCE (4) NORTH 41°17'29" WEST FOR A DISTANCE OF 180.00 FEET; THENCE (5) SOUTH 48°42'31" WEST FOR A DISTANCE OF 907.24 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 88°35'51" WEST ALONG THE SAID NORTH BOUNDARY LINE FOR A DISTANCE OF 490.35 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 00°37'47" EAST ALONG THE EAST BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 675569 FOR A DISTANCE OF 435.85 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 264.18 FEET; THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 66.00 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 360.03 FEET TO A POINT ON THE WEST 1/16TH LINE OF SECTION 16, SAID POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 95003247; THENCE SOUTH 00°37'47" WEST ALONG THE WEST 1/16TH LINE FOR A DISTANCE OF 302.77 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 790.30 FEET; THENCE SOUTH 00°37'47" WEST FOR A DISTANCE OF 423.23 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD; THENCE NORTH 88°37'03" WEST ALONG THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD FOR A DISTANCE OF 193.21 FEET TO A POINT ON A CURVE IN THE EAST RIGHT OF WAY LINE OF OLD US HIGHWAY 30; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE, FOLLOWING A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF 05°02'19" AND AN ARC DISTANCE OF 507.38 FEET TO A POINT ON THE WEST LINE OF SECTION 16, THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH 41°10'59" WEST A DISTANCE OF 507.21 FEET; THENCE NORTH 00°46'58" EAST ALONG THE SAID WEST LINE FOR A DISTANCE OF 218.97 FEET TO THE SOUTHWEST CORNER OF PIEDMONT ACRES; THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 800.00 FEET TO THE SOUTHEAST CORNER OF PIEDMONT ACRES; THENCE NORTH 00°46'58" EAST ALONG THE EAST BOUNDARY LINE OF PIEDMONT ACRES FOR A DISTANCE OF 653.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BEING THAT PARCEL OF LAND DESCRIBED IN INSTRUMENT 634749 OF THE RECORDS OF BANNOCK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN; THENCE SOUTH 89°20' 56" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 294.26 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 459.93 FEET; THENCE NORTH 48°49'49" WEST 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 48°49'49" WEST FOR A DISTANCE OF 208.71 FEET; THENCE SOUTH 53°40'56" WEST FOR A DISTANCE OF 213.80 FEET; THENCE SOUTH 48°49'49" EAST FOR A DISTANCE OF 208.71 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 213.80 FEET TO THE POINT OF BEGINNING.

PARCEL 3:



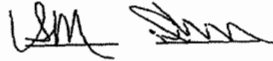
LOT 1, BLOCK 1; LOTS 1 THROUGH 7 AND 9 THROUGH 11, BLOCK 2, LOTS 1 THROUGH 12 AND 15 THROUGH 18, BLOCK 3; LOTS 1 THROUGH 11 AND 13 THROUGH 15, BLOCK 4; LOTS 1 THROUGH 9, BLOCK 5; LOTS 1 AND 2, BLOCK 6; LOTS 1, 3, 4, 7 THROUGH 11 AND 14 THROUGH 36, BLOCK 7; LOTS 2 THROUGH 20, BLOCK 8; LOTS 1 THROUGH 7, BLOCK 9, ALL LOCATED IN SOUTH VALLEY VIEW ESTATES SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED OCTOBER 16, 1961 AS INSTRUMENT NO. 373461.

PARCEL 4:

LOT ALL, BLOCK ALL, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

EXCEPTING THEREFROM:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10, BLOCK 2 AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9, BLOCK 3, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

Two handwritten signatures in black ink, one appearing to be 'L.M.' and the other a more stylized signature.

114

2015644

OFFICIAL RECORD BOOK # 896
BANNOCK COUNTY IDAHO

RECORDED AT REQUEST OF
FEE 33 DEPUTY BP

FIRST AMERICAN TITLE

20715644

2007 JUN 29 12:00

FA 21932A

State of Idaho _____ Space Above This Line For Recording Data _____

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 06-27-2007 and the parties and their addresses are as follows:

MORTGAGOR:

JEFFERSON ENTERPRISES, LLC
440 EAST CLARK STREET SUITE A
POCATELLO, ID 83201

Refer to the Addendum which is attached and incorporated herein for additional Mortgages.

LENDER:

THE BANK OF COMMERCE-AMERICAN FALLS
590 TYHEE
AMERICAN FALLS, ID 83211

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells and conveys to Lender the following described property:

SEE EXHIBIT 'A' WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

The property is located in BANNOCK at A TRACT OF LAND IN THE SOUTH HALF OF
(County)
SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., Idaho
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

IDAHO - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES) (page 1 of 8)

ExpendSM © 1993, 2001 Bankers Systems, Inc., St. Cloud, MN Form AGCORESIM-ID 1/7/2003

DM



3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 400,000.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.
4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:
- A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate, maturity date):
- NOTE DATED JUNE 27, 2007 IN THE AMOUNT OF \$400,000.00 TO MATURE ON JANUARY 1, 2008.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
- E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage. If any note evidencing the Secured Debt contains a variable rate feature, Grantor acknowledges that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated.
6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.
7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
- A. To make all payments when due and to perform or comply with all covenants.
- B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.

(page 2 of 8)

DJ *BM*

11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:

- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains and conveys to Lender all the right, title and interest in the following (Property).

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents as long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

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- As this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the Leases subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.
15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
- Any party obligated on the Secured Debt fails to make payment when due;
 - A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
 - The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
 - The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
 - A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
 - A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
 - Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default. At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
18. **REDEMPTION.** The period of redemption after sale on foreclosure shall be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.
19. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
20. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
- No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
 - Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
 - Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of

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any Environmental Law concerning the Property. In such an event, Mortgagor will take necessary remedial action in accordance with Environmental Law.

- D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
 - E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
 - L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
21. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
22. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding sentence can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.
- All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.
- Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.
- Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

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- Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the property.
- Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
23. **NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
24. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.
25. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.
If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.
26. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.
27. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
28. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all rights to homestead exemption, appraisal or the marshalling of liens and assets relating to the Property.
29. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:
- Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.
 - Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.
 - Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
 - Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
 - Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.
30. **OTHER TERMS.** If checked, the following are applicable to this Mortgage:
- Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.
 - Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

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Additional Terms.

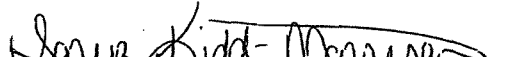
20715644

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: JEFFERSON ENTERPRISES, LLC


(Signature) DUSTIN MORRISON, MANAGING MEMBER (Date)


(Signature) SONYA KIDD AKA SONYA MORRISON, MANAGING MEMBER

(Signature) (Date)

(Signature) (Date)

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

ACKNOWLEDGMENT:

STATE OF _____, COUNTY OF _____) ss.
On this _____ day of _____, before me, a Notary Public, personally appeared

(Individual)

known or identified to me (or proved to me on the oath of _____),
to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that she/he/they
executed the same.

My commission expires: _____

(Notary Public)

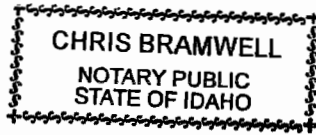
STATE OF IDAHO, COUNTY OF Bannock) ss.
On this 29th day of JUNE, 2007, before me, a Notary Public, personally appeared

DUSTIN MORRISON; SONYA KIDD AKA SONYA MORRISON

(Business
or Entity
Acknowledgment)

known or identified to me (or proved to me on the oath of _____),
to be the MANAGING MEMBER; MANAGING MEMBER

My commission expires: 10-30-12



Chris Bramwell
(Notary Public)

Residing at: Pocatello, ID

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11-4
Exhibit "A"

20715644

Real property in the County of Bannock, State of Idaho, described as follows:

PARCEL 1:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THE SAME BEING THE SOUTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 373461; THENCE NORTH 00°15'43" EAST FOR A DISTANCE OF 1320.91 FEET TO A FOUND 3/4 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, THENCE NORTH 89°50'47" WEST ALONG THE NORTH BOUNDARY LINE OF SOUTH VALLEY VIEW ESTATES FOR A DISTANCE OF 659.93 FEET; THENCE NORTH 00°06'14" EAST ALONG THE WEST BOUNDARY LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9 FOR A DISTANCE OF 1315.23 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 9; THENCE SOUTH 88°55'17" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 9 FOR A DISTANCE OF 1976.72 FEET TO THE EAST 1/16TH CORNER ON SAID CENTERLINE; THENCE SOUTH 00°05'41" WEST FOR A DISTANCE OF 2638.63 FEET TO THE EAST 1/16TH CORNER ON THE SOUTH LINE OF SECTION 9; THENCE NORTH 88°51'13" WEST FOR A DISTANCE OF 1320.88 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER, THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THENCE SOUTH 88°50' 35" EAST ALONG THE NORTH LINE OF SECTION 16 FOR A DISTANCE OF 800.00 FEET TO THE NORTHEAST CORNER OF PIEDMONT ACRES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 601980; THENCE SOUTH 00°46'58" WEST ALONG THE EAST SIDE OF PIEDMONT ACRES FOR A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°50'35" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF PIEDMONT ROAD FOR A DISTANCE OF 519.31 FEET TO THE WEST 1/16TH LINE OF SECTION, THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 25.00 FEET TO THE WEST 1/16TH CORNER ON THE NORTH LINE OF SECTION 16, THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 1319.24 FEET TO THE NORTH QUARTER CORNER OF SECTION 16, THENCE SOUTH 88°51'13" EAST FOR A DISTANCE OF 2641.77 FEET TO THE NORTHEAST CORNER OF SECTION 16, THENCE SOUTH 00°32'19" WEST ALONG THE EAST LINE OF SECTION 16 FOR A DISTANCE OF 2091.20 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN

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INSTRUMENT 788114; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 1046.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 00°32'19" WEST FOR A DISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 89°20'56" EAST ALONG THE SOUTH LINE OF SAID LAND, THE SAME BEING THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 56.81 FEET; THENCE SOUTH 00°33'48" WEST FOR A DISTANCE OF 528.00 FEET; THENCE NORTH 89°20'55" WEST FOR A DISTANCE OF 329.11 FEET TO A POINT ON THE EAST 1/16TH LINE OF SECTION 16; THENCE NORTH 00°29'48" EAST FOR A DISTANCE OF 528.00 FEET TO THE EAST 1/16TH CORNER ON THE LATITUDINAL CENTERLINE OF SECTION 16; THENCE NORTH 89°20'56" WEST ALONG THE SAID LATITUDINAL CENTERLINE FOR A DISTANCE OF 1023.90 FEET TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 00°27'19" EAST FOR A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 295.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE NORTH 00°27'19" EAST ALONG THE MERIDIONAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 1236.51 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE FOLLOWING THE BOUNDARY LINES OF THE LAND DESCRIBED IN INSTRUMENT 621688 FOR THE NEXT FIVE (5) COURSES: (1) SOUTH 89°06'35" EAST FOR A DISTANCE OF 260.00 FEET; THENCE (2) NORTH 14°06'45" EAST FOR A DISTANCE OF 140.00 FEET; THENCE (3) NORTH 41°32'41" EAST FOR A DISTANCE OF 450.00 FEET; THENCE (4) NORTH 41°17'29" WEST FOR A DISTANCE OF 180.00 FEET; THENCE (5) SOUTH 48°42'31" WEST FOR A DISTANCE OF 907.24 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 88°35'51" WEST ALONG THE SAID NORTH BOUNDARY LINE FOR A DISTANCE OF 490.35 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 00°37'47" EAST ALONG THE EAST BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 675569 FOR A DISTANCE OF 435.85 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 264.18 FEET; THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 66.00 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 360.03 FEET TO A POINT ON THE WEST 1/16TH LINE OF SECTION 16, SAID POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 95003247; THENCE SOUTH 00°37'47" WEST ALONG THE WEST 1/16TH LINE FOR A DISTANCE OF 302.77 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 790.30 FEET; THENCE SOUTH 00°37'47" WEST FOR A DISTANCE OF 423.23 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD; THENCE NORTH 88°37'03" WEST ALONG THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD FOR A DISTANCE OF 193.21 FEET TO A POINT ON A CURVE IN THE EAST RIGHT OF WAY LINE OF OLD US HIGHWAY 30; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE, FOLLOWING A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF 05°02'19" AND AN ARC DISTANCE OF 507.38 FEET TO A POINT ON THE WEST LINE OF SECTION 16, THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH 41°10'59" WEST A DISTANCE OF 507.21 FEET; THENCE NORTH 00°46'58" EAST ALONG THE SAID WEST LINE FOR A DISTANCE OF 218.97 FEET TO THE SOUTHWEST CORNER OF PIEDMONT ACRES; THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 800.00 FEET TO THE SOUTHEAST CORNER OF PIEDMONT ACRES; THENCE NORTH 00°46'58" EAST ALONG THE EAST BOUNDARY LINE OF PIEDMONT ACRES FOR A DISTANCE OF 653.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BEING THAT PARCEL OF LAND DESCRIBED IN INSTRUMENT 634749 OF THE RECORDS OF BANNOCK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Handwritten initials and number:
 GJM
 D7

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN; THENCE SOUTH 89°20' 56" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 294.26 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 459.93 FEET; THENCE NORTH 48°49'49" WEST 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 48°49'49" WEST FOR A DISTANCE OF 208.71 FEET; THENCE SOUTH 53°40'56" WEST FOR A DISTANCE OF 213.80 FEET; THENCE SOUTH 48°49'49' EAST FOR A DISTANCE OF 208.71 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 213.80 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

LOT 1, BLOCK 1; LOTS 1 THROUGH 7 AND 9 THROUGH 11, BLOCK 2, LOTS 1 THROUGH 12 AND 15 THROUGH 18, BLOCK 3; LOTS 1 THROUGH 11 AND 13 THROUGH 15, BLOCK 4; LOTS 1 THROUGH 9, BLOCK 5; LOTS 1 AND 2, BLOCK 6; LOTS 1, 3, 4, 7 THROUGH 11 AND 14 THROUGH 36, BLOCK 7; LOTS 2 THROUGH 20, BLOCK 8; LOTS 1 THROUGH 7, BLOCK 9, ALL LOCATED IN SOUTH VALLEY VIEW ESTATES SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED OCTOBER 16, 1961 AS INSTRUMENT NO. 373461.

PARCEL 4:

LOT ALL, BLOCK ALL, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

EXCEPTING THEREFROM:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10, BLOCK 2 AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9, BLOCK 3, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

**NOTE AND DEED OF TRUST/MORTGAGE
AGREEMENT TO AMEND TERMS**

THIS AGREEMENT is made and entered into this 21st day of February, 2008, by and between Jefferson Enterprises, LLC, as Grantor(s), whose address is 440 East Clark Street, Suite A, Pocatello, ID 83201 and THE BANK OF COMMERCE, as Beneficiary, whose address is 590 Tyhee, American Falls, ID 83211 to modify a NOTE and DEED OF TRUST/MORTGAGE dated June 27, 2007 recorded June 29, 2007 as Instrument No. 20715644 records of Bannock County, Idaho, by which the Grantor(s) conveyed the real property therein described to First American Title (as trustee), to secure payment to Beneficiary of the promissory note therein identified and also such other sums and/or the performance of such other obligations as provided in said Deed of Trust/Mortgage which by this reference is incorporated herein for all necessary and proper purposes. REAL PROPERTY DESCRIBED AS: See attached exhibit "A"

Grantor(s) and Beneficiary now desire and do hereby modify the original Note and Deed of Trust in the following respects: To modify the maturity date of 01/01/08 to now become due 05/01/08 and to increase the original loan amount from \$400,000.00 to 420,062.20.

All the terms and conditions of the original Note and Deed of Trust/Mortgage, shall remain in full force and effect except as herein modified.

THE BANK OF COMMERCE

By: Ron F Crystal EVP

Jefferson Enterprises, LLC

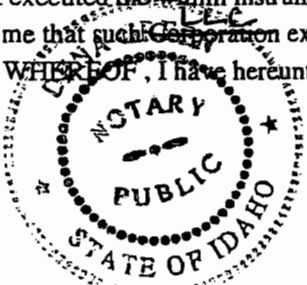
(1) [Signature]
Dustin Morrison Managing Member

(2) [Signature] [Signature]
Sonya Kidd AKA Sonya Morrison Managing Member

STATE OF
COUNTY OF AD

On this 21st day of February 2008, before me, a Notary Public in and for said State, personally appeared Dustin Morrison & Sonya Morrison known to me to be the Managing Members respectively, of the Jefferson Enterprises LLC Corporation that executed the within instrument or the person(s) who executed the instrument in behalf of said Corporation, and acknowledge to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written,

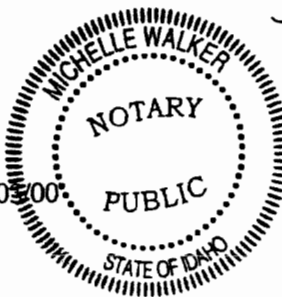


[Signature]
Notary Public
Residing at Pocatello, Id
My commission Expires 9.3.10

STATE OF
COUNTY OF

On this 20 day of FEBRUARY in the year 2008, before me, a Notary Public in and for said State, personally appeared RON F. CRYSTAL to me known to be the EVP of THE BANK OF COMMERCE of Idaho Falls, Idaho, and acknowledged to me that said corporation had executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written.



Michelle Walker
Notary Public
Residing at Idaho Falls
My commission Expires February 4, 2014

RE/MOD-14 Revised 01/03/00



NOTE AND DEED OF TRUST/MORTGAGE AGREEMENT TO AMEND TERMS

THIS AGREEMENT is made and entered into this 21st day of February, 2008, by and between Jefferson Enterprises, LLC, as Grantor(s), whose address is 440 East Clark Street, Suite A, Pocatello, ID 83201 and THE BANK OF COMMERCE, as Beneficiary, whose address is 590 Tyhee, American Falls, ID 83211 to modify a NOTE and DEED OF TRUST/MORTGAGE dated May 09, 2006 recorded May 10,2006 as Instrument No. 20609793 records of Bannock County, Idaho, by which the Grantor(s) conveyed the real property therein described to First American Title (as trustee), to secure payment to Beneficiary of the promissory note therein identified and also such other sums and/or the performance of such other obligations as provided in said Deed of Trust/Mortgage which by this reference is incorporated herein for all necessary and proper purposes. REAL PROPERTY DESCRIBED AS: See attached exhibit "A"

Grantor(s) and Beneficiary now desire and do hereby modify the original Note and Deed of Trust in the following respects: To modify maturity date of 06/01/07 to now become due 05/01/08

All the terms and conditions of the original Note and Deed of Trust/Mortgage, shall remain in full force and effect except as herein modified.

THE BANK OF COMMERCE

By: Ron F. Crystal EVP

Jefferson Enterprises, LLC

(1) [Signature]
Dustin Morrison Managing Member

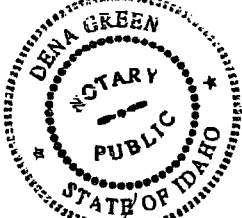
(2) [Signature] [Signature]
Sonja Kidd AKA Sonja Morrison Managing Member

STATE OF

COUNTY OF Blaine

On this 21st day of February, 2008, before me, a Notary Public in and for said State, personally appeared Dustin Morrison & Sonja Morrison known to me to be the Managing Members respectively, of the LLC Corporation that executed the within instrument or the person(s) who executed the instrument in behalf of said Corporation, and acknowledge to me that such LLC Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written,

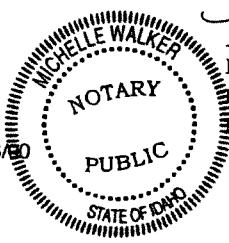


[Signature]
Notary Public
Residing at Pocatello, Id.
My commission Expires 9.3.10

STATE OF
COUNTY OF

On this 20 day of FEBRUARY in the year 2008, before me, a Notary Public in and for said State, personally appeared RON F. CRYSTAL to me known to be the EVP of THE BANK OF COMMERCE of Idaho Falls, Idaho, and acknowledged to me that said corporation had executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written.



[Signature]
Notary Public
Residing at Idaho Falls
My commission Expires February 4, 2014

RE/MOD-14 Revised 01/03/00

FEBRUARY 21, 2008

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

- A. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: NOTE DATED 02/21/08 FOR JEFFERSON ENTERPRISES, LLC IN THE AMOUNT OF \$420,062.20 TO MATURE 05/01/08. and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").
B. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s):

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ 420062.20 (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is [X] unsecured; [] secured by a mortgage or security agreement dated 2-21-08; [] secured by

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONJA KIDD AKA SONJA MORRISON

Undersigned shall refer to all persons who sign this guaranty, severally and jointly.



and whether not this guaranty has been revoked, Lender, but shall not be obligated to, enter into transaction resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort to payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

JUNE 27, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): NOTE DATED JUNE 27, 2007 IN THE NAME OF JEFFERSON ENTERPRISES, LLC IN THE AMOUNT OF \$400,000.00.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ _____ (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is [X] unsecured; [] secured by a mortgage or security agreement dated _____; [] secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONYA KIDD AKA SONYA MORRISON

*Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

6. Whether or not any existing relationship between the Lender and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender shall not be obligated to, enter into any transaction resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

MAY 09, 2006

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): NOTE DATED 5-09-2006 IN THE NAME OF JEFFERSON ENTERPRISES, LLC IN THE AMOUNT OF \$2,223,805.00.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ _____ (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is [X] unsecured; [] secured by a mortgage or security agreement dated _____; [] secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONYA KIDD KA SONYA MORRISON
[Signature]

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

not any existing relationship between the Lender and Borrower has been changed or ended and while this guaranty has been revoked, Lender, nevertheless, shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned) (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

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10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

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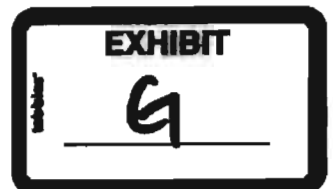
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 (page 2 of 2)

**A PARCEL OF LAND LOCATED IN SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:
COMMENCING AT THE EAST QUARTER CORNER OF SECTION 16, BEING MARKED BY A 2 INCH ALUMINUM CAP STAMPED LS-977 AS DESCRIBED IN CORNER PERPETUATION AND RECORD INSTRUMENT NO. 796943.**

THENCE NORTH 89°21'10" WEST (BASIS OF BEARING PER CENTRAL MERIDIAN OF EAST ZONE OF THE IDAHO STATE PLANE COORDINATE SYSTEM), ALONG THE LATITUDINAL CENTERLINE OF SAID SECTION 16, A DISTANCE OF 1479.96 FEET; THENCE NORTH 00°38'50" EAST, PERPENDICULAR TO SAID LATITUDINAL CENTERLINE, A DISTANCE OF 399.97 FEET TO THE POINT OF BEGINNING.

**THENCE NORTH 2°37'27" EAST A DISTANCE OF 159.04 FEET;
THENCE NORTH 32°52'54" WEST A DISTANCE OF 187.96 FEET;
THENCE NORTH 33°26'17" EAST A DISTANCE OF 108.42 FEET;
THENCE SOUTH 72°20'48" EAST A DISTANCE OF 92.43 FEET;
THENCE SOUTH 63°33'52" EAST A DISTANCE OF 167.94 FEET;
THENCE SOUTH 53°46'45" EAST A DISTANCE OF 15.65 FEET;
THENCE SOUTH 36°12'19" WEST A DISTANCE OF 160.00 FEET;
THENCE SOUTH 53°47'41" EAST A DISTANCE OF 115.00 FEET;
THENCE SOUTH 36°12'19" WEST A DISTANCE OF 30.00 FEET;
THENCE NORTH 53°47'41" WEST A DISTANCE OF 115.00 FEET;
THENCE SOUTH 36°12'19" WEST A DISTANCE OF 175.78 FEET TO THE POINT OF BEGINNING.**



ROBINSON & ASSOCIATES
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

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Brent T. Robinson, Esq.
ROBINSON & ASSOCIATES
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804
ISB No. 1932
btr@idlawfirm.com

2008 NOV 14 AM 10:13
BY *[Signature]*
DEPUTY CLERK

~~Attorneys for Scott & Jennifer Dayley,
Snake River Jerseys~~

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

THE BANK OF COMMERCE,)
an Idaho banking corporation,)
)
Plaintiff,)
)
vs.)
)
JEFFERSON ENTERPRISES, LLC, an)
Idaho limited liability company, DUSTIN)
MORRISON and SONYA KIDD aka)
SONYA MORRISON, THE CITY OF)
POCATELLO, an Idaho municipality,)
)
Defendants.)

Case No. CV 08-4231 OC

**NOTICE OF APPEARANCE
OF ATTORNEY**

Fee Category: I.7.
Fee: \$58.00

TO: THE CLERK OF THE DISTRICT COURT, and Douglas R. Nelson, attorney for plaintiff
YOU ARE HEREBY NOTIFIED that Jefferson Enterprises, LLC, an Idaho
limited liability company, Dustin Morrison and Sonya Kidd aka Sonya Morrison, three of the
defendants named in the above-entitled cause, have retained Brent T. Robinson of the firm of

ROBINSON & ASSOCIATES
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

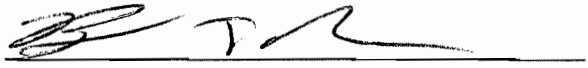
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ROBINSON & ASSOCIATES to represent them in said cause, and that I hereby appear for said defendants in said cause.

You are further notified that all papers in said cause are to be served on me at P. O. Box 396, Rupert, Idaho 83350.

DATED this 13th day of November, 2008.

ROBINSON & ASSOCIATES

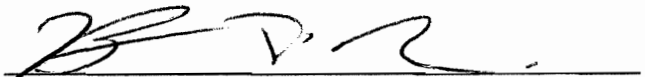
By: 
Brent T. Robinson
Attorneys for Defendants

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of November, 2008, I served a copy of the foregoing NOTICE OF APPEARANCE OF ATTORNEY upon:

Douglas R. Nelson, Esq.
ANDERSON NELSON HALL SMITH, P.A.
P. O. Box 51630
Idaho Falls, Idaho 83405-1630

by depositing a copy thereof in the United States mail, postage prepaid, in an envelope addressed to said attorney at the foregoing address.


Brent T. Robinson

Kirk Bybee Bar #2782
Office of the City Attorney
P.O. Box 4169
Pocatello, Idaho 83205
(208) 234-6148

2008 DEC -2 AM 9:23

BY *[Signature]*
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE,
An Idaho banking corporation,

Plaintiff,

-vs-

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD, aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality.
Defendant/Respondent.

CASE NO. CV-08-4231-OC

NOTICE OF APPEARANCE TO
AMENDED COMPLAINT TO
FORECLOSE REAL ESTATE
MORTGAGE

TO: PLAINTIFF AND ITS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE THAT the undersigned hereby appears as counsel
of record for Defendant City of Pocatello in the above entitled action and requests that all
documents and pleadings filed herein be duly and regularly served upon the undersigned at our
address of P.O. Box 4169, Pocatello, ID, 83205.

DATED this 25th day of November, 2008.

[Signature]

KIRK BYBEE
Attorney at Law
City of Pocatello

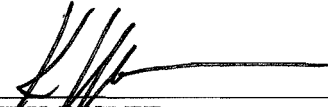
CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing NOTICE OF APPEARANCE TO AMENDED COMPLAINT to the Attorney for the Plaintiff by placing same in the U.S. Postal Service mailbox, postage prepaid, addressed as follows:

Brian Tucker
Attorney at Law
ANDERSON NELSON HALL SMITH, P.A.
P.O. BOX 51630
Idaho Falls, ID 83405-1630

Brent Robinson
Attorney at Law
PO Box 396
Rupert, ID 83350

DATED this ^{2nd} ~~20th~~ day of ^{December} ~~November~~, 2008.


KIRK BYBEE
Attorney at Law
City of Pocatello

Brent T. Robinson, Esq.
 ROBINSON & ASSOCIATES
 Attorneys at Law
 P. O. Box 396
 Rupert, Idaho 83350
 Telephone (208) 436-4717
 Facsimile (208) 436-6804
 ISB No. 1932
 btr@idlawfirm.com

2008 DEC 12 PM 8:47
 COURT REPORTER

Attorneys for Jefferson Enterprises, LLC
 Dustin Morrison and Sonya Kidd a/k/a Sonya Morrison

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE,
 an Idaho banking corporation,
 Plaintiff,

vs.

JEFFERSON ENTERPRISES, LLC, an
 Idaho limited liability company, DUSTIN
 MORRISON and SONYA KIDD aka
 SONYA MORRISON, THE CITY OF
 POCA TELLO, an Idaho municipality,
 Defendants.

DUSTIN MORRISON and SONYA KIDD
 aka SONYA MORRISON,
 Counterclaimants,

vs.

THE BANK OF COMMERCE,
 an Idaho banking corporation,
 Counterdefendant.

Case No. CV 08-4231 OC

ANSWER TO AMENDED
 COMPLAINT TO FORECLOSE
 REAL ESTATE MORTGAGE
 AND COUNTERCLAIM AND
 DEMAND FOR JURY TRIAL

Answer . . . and Counterclaim. . . Trial - 1

COME NOW three of the above-named defendants, Jefferson Enterprises, LLC, an Idaho limited liability company, Dustin Morrison and Sonya Kidd a/k/a Sonya Morrison, and answers the Amended Complaint to Foreclose Real Estate Mortgage of the plaintiff on file herein as follows:

FIRST DEFENSE

1. Defendants deny each and every allegation contained in plaintiff's Complaint not specifically admitted herein.

2. Defendants admit the allegations of Paragraphs 1, 2, 4, 5 and 6 of plaintiff's Complaint.

FIRST AFFIRMATIVE DEFENSE

3. That the property is such that it can be divided into parcels and, therefore, the defendants should be provided, as provided by Idaho Code, § 11-304, and the defendants should be entitled to instruct the sheriff pursuant to said section.

SECOND AFFIRMATIVE DEFENSE

4. That it is not appropriate for value to be determined prior to the entry of the Decree, if one is entered. That the reasonable value can only be determined after the property is sold, if the Court allows it to be sold. The Court is required subsequent to the sale of the properties (property) to determine value and to determine if there be any deficiency.

THIRD AFFIRMATIVE DEFENSE

5. That the real property must be sold before a judgment for money can be entered against any of the defendants.

COUNTERCLAIM

1. That during the Year of 2006, the defendant Dustin Morrison and Sonya

Morrison (hereafter "Morrison") worked with Steve Worton of Bank of Commerce regarding the acquiring of property known as the Southern Hills Project. Subsequent thereto, Steve Worton in behalf of Bank of Commerce, informed Dustin Morrison that the Southern Hills Project and a loan pertaining to such had been approved by the approving Board of the Bank of Commerce (hereafter "Board").

2. That subsequent thereto and contrary to what had been previously promised, Steve Worton informed Morrison that even though the Board had approved the financing with the Bank of Commerce having a second on the property, the Bank President refused to allow the loan to go forward indicating that Bank of Commerce had to have a first on the property.

3. That this property was subject to an option to purchase that had to be satisfied by a particular date.

4. That based upon the representations and promises of Bank of Commerce, namely, that it would fund the loan for the Southern Hills Project the defendants proceeded with using all of its liquid assets in order to exercise the option upon the property and make the property to be in a posture whereby it was free and clear of any first lien.

5. That subsequent thereto, Bank of Commerce refused to provide the funding for the Southern Hills Project.

6. That as a result of the defendants Morrisons using all of their liquid assets, the defendants Morrisons lost their otherwise ability to obtain other financing for this project, as well as other projects.

7. That the amount of damages suffered by the Morrisons is more than the amount being sought by the plaintiff-counterdefendant.

8. That defendants-counterclaimants are entitled to damages based upon the change of position that was taken by the defendants Morrisons based upon promises and representations of the Bank of Commerce.

9. That the defendants-counterclaimants Morrison have retained the services of


an attorney in behalf of the defense of plaintiff's action and in favor of the Counterclaim and that the defendants are entitled to the awarding of attorney's fees and Court costs and such other relief as the Court deems proper in the premises.

WHEREFORE, defendants-counterclaimants pray that plaintiff take nothing by its Amended Complaint and that the same be dismissed and that the defendants, Jefferson Enterprises, LLC, an Idaho limited liability company, be entitled to its reasonable attorney's fees, costs and such other relief as the Court deems proper in the premises, and that Dustin Morrison and Sonya Kidd a/k/a Sonya Morrison, be entitled to a judgment for the damages pertaining to the Counterclaim filed herein, reasonable attorney's fees, costs and such other relief as the Court deems proper in the premises.

DEMAND IS HEREBY MADE FOR A JURY TRIAL IN THIS MATTER.

DATED this 11th day of December, 2008.

ROBINSON & ASSOCIATES


By: 
Brent T. Robinson
Attorneys for Defendants

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of December, 2008, I served a copy of the foregoing *Answer to Amended Complaint . . . and Counterclaim . . . Trial* upon:

Douglas R. Nelson, Esq.
ANDERSON NELSON HALL SMITH, P.A.
P. O. Box 51630
Idaho Falls, Idaho 83405-1630

by depositing a copy thereof in the United States mail, postage prepaid, in an envelope addressed to said attorney at the foregoing address.


Brent T. Robinson

Answer . . . and Counterclaim. . . Trial - 4

Brent T. Robinson, Esq.
 ROBINSON & ASSOCIATES
 Attorneys at Law
 615 H Street
 P. O. Box 396
 Rupert, Idaho 83350-0396
 Telephone No. (208) 436-4717
 Facsimile No. (208) 436-6804
 Email Address: htr@idlawfirm.com
 Idaho State Bar No. 1932

FILED
 BANNOCK COUNTY
 CLERK OF THE COURT
 2009 AUG -4 AM 8:55
 BY *[Signature]*
 DEPUTY CLERK

Attorneys for Jefferson Enterprises, LLC
 Dustin Morrison and Sonya Kidd a/k/a Sonya Morrison

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho banking corporation,)	Case No. CV 08-4231 OC
)	
Plaintiff,)	
)	
vs.)	NOTICE OF FILING BANKRUPTCY
)	
JEFFERSON ENTERPRISES, LLC, an Idaho limited liability company, DUSTIN MORRISON and SONYA KIDD aka SONYA MORRISON, THE CITY OF POCATELLO, an Idaho municipality,)	
)	
Defendants.)	

TO: CLERK OF THE DISTRICT COURT and DOUGLAS R. NELSON, ESQ., Attorney for Plaintiff

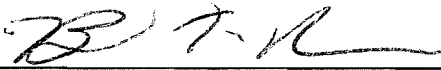
YOU ARE HEREBY GIVEN NOTICE that on the 30th day of July, 2009, Dustin R. Morrison and Sonya Morrison, aka Sonya Kidd, filed a Chapter 11 Voluntary Petition for relief in bankruptcy in the United States Bankruptcy Court for the District of Idaho, being Case No. 09-

41133-JDP. A copy of the electronic *Notice of Bankruptcy Case Filing* is attached hereto and by reference made a part hereof.

NOW, THEREFORE, all state court proceedings against Defendants Dustin R. Morrison and Sonya Morrison, aka Sonya Kidd, are stayed pursuant to 11 USC §362.

DATED this 31st day of July, 2009.

ROBINSON & ASSOCIATES

By: 
Brent T. Robinson
Attorney for Defendants Morrison and
Jefferson Enterprises, LLC

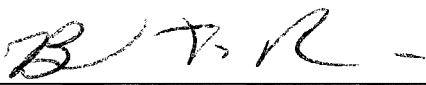
CERTIFICATE OF MAILING

I hereby certify that on the 31st day of July, 2009, I served a true and correct copy of the within and foregoing *Notice of Filing Bankruptcy* upon:

Douglas R. Nelson, Esq.
ANDERSON NELSON HALL SMITH, P.A.
P. O. Box 51630
Idaho Falls, ID 83405-1630

D. Kirk Bybee, Esq.
Attorney for City of Pocatello
PO Box 4169
Pocatello, ID 83205

by depositing the same in the United States mail with first-class postage prepaid, enclosed in an envelope addressed to said attorneys at their respective addresses.


Brent T. Robinson

2009 DEC 29 10:10:34
CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

THE BANK OF COMMERCE ,

Plaintiff,

vs.

JEFFERSON ENTERPRISES LLC, ETAL.,

Defendant.

Case No:CV-2008-0004231-OC

MINUTE ENTRY & ORDER

THE PARTIES came before the Court on the 21st day of December, 2009 for Status Conference. Brian Tucker appeared telephonically on behalf of the Plaintiff. Brent Robinson appeared telephonically, and Kirk Bybee appeared in person on behalf of the Defendants. Stephanie Davis was the Court Reporter.

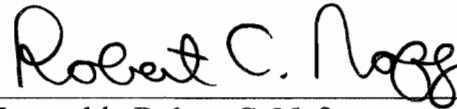
Pursuant to discussion with counsel, the Court doesn't feel appropriate about lifting the Stay of proceedings and moving forward on this case; therefore,

IT IS HEREBY ORDERED that this matter is set for another Status Conference to determine the status of the bankruptcy on the Morrisons (Defendants named in this matter).

Case No.: CV-2008-0004231-OC
MINUTE ENTRY & ORDER
Page 1 of 3

A STATUS CONFERENCE is scheduled for the 22ND DAY OF MARCH, 2010, AT THE HOUR OF 1:30 P.M. All parties will be allowed to appear telephonically with Mr. Tucker to initiate the conference call.

DATED this 30 day of December, 2009.



Honorable Robert C. Naftz
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of ^{December} ~~November~~, 2009, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL
SMITH, P.A.
P.O. Box 51630
Idaho Falls, ID 83405-1630


- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:



Deputy Clerk

BANNOCK COUNTY
2010 MAR 26 PM 2:02
COURT CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

THE BANK OF COMMERCE ,

Plaintiff,

vs.

JEFFERSON ENTERPRISES LLC, ETAL.,

Defendant.

Case No:CV-2008-0004231-OC

MINUTE ENTRY & ORDER

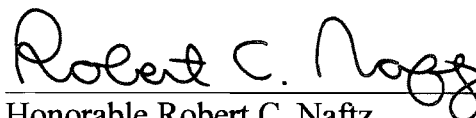
THE PARTIES came before the Court on the 22nd day of March, 2010, for Status Conference. Brian Tucker appeared telephonically on behalf of the Plaintiff. Brent Robinson appeared telephonically on behalf of the Defendants, Jefferson Enterprises, LLC, Dustin Morrison and Sonya Morrison, and Kirk Bybee appeared telephonically on behalf of the Defendant, City of Pocatello. Stephanie Davis was the Court Reporter.

Mr. Robinson represented to the Court that Mr. Morrison's bankruptcy action is moving forward and, in the interim, all parties will be discussing a settlement proposal in this matter; upon counsels' request for another status conference,

Case No.: CV-2008-0004231-OC
MINUTE ENTRY & ORDER
Page 1 of 3

IT IS HEREBY ORDERED that another Status Conference is scheduled in this matter for **MAY 3, 2010, AT THE HOUR OF 2:00 PM.** All parties will be allowed to appear **telephonically** with **Mr. Tucker to initiate** the conference call.

DATED this 26 day of March, 2010.



Honorable Robert C. Naftz
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26 day of March, 2010, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL
SMITH, P.A.
P.O. Box 51630
Idaho Falls, ID 83405-1630


- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:



Deputy Clerk

2010 MAY 11 PM 5:10

DEPT. CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

THE BANK OF COMMERCE ,

Plaintiff,

vs.

JEFFERSON ENTERPRISES LLC, ETAL.,

Defendant.

Case No:CV-2008-0004231-OC

MINUTE ENTRY & ORDER

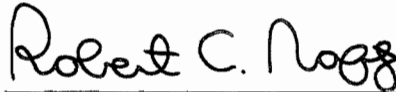
THE PARTIES came before the Court on the 3rd day of May, 2010, for a Status Conference. Brian Tucker appeared telephonically on behalf of the Plaintiff. Brent Robinson appeared telephonically on behalf of the Defendants, Jefferson Enterprises, LLC, Dustin Morrison and Sonya Morrison, and Kirk Bybee appeared telephonically on behalf of the Defendant, City of Pocatello.

Mr. Robinson represented to the Court that the Morrisons' bankruptcy action is closer to being finalized and jointly recommended another status conference be scheduled; therefore,

Case No.: CV-2008-0004231-OC
MINUTE ENTRY & ORDER
Page 1 of 3

IT IS HEREBY ORDERED that another Status Conference is scheduled in this matter for **JULY 6, 2010, AT THE HOUR OF 1:30 PM.** All parties will be allowed to appear **telephonically** with Plaintiff's counsel, **Mr. Tucker, to initiate the conference call by contacting the Court at 236-7252.**

DATED this 11 day of May, 2010.



Honorable Robert C. Naftz
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11 day of May, 2010, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL
SMITH, P.A.
P.O. Box 51630
Idaho Falls, ID 83405-1630


- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:



Deputy Clerk

PLANNED
2010 JUL 20 PM 2:26
CW
CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

THE BANK OF COMMERCE ,

Plaintiff,

vs.

JEFFERSON ENTERPRISES LLC, ETAL.,

Defendants.

Case No:CV-2008-0004231-OC

MINUTE ENTRY & ORDER

THE PARTIES came before the Court on the 6th day of July, 2010, for a Status Conference. Brian Tucker appeared telephonically on behalf of the Plaintiff. Kirk Bybee appeared telephonically on behalf of the Defendant, City of Pocatello. Brent Robinson, attorney for Jefferson Enterprises, LLC, Dustin Morrison and Sonya Morrison, was unavailable for this hearing. Stephanie Davis was the Court Reporter.

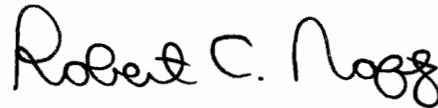
As represented to the Court through Brian Tucker, the bankruptcy action filed by the Morrisons is still pending and set for hearing the end of August. This matter awaits settlement of the bankruptcy action to determinate how counsel will proceed. Counsel recommended another Status Conference.

IT IS HEREBY ORDERED that another **STATUS CONFERENCE** is scheduled in this matter for **AUGUST 30, 2010, AT THE HOUR OF 2:00 PM.** All parties will be

Case No.: CV-2008-0004231-OC
MINUTE ENTRY & ORDER
Page 1 of 3

allowed to appear telephonically with **Brian Tucker** to initiate the conference call by **contacting the Court at 236-7252.**

DATED this 18 day of July, 2010.



Honorable Robert C. Naftz
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20 day of July, 2010, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL
SMITH, P.A.
P.O. Box 51630
Idaho Falls, ID 83405-1630


- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:



Deputy Clerk

A. Bruce Larson -ISB No. 2093
Able Law PC -- Attorneys at Law
155 South 2nd Ave.
P.O. Box 6369
Pocatello, ID 83205-6369

2010 DEC 10 PM 1:30
TY [Signature] DEPUTY CLERK

Telephone: (208) 478-7600
Fax: (208) 478-7602

Attorneys for Jefferson Enterprises, LLC, an Idaho limited liability company.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho)
banking corporation,)
Plaintiff, Counterdefendant,)
vs.)
JEFFERSON ENTERPRISES, LLC, an Idaho)
limited liability company, DUSTIN)
MORRISON and SONYA KIDD aka SONYA)
MORRISON, THE CITY OF POCATELLO,)
an Idaho municipality,)
Defendants , Counterclaimants.)

Case No. CV 08-4231 OC
NOTICE OF APPEARANCE ON BEHALF OF
JEFFERSON ENTERPRISES, LLC

COMES NOW A. Bruce Larson, of the firm ABLE LAW PC, entering his appearance on behalf of the Defendant and Counterclaimant Jefferson Enterprises, LLC and requests that he be served with all pleadings, filings and notices herein.

Dated this 10th day of December 2010.

ABLE LAW PC
[Signature]
A. Bruce Larson, Attorney for Jefferson Enterprises, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of December 2010, a true and correct copy of the within and foregoing NOTICE OF APPEARANCE ON BEHALF OF JEFFERSON ENTERPRISES, LLC was served upon:

Douglas R. Nelson, Esq.
ANDERSON NELSON HALL SMITH, P.A.
P. O. Box 51630
Idaho Falls, Idaho 83405-1630

- U.S. Mail
- Facsimile: 523 - 7254
- Hand Delivery
- Overnight Delivery
- Email

Brent T. Robinson, Esq.
ROBINSON & ASSOCIATES
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350

- U.S. Mail
- Facsimile: 436-6804
- Hand Delivery
- Overnight Delivery
- Email



A. Bruce Larson

2011 DEC 17 PM 3:18
[Handwritten signature]

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

vs.

JEFFERSON ENTERPRISES LLC, ETAL.,

Defendants.

Case No: CV-2008-0004231-OC

MINUTE ENTRY & ORDER

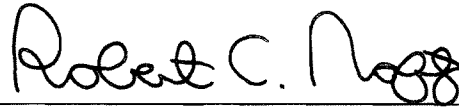
THE PARTIES came before the Court on the 29th day of November, 2010, for a Status Conference. Brian Tucker appeared telephonically on behalf of the Plaintiff. Brent Robinson appeared telephonically on behalf of the Defendants. D. Kirk Bybee, counsel for the City of Pocatello, was unable to be present for this proceeding.

Counsel represented to the Court that the Automatic Stay filed on the Morrisons' bankruptcy action has now been lifted allowing this matter to move forward. It was further represented that attorney A. Bruce Larsen will be filing a Notice of Appearance on behalf of Jefferson Enterprises LLC.

Case No.: CV-2008-0004231-OC
MINUTE ENTRY & ORDER
Page 1 of 3

IT IS HEREBY ORDERED that another **STATUS CONFERENCE** is scheduled for **DECEMBER 20, 2010, AT THE HOUR OF 3:30 O'CLOCK P.M.** The parties will be allowed to appear **telephonically** for this proceeding with **Mr. Robinson** to initiate the conference call by contacting the Court at 236-7252.

DATED this 10 day of December, 2010.



Honorable Robert C. Naftz
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of December, 2010, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL
SMITH, P.A.
P.O. Box 51630
Idaho Falls, ID 83405-1630

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350


- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

A. Bruce Larson
Able Law PC
P.O. Box 6369
Pocatello, ID 83205-6369

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:



Deputy Clerk

2008 DEC 20 11:04
CJ

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff/Counterdefendant,

vs

JEFFERSON ENTERPRISES, LLC, an Idaho
limited liability company, DUSTIN
MORRISON and SONYA KIDD aka SONYA
MORRISON, THE CITY OF POCATELLO, an
Idaho municipality,

Defendants/Counterclaimants.

Case No: CV-2008-0004231-OC

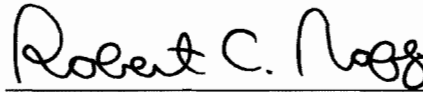
MINUTE ENTRY & ORDER

THE PARTIES came before the Court on the 20th day of December, 2010, for a Status Conference. Brian Tucker appeared telephonically on behalf of the Plaintiff. Matt Darrington appeared telephonically on behalf of the Defendants, Dustin and Sonya Morrison. A. Bruce Larson appeared telephonically on behalf of the Defendant, Jefferson Enterprises, LLC. D. Kirk Bybee appeared telephonically on behalf of the Defendant, City of Pocatello.

Case No.: CV-2008-0004231-OC
MINUTE ENTRY & ORDER
Page 1 of 3

Counsel represented to the Court that they are requesting this matter be set for trial pending the filing of other motions and completion of discovery. Pursuant to the stipulation of counsel, jury trial dates were selected as set out in the attached Scheduling Order. The question of mediation was also raised. The Court will not order the parties to participate in mediation but highly recommends they consider mediation as an option for resolving the issues in this case.

DATED this 29 day of December, 2010.



Honorable Robert C. Naftz
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of December, 2010, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL
SMITH, P.A.
P.O. Box 51630
Idaho Falls, ID 83405-1630

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350


- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

A. Bruce Larson
Able Law PC
P.O. Box 6369
Pocatello, ID 83205-6369

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:



Deputy Clerk

A. Bruce Larson -ISB No. 2093
 ABLE LAW PC -- Attorneys at Law
 155 South 2nd Ave.
 P.O. Box 6369
 Pocatello, ID 83205-6369
 Telephone: (208) 478-7600
 Fax: (208) 478-7602

2011 JAN 25 PM 4:42
 BY *[Signature]*
 DEPUTY CLERK

Attorneys for Jefferson Enterprises, LLC, an Idaho limited liability company.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho)
 banking corporation,)
)
 Plaintiff, Counterdefendant,)
)
 vs.)
)
 JEFFERSON ENTERPRISES, LLC, an Idaho)
 limited liability company, DUSTIN)
 MORRISON and SONYA KIDD aka SONYA)
 MORRISON,)
)
 Defendants, Counterclaimants,)
)
)
 THE CITY OF POCATELLO, an Idaho)
 municipality,)
)
 Defendant.)

Case No. CV 08-4231 OC


**MOTION FOR LEAVE TO AMENDED
 ANSWER TO AMENDED COMPLAINT
 TO FORECLOSE REAL ESTATE
 MORTGAGE AND TO AMENDED
 COUNTERCLAIM**

COMES NOW the defendant Jefferson Enterprises LLC, by and through its counsel of record, and hereby respectfully move this Court for an Order pursuant to I.R.C.P. Rule 15(a) granting said defendant leave to amend its Answer and Counterclaim to the Amended Complaint the proposed amendments are in the interest of justice. The proposed Amended Answer and Counterclaim accompany this motion.

Defendant Jefferson requests a hearing on this matter.

**MOTION FOR LEAVE TO AMENDED ANSWER TO AMENDED COMPLAINT TO FORECLOSE
 REAL ESTATE MORTGAGE AND TO AMENDED COUNTERCLAIM**

Dated this 26th day of January 2011.


A. Bruce Larson, Attorney for Jefferson
Enterprises LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of January, 2011, a true and correct copy of the within and foregoing Motion for Leave to Amend was served upon:

Douglas R. Nelson, Esq.
ANDERSON NELSON HALL SMITH, P.A.
P. O. Box 51630
Idaho Falls, Idaho 83405-1630

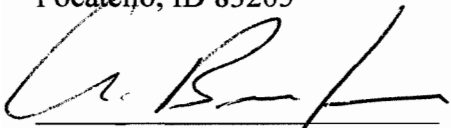
- U.S. Mail
- Facsimile: 208-522-3001
- Hand Delivery
- Overnight Delivery
- Email

Brent T. Robinson, Esq
ROBINSON & ASSOCIATES
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350

- U.S. Mail
- Facsimile: 208-436-6804
- Hand Delivery
- Overnight Delivery
- Email

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Facsimile: 208-239-6986
- Hand Delivery
- Overnight Delivery
- Email



A. Bruce Larson, Attorney for
Jefferson Enterprises LLC

A. Bruce Larson -ISB No. 2093
 ABLE LAW PC -- Attorneys at Law
 155 South 2nd Ave.
 P.O. Box 6369
 Pocatello, ID 83205-6369
 Telephone: (208) 478-7600
 Fax: (208) 478-7602

FILED FEB 22 PM 2:00
 CW

Attorneys for Jefferson Enterprises, LLC, an Idaho limited liability company.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho)
 banking corporation,)
)
 Plaintiff, Counterdefendant,)
)
 vs.)
)
 JEFFERSON ENTERPRISES, LLC, an Idaho)
 limited liability company, DUSTIN)
 MORRISON and SONYA KIDD aka SONYA)
 MORRISON,)
)
 Defendants, Counterclaimants,)
)
)
 THE CITY OF POCATELLO, an Idaho)
 municipality,)
)
 Defendant.)

Case No. CV 08-4231 OC

**AMENDED ANSWER TO AMENDED
 COMPLAINT TO FORECLOSE REAL
 ESTATE MORTGAGE, AMENDED
 COUNTERCLAIM AND DEMAND FOR
 JURY TRIAL**

COMES NOW the above-named defendant, Jefferson Enterprises, LLC, an Idaho limited liability company and answers the Amended Complaint to Foreclose Real Estate Mortgage of the plaintiff on file herein as follows:

1. Defendant Jefferson denies each and every allegation contained in plaintiff's Amended Complaint not specifically admitted herein.

**AMENDED ANSWER TO AMENDED COMPLAINT TO FORECLOSE REAL ESTATE
 MORTGAGE, AMENDED COUNTERCLAIM AND DEMAND FOR JURY TRIAL**

2. Defendant Jefferson admits the allegations of Paragraphs 1, 2, 4, 5 and 6 of plaintiff's Amended Complaint.

AFFIRMATIVE DEFENSES

3. That the property is such that it can be divided into parcels and, therefore, as provided by Idaho Code, § 11-304, and the defendants should be entitled to instruct the sheriff pursuant to said section.

4. That it is not appropriate for value to be determined prior to the entry of the Decree, if one is entered. That the reasonable value can only be determined after the property is sold, if the Court allows it to be sold. The Court is required subsequent to the sale of the property to determine value and to determine if there be any deficiency.

5. That the real property must be sold before a judgment for money can be entered against defendant Jefferson.

6. That the plaintiff unlawfully changed its position or otherwise breached the terms and conditions of the financing agreement all to the detriment of defendant Jefferson and should be estopped from foreclosure of the mortgage.

7. Defendant Jefferson is entitled to a set off against the plaintiff for damages caused by plaintiff's breach of contract and interference with an economic advantage.

8. Defendant Jefferson is entitled to a set off against the plaintiff for damages caused by plaintiff's fraud and misrepresentation in order to satisfy the requirements of Rule 9(b) of the Idaho Rules of Civil Procedure defendant adopts the particular allegations of fraud, concealment and misrepresentation alleged in the counterclaim filed herewith.

9. The Defendants are entitled to declare the note and mortgage null and void due to its illegality.

WHEREFORE defendant Jefferson having fully answered the plaintiff's Complaint judgment against the Plaintiff as follows:

1. That the plaintiff's Complaint be dismissed with prejudice and that plaintiff take nothing thereby;
2. That defendant Jefferson be awarded its costs necessarily incurred, together with an award of attorney fees in accordance with the provisions of Idaho Code §12-120(3) and Rule 54(e) of the Idaho Rules of Civil Procedure;
3. For such further relief as the court deems just in the premises.

Dated this 26th day of January 2011.



A. Bruce Larson, Attorney for Defendant
Jefferson Enterprises LLC

AMENDED COUNTERCLAIM

1. At all times material to this action, Dustin Morrison and Sonya Morrison (hereinafter "Morrison") were and are the owners and managing members of Jefferson Enterprises, LLC, an Idaho Limited Liability Company (hereinafter "Jefferson").

2. Morrison are also the owners and managing members of American Dream Home Builders, LLC, an Idaho Limited Liability Company n/k/a ADHD, LLC, (hereinafter "American Dream"). American Dream at all material times to this action was in the business of developing residential subdivisions and constructing residential homes. Morrison are also the shareholders and officers of American Dream Construction, Inc., an Idaho Corporation. The corporation at all material times to this action was in the business of developing residential subdivisions and constructing residential homes in conjunction with American Dream.

3. That all of the described entities are interrelated to the extent that their common financial ability to succeed is influenced by the ongoing projects, monetary reserves and credit worthiness of all of the businesses owned and operated by the Morrison.

4. That on or about May 17, 2005, Jefferson became the sole owner and managing member of Southern Hills Development Co., LLC, an Idaho Limited Liability Company (hereinafter "Southern Hills"). Southern Hills was the owner of an option to purchase real property which is more particularly described in Exhibit "A" attached hereto and made a part hereof by reference and is also referred to as the "Wood" property. Southern Hills was the owner of a parcel of real property which is more particularly described in Exhibit "B" attached hereto and made a part hereof by reference. The property described in Exhibit "B" comprises a substantial portion of the Eighty Acre, Inc., Subdivision of the City of Pocatello Idaho. The Parcel described in Exhibit "B" is referred to hereafter as the "Eighty Acre" property.

5. All of the right title and interest of Southern Hills in and to the described real property and to the option were transferred to Jefferson. The Eighty Acre Parcel was subject to a financing arrangement with exceptionally favorable terms and conditions. Jefferson assumed those favorable financial arrangements.

6. That during the year of 2006, Jefferson and Morrisons negotiated with the Counterdefendant Bank of Commerce (hereinafter referred to as the "Bank"), through Steve Worton, one of its Vice-Presidents for the purpose of the obtaining financing to exercise the option and to purchase the Wood Property.

7. Prior to the negotiations with the Bank a master plan for development of the Southern Hills Project combining the Wood parcel and the Eighty Acre parcel had been submitted and approved by the City of Pocatello. In the process of the approval, the City entered into an annexation agreement with Jefferson which provided for among other things, for utilities, sewer and the joint development of a water system that included at least two large water storage tanks. The Morrisons their related entities and Jefferson expended large sums of money for engineering, surveying, preparation of plats and other actions necessary to obtain the annexation agreement and the approval of the City of Pocatello for the Southern Hills Project.

8. A loan application was submitted by the Morrisons and Jefferson to the Bank, the application included volumes of documents relating to the Southern Hills Project together with financial analysis, appraisals, absorption rates and projected profits.

9. Jefferson was under a strict deadline to exercise the Wood option. In the event the option was not exercised by the deadline Jefferson would not be able to develop the Southern Hills Project and the expenditures described above would be lost.

10. Steve Worton on behalf of Bank of Commerce, informed Jefferson that the loan pertaining to the Southern Hills Project been approved by the Board of Directors of the Bank of

Commerce (hereafter "Board"). The Board's approval recognized that the bank would have a second mortgage on the Eighty Acre parcel which would preserve the favorable financing arrangement enjoyed by Jefferson as well as leaving intact other liquid assets of Morrisons, the related entities and Jefferson. The liquid assets were needed for the completion of the Southern Hills project and to fund other ongoing real estate developments of the other related entities owned by Morrisons. The Board and the Bank recognized the relationship of Jefferson to the Morrisons and the other entities and required as a term of financing the purchase of the Wood parcel that the Morrisons personally guarantee the loan.

11. That within 48 hours prior to the time the option on the Wood parcel was to expire the Bank without any prior communication changed its position and demanded that it be placed in a first lien position on the Eighty Acre parcel.

12. Jefferson was facing the prospect of catastrophic losses if the option was not exercised and the completion of the purchase of the Wood parcel. Jefferson was compelled by the circumstances to use substantially all of its liquid assets and the liquid assets of the related entities to pay off the obligation on the Eighty Acre parcel thereby placing the Bank's mortgage in a first lien position on the property.

13. That following the abrupt change in position Bank through its authorized officers represented that it would provide additional financing to continue the Southern Hills Project recognizing that its actions had impacted the financial ability of Jefferson and the other related business to continue their operations by consuming a substantial portion of the liquid financial reserves. The representation was made prior to the time the loan was to close and the time the Wood parcel was to be purchased.

14. That subsequent thereto, Bank of Commerce refused to provide any additional financing to Jefferson for the completion of the Southern Hills Project.

15. That as a result of the Bank's deviation from recognized lending standards and other wrongful conduct, Jefferson and the other related entities lost the ability to take advantage of foreseeable prospective economic opportunities related to the Eighty Acre parcel, the Southern Hills Project and other real estate developments.

BREACH OF CONTRACT

16. Jefferson repleads the allegations contained in paragraphs 1 through 15 as if fully set forth herein.

17. The Bank agreed to loan money to Jefferson in accordance with the terms and conditions of the Board's approval of Jefferson's loan application. The conditions of the loan agreement provided among other things that the Bank would be secured on the Eighty Acre parcel in a second lien priority position subject to the existing advantageous financing on the parcel. Jefferson accepted the agreement because the material terms including the second priority position became binding on the Bank.

18. That the agreement contained the implied covenant of good faith and fair dealing together with the requirements of state and federal law, established policies and procedures of the Bank and its Board and recognized commercial lending standards and practices.

19. The Bank breached the terms and conditions of the lending agreement by changing its position and requiring Jefferson to pay off the existing loan on the Eighty Acre parcel. The change of position of the Bank was timed in such a manner that Jefferson was unable to seek alternate financing to exercise the option to purchase the Wood property.

20. That based upon the documentation contained in the loan application, and other information provided to the Bank by Morrisons and Jefferson, it was reasonably foreseeable that the breach would cause damages to Jefferson. Damages were suffered by Jefferson and are in

an amount well in excess of the minimum jurisdictional limit of the District. The damages include but are not limited to the lost profits suffered by Jefferson.

21. That in addition to the damages suffered by Jefferson it should be awarded costs necessarily incurred, together with an award of attorney fees in accordance with the provisions of Idaho Code §12-120(3) and Rule 54(e) of the Idaho Rules Of Civil Procedure.

INTERFERENCE WITH A PROSPECTIVE ECONOMIC ADVANTAGE

22. Jefferson repleads the allegations contained in paragraphs 1 through 21 as if fully set forth herein.

23. The Bank acting contrary to state and federal law, established policies and procedures and recognized commercial lending standards wrongfully changed the terms and conditions of the loan agreement.

24. That the change in the Bank's position requiring Jefferson to use existing liquid cash reserves to place the Bank in a first position on the Eighty Acre parcel materially interfered with Jefferson's foreseeable prospective economic advantage stemming from the favorable existing financing on the property, the business opportunities of the related entities owned by the Morrisons and its ability to complete the Southern Hills project.

25. That as a direct and proximate result of the Bank's wrongful conduct Jefferson has been damaged in an amount to be determined at the time of trial of this matter well in excess of the minimum jurisdictional amount of the District and the amounts claimed to be due and owing on the Jefferson's obligations to the Bank.

26. That Jefferson should be awarded its costs necessarily incurred, together with an award of attorney fees in accordance with the provisions of Idaho Code §12-120(3) and Rule 54(e) of the Idaho Rules of Civil Procedure.

FRAUD AND MISREPRESENTATION

27. Jefferson repleads the allegations contained in paragraphs 1 through 26 as if fully set forth herein.

28. At all times relevant hereto the Bank owed a duty to Jefferson to speak the whole truth and to not intentionally mislead them or conceal material facts in communications regarding the terms and conditions of the loan or the Bank's ability and intention to further finance the Southern Hills project.

29. The Bank, knowing the true facts and Jefferson's reliance upon its representations, intentionally, negligently and/or recklessly disseminated the materially false information as above alleged which include among other things:

(a) the materially false representation that the Bank had agreed to accept a second lien position on the Eighty Acre parcel allowing Jefferson to profit from the existing financing arrangement;

(b) the Bank intentionally concealed the fact that it would or could change its position on the Eighty Acre parcel until Jefferson was out of time to exercise the Wood option;

(c) that the liquid cash reserves available to Jefferson would remain intact and not be affected by the new loan;

(d) that after the change in position the Bank would provide additional financing to alleviate the financial burden caused by its last minute change in position;

30. That all of the representations, acts of concealment and other wrongful conduct were made with the intent or the reasonable expectation that Jefferson would rely thereon. In fact, Jefferson did, as alleged, rely upon such false information to its damage, loss and detriment.

31. The Bank, its officers and its Board, based upon the above allegations lacked reasonable grounds to believe that the representations to Jefferson and the facts it concealed

contained true and accurate information and therefore acted with reckless disregard for Jefferson's rights knowing with reasonable probability that Jefferson and its related entities would be financially crippled by the Bank's actions.

32. As a direct and proximate result of the Bank's conduct, Jefferson has suffered damages, including but not limited to lost profits and other consequential damages in an amount to be determined at trial.

33. That Jefferson should be awarded its costs necessarily incurred, together with an award of attorney fees in accordance with the provisions of Idaho Code §12-120(3) and Rule 54(e) of the Idaho Rules Of Civil Procedure.

PROMISSORY ESTOPPEL

34. Jefferson repleads the allegations contained in paragraphs 1 through 33 as if fully set forth herein.

35. That the Bank due to its conduct previously alleged should be estopped from denying the terms and conditions of the lending agreement.

36. That the Bank breached the terms and conditions of the lending agreement which is the proximate cause of damages to Jefferson in an amount to be proven at the time of trial.

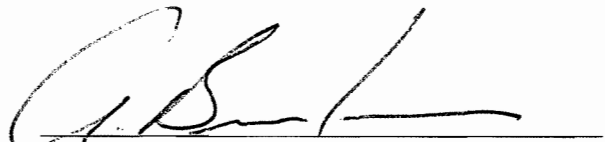
37. That Jefferson be awarded its costs necessarily incurred, together with an award of attorney fees in accordance with the provisions of Idaho Code §12-120(3) and Rule 54(e) of the Idaho Rules Of Civil Procedure.

38. Pursuant to Rule 38(b), IRCP, Jefferson demands a trial by jury.

WHEREFORE, defendant Jefferson requests entry of judgment determining that:

1. Defendant Jefferson Enterprises LLC be awarded general, special and consequential damages including but not limited to lost profits from the Bank.
2. The Defendant Jefferson Enterprises LLC, be awarded its costs necessarily incurred, together with an award of attorney fees in accordance with the provisions of Idaho Code §12-120(3) and Rule 54(e) of the Idaho Rules Of Civil Procedure;
3. For such other and further relief as the court deems proper in the premises.

Dated this 26th day of January 2011.



A. Bruce Larson

DEMAND IS HEREBY MADE FOR A JURY TRIAL IN THIS MATTER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of January, 2011, a true and correct copy of the within and foregoing AMENDED ANSWER TO AMENDED COMPLAINT TO FORECLOSE REAL ESTATE MORTGAGE AND AMENDED COUNTERCLAIM AND DEMAND FOR JURY TRIAL was served upon:

Douglas R. Nelson, Esq.
ANDERSON NELSON HALL SMITH, P.A.
P. O. Box 51630
Idaho Falls, Idaho 83405-1630

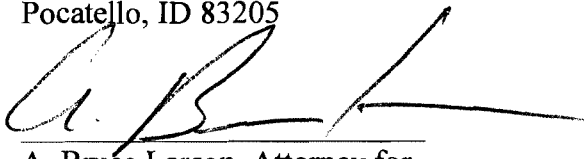
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- Overnight Delivery
- Email

Brent T. Robinson, Esq
ROBINSON & ASSOCIATES
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350

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Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

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- Facsimile: 208-239-6986
- Hand Delivery
- Overnight Delivery
- Email



A. Bruce Larson, Attorney for
Jefferson Enterprises LLC

Real property in the County of Bannock, State of Idaho, described as follows:

PARCEL 1:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THE SAME BEING THE SOUTHEAST CORNER OF SOUTH VALLEYVIEW ESTATES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 373461;

THENCE NORTH 00°15'43" EAST FOR A DISTANCE OF 1320.91 FEET TO A FOUND 3/4 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, THENCE NORTH 89°50'47" WEST ALONG THE NORTH BOUNDARY LINE OF SOUTH VALLEY VIEW ESTATES FOR A DISTANCE OF 659.93 FEET; THENCE NORTH 00°06'14" EAST ALONG THE WEST BOUNDARY LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9 FOR A DISTANCE OF 1315.23 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 9; THENCE SOUTH 88°55'17" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 9 FOR A DISTANCE OF 1976.72 FEET TO THE EAST 1/16TH CORNER ON SAID CENTERLINE; THENCE SOUTH 00°05'41" WEST FOR A DISTANCE OF 2638.63 FEET TO THE EAST 1/16TH CORNER ON THE SOUTH LINE OF SECTION 9; THENCE NORTH 88°51'13" WEST FOR A DISTANCE OF 1320.88 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER, THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THENCE SOUTH 88°50' 35" EAST ALONG THE NORTH LINE OF SECTION 16 FOR A DISTANCE OF 800.00 FEET TO THE NORTHEAST CORNER OF PIEDMONT ACRES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 601980;

THENCE SOUTH 00°46'58" WEST ALONG THE EAST SIDE OF PIEDMONT ACRES FOR A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°50'35" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF PIEDMONT ROAD FOR A DISTANCE OF 519.31 FEET TO THE WEST 1/16TH LINE OF SECTION, THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 25.00 FEET TO THE WEST 1/16TH CORNER ON THE NORTH LINE OF SECTION 16, THENCE SOUTH 88°50'35" EAST FOR

Exhibit "A"

Page 1

A DISTANCE OF 1319.24 FEET TO THE NORTH QUARTER CORNER OF SECTION 16, THENCE SOUTH 88°51'13" EAST FOR A DISTANCE OF 2641.77 FEET TO THE NORTHEAST CORNER OF SECTION 16, THENCE SOUTH 00°32'19" WEST ALONG THE EAST LINE OF SECTION 16 FOR A DISTANCE OF 2091.20 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 788114;

THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 1046.00 FEET TO THENORTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 00°32'19" WEST FOR ADISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE SAID LAND; THENCESOUTH 89°20'56" EAST ALONG THE SOUTH LINE OF SAID LAND, THE SAME BEING THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 56.81 FEET; THENCE SOUTH 00°33'48" WEST FORA DISTANCE OF 528.00 FEET; THENCE NORTH 89°20'55" WEST FOR A DISTANCE OF 329.11 FEET TO A POINT ON THE EAST 1/16TH LINE OF SECTION 16; THENCE NORTH 00°29'48" EAST FOR A DISTANCE OF 528.00 FEET TO THE EAST 1/16TH CORNER ON THE LATITUDINAL CENTERLINE OF SECTION 16; THENCE NORTH 89°20'56" WEST ALONG THE SAID LATITUDINAL CENTERLINE FOR A DISTANCE OF 1023.90 FEET TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655;

THENCE NORTH 00°27'19" EAST FOR A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 295.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE NORTH 00°27'19" EAST ALONG THE MERIDIONAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 1236.51 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE FOLLOWING THE BOUNDARY LINES OF THE LAND DESCRIBED IN INSTRUMENT 621688 FOR THE NEXT FIVE (5) COURSES:

- (1) SOUTH 89°06'35" EAST FOR A DISTANCE OF 260.00 FEET; THENCE
- (2) NORTH 14°06'45" EAST FOR A DISTANCE OF 140.00 FEET; THENCE
- (3) NORTH 41°32'41" EAST FORA DISTANCE OF 450.00 FEET; THENCE
- (4) NORTH 41°17'29" WEST FORA DISTANCE OF 180.00 FEET; THENCE
- (5) SOUTH 48°42'31" WEST FOR A DISTANCE OF 907.24 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 473513;

THENCE NORTH 88°35'51" WEST ALONG THE SAID NORTH BOUNDARY LINE FOR A DISTANCE OF . 490.35 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 00°37'47" EAST ALONG THE EAST BOUNDARY LINE OF THE LANDDESCRIBED IN INSTRUMENT 675569 FOR A DISTANCE OF 435.85 FEET; THENCE NORTH88°37'03" WEST FOR A DISTANCE OF 264.18 FEET; THENCE NORTH 00°37'47" EAST FOR ADISTANCE OF 66.00 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 360.03 FEET TO A POINT ON THE WEST 1/16TH LINE OF SECTION 16, SAID POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE

LAND DESCRIBED IN INSTRUMENT 95003247; THENCE SOUTH 00°37'47" WEST ALONG THE WEST 1/16TH LINE FOR A DISTANCE OF 302.77 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 790.30 FEET; THENCE SOUTH 00°37'47" WEST FOR A DISTANCE OF 423.23 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD; THENCE NORTH 88°37'03" WEST ALONG THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD FOR A DISTANCE OF 193.21 FEET TO A POINT ON A CURVE IN THE EAST RIGHT OF WAY LINE OF OLD US HIGHWAY 30; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE, FOLLOWING A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF 05°02'19" AND AN ARC DISTANCE OF 507.38 FEET TO A POINT ON THE WEST LINE OF SECTION 16, THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH 41°10'59" WEST A DISTANCE OF 507.21 FEET; THENCE NORTH 00°46'58" EAST ALONG THE SAID WEST LINE FOR A DISTANCE OF 218.97 FEET TO THE SOUTHWEST CORNER OF PIEDMONT ACRES; THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 800.00 FEET TO THE SOUTHEAST CORNER OF PIEDMONT ACRES; THENCE NORTH 00°46'58" EAST ALONG THE EAST BOUNDARY LINE OF PIEDMONT ACRES FOR A DISTANCE OF 653.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BEING THAT PARCEL OF LAND DESCRIBED IN INSTRUMENT 634749 OF THE RECORDS OF BANNOCK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN; THENCE SOUTH 89°20' 56" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 294.26 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 459.93 FEET; THENCE NORTH 48°49'49" WEST 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 48°49'49" WEST FOR A DISTANCE OF 208.71 FEET; THENCE SOUTH 53°40'56" WEST FOR A DISTANCE OF 213.80 FEET; THENCE SOUTH 48°49'49' EAST FOR A DISTANCE OF 208.71 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 213.80 FEET TO THE POINT OF BEGINNING.

LOT ALL, BLOCK ALL, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

EXCEPTING THEREFROM:

LOTS 1, 2, 3, 4,5,6,7,8,9, AND 10, BLOCK 2 AND LOTS 1, 2, 3,4,5,6,7,8, AND 9, BLOCK 3,EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

2/23/11
2011 FEB 23 10:16
[Handwritten signature]

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

THE BANK OF COMMERCE,

Plaintiff,

vs.

JEFFERSON ENTERPRISES, LLC, ETAL.,

Defendant/Counterclaimants,

THE CITY OF POCA TELLO,

Defendant.

Case No:CV-2008-0004231-OC
MINUTE ENTRY & ORDER

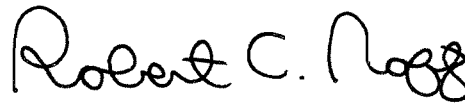
THE PARTIES came before the Court on the 22nd day of February, 2011, for hearing on Defendant's, Jefferson Enterprises' Motion for Leave to Amended Answer. Brian Tucker appeared in person on behalf of the Plaintiff. A. Bruce Larson appeared in person on behalf of the Defendant, Jefferson Enterprises. Counsel for Defendants, Dustin Morrison, Sonya Morrison and the City of Pocatello were not present. Stephanie Davis was the Court Reporter.

Case No.: CV-2008-0004231-OC
MINUTE ENTRY & ORDER
Page 1 of 3

The Court, having heard argument from Mr. Larson and response from Mr. Tucker,
IT IS HEREBY ORDERED that the Defendant's, Jefferson Enterprises' Motion for
Leave to Amended Answer to Amended Complaint to Foreclosure Real Estate Mortgage
and to Amended Counterclaim was GRANTED. Defense counsel was allowed leave to
amend the Answer and Counterclaim for his client, Jefferson Enterprises, LLC, which was
then filed and distributed to counsel upon the conclusion of this proceeding.

The Court notes that this matter is currently set for trial to begin on November 29,
2011, at the hour of 9:00 am. The Court strongly encourages the parties to participate in
mediation in an attempt to resolve their issues.

DATED this 11 day of March, 2011.



ROBERT C. NAFTZ
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11 day of March, 2011, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Douglas R. Nelson
Brian T. Tucker
ANDERSON NELSON HALL
SMITH, P.A.
P.O. Box 51630
Idaho Falls, ID 83405-1630

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350


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- Hand Deliver
- Fax:

Kirk Bybee
Office of the City Attorney
P.O. Box 4169
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Deliver
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A. Bruce Larson
Able Law PC
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Pocatello, ID 83205-6369

- U.S. Mail
- Overnight Delivery
- Hand Deliver
- Fax:



Deputy Clerk

Brian T. Tucker (ISB #5396)
NELSON HALL PARRY TUCKER, P.A.
490 Memorial Drive
Post Office Box 51630
Idaho Falls, Idaho 83405-1630
Telephone (208) 522-3001
Fax (208) 523-7254

2011 APR 14 11:23 AM
CLERK OF DISTRICT COURT
IDAHO FALLS, IDAHO

Attorneys for The Bank of Commerce

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality,

Defendants.

Case No. CV-08-4231-OC

**MOTION FOR SUMMARY
JUDGMENT**

DUSTIN MORRISON and SONYA KIDD
aka SONYA MORRISON, and
JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company,

Counterclaimants,

vs.

THE BANK OF COMMERCE, an Idaho
banking corporation,

Counterdefendant.

COMES NOW Plaintiff/Counterdefendant The Bank of Commerce (the "Bank"), through counsel of record, and moves this Court to enter, pursuant to Rule 56, I.R.C.P., a summary judgment or, in the alternative, a partial summary judgment, in favor of the Bank on the grounds that there is no genuine issue of material fact and that the Bank is entitled to summary judgment, or partial summary judgment, as a matter of law.

This motion is supported by the record before the Court, the Memorandum in Support of Motion for Summary Judgment and the supporting affidavits filed concurrently herewith.

DATED this 11 day of November, 2011.



BRIAN T. TUCKER

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 14 day of November, 2011, by mailing with the necessary postage affixed thereto or electronic mail.

Kirk Bybee
P.O. Box 4169
Pocatello, ID 83205


- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350-0396

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- Hand Delivery
- Facsimile
- Overnight Mail

A. Bruce Larson
ABLE LAW, PC
P.O. Box 6369
Pocatello, ID 83205-6369

- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail



BRIAN T. TUCKER

L:\BTT\0260.455\Summary Judgment - Motion.wpd

Brian T. Tucker (ISB #5396)
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490 Memorial Drive
Post Office Box 51630
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Telephone (208) 522-3001
Fax (208) 523-7254

[Handwritten signature and stamp]

Attorneys for The Bank of Commerce

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an Idaho
limited liability company, DUSTIN
MORRISON and SONYA KIDD aka SONYA
MORRISON, THE CITY OF POCA TELLO,
an Idaho municipality,

Defendants.

Case No. CV-08-4231-OC

**MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT**

DUSTIN MORRISON and SONYA KIDD aka
SONYA MORRISON, and JEFFERSON
ENTERPRISES, LLC, an Idaho limited
liability company,

Counterclaimants,

vs.

THE BANK OF COMMERCE, an Idaho
banking corporation,

Counterdefendant.

The Bank of Commerce (the “Bank” herein) by and through its attorneys of record, hereby supports its Motion for Summary Judgment as follows:

I. FACTUAL AND PROCEDURAL BACKGROUND

1. On April 21, 2006, Steve Worton (“Worton”), a loan officer at the Bank, had a meeting with Dustin Morrison (“Dustin”)¹, Pam Wake at Pam Wake’s office in the Key Bank building. Dustin presented Jefferson Enterprises, LLC’s Southern Hills Development project (the “Project”). Dustin gave Worton a binder of information that had tax returns, financial entities statements, an appraisal of the subject property (referred to herein as the “Subject Property” or the “Southern Hills Development Property”),² projected sales and other information Dustin believed was pertinent to the loan request. During this meeting, Worton asked Dustin about the Eighty Acres, Inc., mortgage which was on a portion of the Subject Property and whether the Bank would be able to obtain a first-position security interest in that portion of the property. Dustin represented at the meeting that he thought he could obtain a subordination from Eighty Acres, Inc., which would allow the Bank to be placed in first position on the entire property, including the Eighty Acres, Inc., portion of the property. After the meeting, Dustin took Worton out to the Southern Hills Development Property and they drove over the property. *See* Aff. Steve Worton, ¶¶ 3 & 5.

2. From as early as at least April 21, 2006, the Bank’s position was that its mortgage would need to be in first position for all property securing the loan to Jefferson Enterprises, LLC,

¹ Dustin Morrison will be referred to through out this Memorandum by his first name in order to avoid confusion with Sonya Morrison and A. Michael Morrison. No disrespect is intended.

² The Subject Property, a.k.a. the Southern Hills Development Property, is made up of property commonly referred to as the Wood Property and the Eighty Acre parcel, both of which are legally described in the Mortgages attached to the Affidavit of A. Michael Morrison as Exhibits B & D.

including the Eighty Acre, Inc., property, before the Bank would loan money to Jefferson Enterprises, LLC. *See* Aff. Steve Worton, ¶ 12.

3. On May 3, 2006, Worton met with Eric Polatis and Deena Green, who were officers at First American Title, to review the title commitment for the Project. Eric Polatis and Deena Green had some questions about the ability to put the Bank in first position on all of the land that Dustin had offered to secure the proposed loan from the Bank. Worton contacted Dustin by telephone and asked him to come to the First American Title office to clear up the liens on the property. When Dustin arrived he was shown the title commitment and prior lien holders. Dustin again indicated that the first lien holder would subordinate its lien position to the Bank's lien position. *See* Aff. Steve Worton, ¶ 6.

4. On May 8, 2006, the loan application package was submitted to the Bank's Loan Review Committee. *See* Aff. Steve Worton, ¶ 7.

5. Prior to the evening of May 9, 2006, Dustin continued to represent that he believed he could get Eighty Acres, Inc., to subrogate its lien to the Bank's mortgage. *See* Aff. Steve Worton, ¶ 13.

6. On May 9, 2006, the Bank's Board of Trustees (the "Board") approved a loan to Jefferson Enterprises, LLC, for \$2,200,000, rather than the requested \$2,800,000. Worton called and visited with Morrison about this change. Again, Worton reiterated that the Bank's mortgage would need to be in first position for all acreage. Later that evening, Dustin called Worton and said he was unable to get Eighty Acres, Inc., to subordinate their lien position. Worton therefore informed Dustin that the Eighty Acres, Inc.'s lien obligation would need to be paid off before the Bank would be able to proceed with the loan. Dustin suggested a couple of ideas for how he could meet the

Bank's requirement to be in first position. For example, Dustin suggested that the loan amount could be increased to cover the additional money needed to pay off the Eighty Acres, Inc., lien obligation. Dustin also stated that he could put cash into a certificate of deposit and hold it in the Bank as additional security until the Bank's loan committee had time to review his additional request for more money to pay off the Eighty Acres, Inc., lien. Dustin said he would go to work on getting money together to make all of this work out. Worton said he would have to talk to Tom Romrell ("Romrell"), the president of the Bank, to see if Dustin's suggestions would work. Worton told Dustin that he would call him the following morning after he had talked to Romrell. *See* Aff. Steve Worton, ¶ 8.

7. On May 10, 2006, Karen Hammond and Worton had an early morning telephone call with Romrell regarding Dustin's inability to place the Bank in first position on all of the secured property as the Board had required for the loan to be approved. Worton told Romrell about Dustin's idea to allow Dustin time the following week to get the Board's approval for an additional loan for funds to be used to pay off the Eighty Acre, Inc., debt. Romrell was not in favor of paying off the Eighty Acre, Inc., lien with an additional loan from the Bank. Instead, Romrell suggested that Dustin figure out a way to pay off the Eighty Acres, Inc., lien without an additional loan from the Bank. Worton then called Dustin and informed him that his idea of obtaining another loan from the Bank to pay off the Eighty Acre, Inc., lien would not work as the Bank needed its mortgage to be in first position before it would make the \$2,200,000 loan to Jefferson Enterprises, LLC and that \$2,200,000 was the limit that the Bank would loan on the project. *See* Aff. Steve Worton, ¶ 9.

8. Later on May 10, 2006, Worton faxed a letter to the title company reiterating the Bank's position that its mortgage would need to be in first position. *See* Aff. Steve Worton, ¶ 10.

9. Dustin was able to pay off the Eighty Acres, Inc., debt, and thus release its lien. Thereafter, Dustin and his wife Sonya Morrison (“Sonya”) signed the Promissory Note on May 10, 2006. The Promissory Note sets forth interest to be paid by Jefferson Enterprises. Also on May 10, 2006, Dustin and Sonya signed the Mortgage securing the note on May 10, 2006, as members of Jefferson Enterprises, LLC. The Mortgage placed the Bank in first position on all of the Subject Property, including the property that had previously been encumbered by Eighty Acres, Inc. Said Mortgage was recorded May 10, 2006 in the records of Bannock County, Idaho under Instrument No. 20609793. The Bank, therefore, loaned Jefferson Enterprises, LLC, \$2,200,000 (\$2,223,805.00 after including various charges) to purchase the Wood Property on May 10, 2006. Dustin and Sonya also signed personal guarantees, guaranteeing said loan. *See* Aff. Steve Worton, ¶ 11; Aff. A. Michael Morrison, ¶¶ 5-6.

10. At no time did Worton or any other employee of the Bank ever tell Morrison that the Bank would loan him additional money to pay off the Eighty Acres, Inc., lien. *Aff.* Steve Worton, ¶ 14.

11. Neither Dustin nor Sonya ever indicated to the Bank that they were going to use all of their liquid assets to pay off the Eighty Acres, Inc., lien. Neither Dustin nor Sonya ever indicated to the Bank that by paying off the Eighty Acres, Inc., lien, they and Jefferson Enterprises, LLC, would lose their ability to obtain other financing for this Project or for other projects. *See* Aff. Steve Worton, ¶ 15.

12. More than a year later, on June 27, 2007, the Bank loaned to Jefferson Enterprises the sum of Four Hundred Thousand Dollars (\$400,000.00). As evidence of this second loan Jefferson Enterprises made another Promissory Note in writing on June 27, 2007, in the principal

sum of Four Hundred Thousand Dollars (\$400,000.00). This second Promissory Note also sets forth interest to be paid by Jefferson Enterprises. *See* Aff. A. Michael Morrison, ¶ 7.

13. Dustin and Sonya personally guaranteed each and every obligation of Jefferson Enterprises described above. *See* Aff. A. Michael Morrison, ¶ 17.

14. As security for the repayment of both the May 9, 2006 loan and the June 27, 2007 loan, together with interest, costs and attorney fees, Jefferson Enterprises, LLC made, executed and delivered to the Bank another Mortgage dated the June 27, 2007. Said Mortgage was recorded June 27, 2007, in the records of Bannock County, Idaho under Instrument No. 20715644. *See* Aff. A. Michael Morrison, ¶ 8.

15. On or about February 21, 2008, both of the above-described Promissory Notes and both of the above-described Mortgages were modified by the Bank and Jefferson Enterprises pursuant to two separate Corporate Notes and Deed of Trust/Mortgage Agreements to Amend Terms. As a result of the modifications, both Notes became due and payable in full on May 1, 2008. *See* Aff. A. Michael Morrison, ¶ 9.

16. The Bank is the owner and holder of said Notes and Mortgages. On May 1, 2008, Jefferson Enterprises was in default in that it failed to pay the balance of said notes. On August 1, 2008, the Bank declared all sums owing under said Notes, Mortgages and related security documents due and payable in full. *See* Aff. A. Michael Morrison, ¶ 10.

17. After Jefferson Enterprises defaulted on the obligation as described above, the Bank made demand on Jefferson Enterprises for payment but Jefferson Enterprises has failed to pay as required by the Promissory Notes. *See* Aff. A. Michael Morrison, ¶ 11.

18. The Bank incurred and paid the sum of Six Thousand Two Hundred Twenty-six

Dollars and Ninety-nine Cents (\$6,226.99) for a Foreclosure Litigation Guaranty. *See* Aff. A. Michael Morrison, ¶ 12.

19. As of July 15, 2008, Jefferson Enterprises owed to the Bank under the terms and provisions of said Notes and Mortgages the sum of Two Million Seven Hundred Twenty-three Thousand Four Hundred Ninety-seven Dollars and Forty Cents (\$2,723,497.40) calculated as follows:

Principal balance due as of 7/15/08	\$2,647,217.13
Interest through 7/15/08	\$ 76,280.27
Total Principal and Interest due 7/15/08	\$2,723,497.40

See Aff. A. Michael Morrison, ¶ 13.

20. Said Notes accrue interest at the combined per diem of \$507.68548. *See* Aff. A. Michael Morrison, ¶ 14.

21. The mortgaged premises have at all times heretofore been used together as one (1) lot or parcel and every part thereof is necessary for the best use and enjoyment of said mortgaged property and the same cannot be sold in separate parcels without material injury to the parties hereto. *See* Aff. A. Michael Morrison, ¶ 15.

22. After sale of the mortgage property, the court should determine the reasonable value of the property. In the event said reasonable value should be less than the amount of the Judgment requested, plus accruing interest, costs, and fees, Plaintiff intends to apply to the Court for the Entry of a Deficiency Judgment against Jefferson Enterprises, and for any deficiency remaining after application of the foreclosure sale proceeds to payment of the Judgment herein, plus accruing interest herein, costs and fees. *See* Aff. A. Michael Morrison, ¶ 16.

23. As Guarantors, the Morrisons, are obligated to the Bank in the principal amount of \$2,723,497.40 plus interest accruing after July 15, 2008 at the per diem interest accrual of \$507.68548 as of July 15, 2008 based on the loan documents.³ See Aff. A. Michael Morrison, ¶ 18.

24. The Bank commenced this action on October 21, 2008, and filed its Amended Complaint on November 13, 2008.

25. Jefferson Enterprises and the Morrisons filed an answer and counterclaim on December 12, 2008. The parties have stipulated to allow Jefferson Enterprises and the Morrisons to file the Amended Counterclaim provided to Plaintiff's counsel prior to depositions.

II. LEGAL STANDARD FOR SUMMARY JUDGMENT

A motion for summary judgment "shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." I.R.C.P. 56(c). See also *Heath v. Idaho State Tax Commission*, 134 Idaho 407, 3 P.3d 532 (Ct. App. 2000).

When assessing a motion for summary judgment, all controverted facts are to be liberally construed in favor of the non-moving party. *Damian v. Estate of Pina*, 132 Idaho 447, 974 P.2d 93 (1999); *Graeffe v. Vaughn*, 132 Idaho 349, 972 P.2d 317 (1999); *Tusch Enterprises v. Coffin*, 113 Idaho 37, 740 P.2d 1022 (1987). In ruling on a motion for summary judgment, a court is not permitted to weigh the evidence to resolve controverted factual issues. *Meyers v. Lott*, 133 Idaho 846, 993 P.2d 609 (2000); *Small v. State*, 132 Idaho 327, 971 P.2d 1151 (Ct. App. 1999). Liberal

³ However, due to their personal bankruptcy filings, no deficiency judgment is being sought against Dustin and Sonya Morrison. However, these amounts would and could be used as an offset against any amounts that may be awarded pursuant to their Counterclaim.

construction of the facts in favor of the non-moving party requires the court to draw all reasonable factual inferences in favor of the non-moving party. *Madrid v. Roth*, 2000 WL 1052984 (Idaho App.); *Farnsworth v. Ratliff*, 999 P.2d 892 (2000); *Farm Credit Bank of Spokane v. Stevenson*, 125 Idaho 270, 869 P.2d 1365 (1994).

The non-moving party's case, however, must be anchored in something more than speculation, and a mere scintilla of evidence is not enough to create a genuine issue of fact. *Pena v. Minidoka County*, 133 Idaho 222, 984 P.2d 710 (1999); *West v. Sonke*, 132 Idaho 133, 968 P.2d 228 (1996); *Nelson, A.I.A., supra*.

The moving party is entitled to judgment when the non-moving party fails to make a sufficient showing as to the essential elements to which that party will bear the burden of proof at trial. *Smith v. Meridian Joint School District No. 2*, 128 Idaho 714, 918 P.2d 583 (1996); *Dekker v. Magic Valley Regional Medical Center*, 115 Idaho 332, 766 P.2d 1213 (1989). Summary judgment is appropriate when there are no genuine issues of material fact.

III. ARGUMENT

A. The Bank's Mortgages

The Bank has two Mortgages encumbering the Subject Property. The Bank is entitled to foreclose on both of its Mortgages as set forth in the Affidavit of A. Michael Morrison. In addition, as the Bank has the highest priority, the Bank should be allowed to foreclose on the Subject Property and apply the proceeds of the sale to Jefferson Enterprises' outstanding debts to the Bank. Therefore, this Court should enter a judgment and order allowing the Bank to foreclose on and sell the Subject Property.

B. Allegations in the Amended Counterclaim

In their Amended Counterclaim, Jefferson Enterprises and the Morrisons have alleged the following: breach of contract, interference with a prospective economic advantage, fraud and misrepresentation, and promissory estoppel. However, none of these theories are supported by admissible evidence or law. Therefore, this Court should grant the Bank summary judgment by dismissing the Amended Counterclaim.

1. Breach of Contract

Jefferson Enterprises claims that the Bank agreed to loan money to Jefferson Enterprises in accordance with the terms and conditions of the loan application, including the condition that the Bank would be secured on the Eighty Acre parcel by taking a second lien position. Even when construing the evidence in favor of Jefferson Enterprises, the evidence does not support the breach of contract claim.

Idaho Code § 9-505, which is referred to as the Statute of Frauds, provides, in part, as follows:

In the following cases the agreement is invalid, unless the same or some note or memorandum thereof, be in writing and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement cannot be received without the writing or secondary evidence of its contents:

...

5. A promise or commitment to lend money or to grant or extend credit in an original principal amount of fifty thousand dollars (\$50,000) or more, made by a person or entity engaged in the business of lending money or extending credit.

In *Lettunich v. Key Bank Nat. Ass'n*, 141 Idaho 362, 109 P.3d 1104 (2005), Lettunich brought a claim against Key Bank for breach of an alleged oral agreement to loan him money. Lettunich had approached Key Bank to negotiate a loan package to purchase real property, cattle

and an operating loan. Lettunich met with Key Bank's relationship manager, Brian Faulks, to explain the nature of his cattle operations and the type of financing he needed. The proposed financing package included three separate loans, each in excess of \$50,000. Faulks sent Lettunich three written loan commitments. Lettunich signed the three loan commitments, but Key Bank never signed them. Lettunich bought cattle at a court-ordered sale on April 26, 2000, as he believed he was going to receive the three loans from Key Bank. On the evening of the first day of the sale of cattle, Lettunich asked Faulks if he should continue to purchase cattle when the sale resumed the following day. Faulks encouraged Lettunich to keep buying the cattle and assured Lettunich that Key Bank would fund a term loan and operating line. Based on that representation, Lettunich continued buying cattle, ultimately purchasing over \$400,000 in Angus cows. Thereafter, Key Bank refused to fund the cattle term loan and operating line of credit. Lettunich sued Key Bank for breach of an oral agreement, breach of the covenant of good faith and fair dealing and fraud. The district court granted Key Bank summary judgment on the grounds that Lettunich's claims were barred by the statute of frauds. The Idaho Supreme Court affirmed the summary judgment. The Supreme Court recognized that each of the three loans negotiated by Lettunich exceeded \$50,000. The Supreme Court stated:

Lettunich argues there was an oral agreement between the parties. Viewing the evidence in a light most favorable to Lettunich, even if we infer there was an oral agreement between the parties at least as far as loaning money to purchase cattle, the oral agreement is invalid because it clearly violates I.C. § 9-505(5)....

Id. at 367, 109 P.3d at 1109.

Dustin testified:

Q. Now, back to this idea of, as you called it, kind of a precommitment given to you in writing?

A. There was nothing given to me in writing.

Q. So this precommitment idea that you are referring to again related to what you claim Steve Worton told you?

A. Everything was related to what Steve Worton told me because there wasn't one thing in writing, nothing. There wasn't an approval in writing, there wasn't a list of conditions in writing, contingencies in writing. There wasn't a formal request in writing. Nothing was in writing.

Dustin Morrison Depo. Tr., p. 64, ll. 1-13.

Q. Nothing in writing that said that the bank would take a second position in that property.

A. No.

Id. at p. 67, ll. 11-13.

Jefferson Enterprises requested a \$2.8 million loan and ultimately received a \$2.2 million loan. Because the alleged promise to lend money involved a loan much greater than \$50,000, the Statute of Frauds governs Jefferson Enterprises' breach of contract claim. There never was any writing subscribed by the Bank or any of its agents which sets forth the alleged loan agreement with the condition that the Bank would take a second lien position in the Eighty Acre parcel. Because there was no such written and signed agreement, there can be no breach.

Moreover, there was no consideration (commitment fee) to support a loan commitment, and therefore, no breach of any loan commitment.

In *D & M Development Company, Inc., v. Sherwood and Roberts, Inc.*, 93 Idaho 200, 457 P.2d 439 (1969), the Idaho Supreme Court discussed the use of a commitment fee to secure the right to later borrow money. In that case, the Idaho Supreme Court held that a commitment fee was not interest and therefore did not violate the then-applicable usury statute. D & M Development Company had paid \$56,250 as consideration for receiving three written loan

commitments. The Court noted that “By the issuance of the three commitment letters, respondent was guaranteed the ability to borrow the rather large sum of money involved at a later date at a specific interest rate for a specific term.” *Id.* at 206, 457 P.2d at 445. Additionally, the Court quoted *Prather, Mortgage Loans and the Usuary Laws*, 16 Bus. Lawyer 181 (Nov., 1960), which states: “The commitment fee buys a commitment; the fee paid is not ‘for the use of money,’ but for the privilege later of actually borrowing the money. It is an option, not a loan.”

In *Lowe v. Massachusetts Mutual Life Ins. Co.*, 54 Cal.App.3d 718 (1976), the California Court of Appeal affirmed the trial court’s finding that a commitment agreement constituted an option. The “trial court expressly found that under the terms of the commitment letter defendant was contractually obligated to lend \$4,700,000 upon the applicant-assignor’s compliance with the conditions stated in the letter of commitment”. *Id.* at 724. The California Court of Appeals stated:

‘An option, when supported by consideration, ... is a Right acquired by contract to accept or reject a present offer within a limited time in the future....’
‘It is universally accepted that an option agreement is a contract distinct from the contract to which the option relates, since it does not bind the optionee to perform or enter into the contract upon the terms specified in the option.’...

Id. at 725.

In *Justad v. Ward*, 147 Idaho 509, 512, 211 P.3d 118, 121 (2009), the Idaho Supreme Court discussed the particular characteristics of an option contract, as follows:

Formation of a valid contract requires a meeting of the minds as evidenced by a manifestation of mutual intent to contract. *Inland Title Co. v. Comstock*, 116 Idaho 701, 703, 779 P.2d 15, 17 (1989). This manifestation takes the form of an offer followed by an acceptance. *Id.* An option contract is an offer that, upon sufficient consideration, may not be revoked for an agreed upon amount of time. *See* 17A Am.Jur.2d *Contracts* § 53 (2d ed.2008). An acceptance of an option is an expression by the offeree that accepts the offer in accordance with the terms of the offer. *See* IDJI 6.05.2. The acceptance is not complete until it has been

communicated to the offeror. *Id.* Acceptance of an offer must be unequivocal. *Huyett v. Idaho State Univ.*, 140 Idaho 904, 909, 104 P.3d 946, 951 (2004). Generally, silence and inaction does not constitute acceptance. 17A Am.Jur.2d *Contracts* § 98 (2d ed.2008). More specifically:

Because assent to an offer that is required for the formation of a contract is an act of the mind, it may either be expressed by words or evidenced by circumstances from which such assent may be inferred, such as the making of payments or the acceptance of benefits. Anything that amounts to a manifestation of a formed determination to accept, and is communicated or put in the proper way to be communicated to the party making the offer, completes a contract.

A response to an offer amounts to an acceptance if an objective, reasonable person is justified in understanding that a fully enforceable contract has been made, even if the offeree subjectively does not intend to be legally bound. This objective standard takes into account both what the offeree said, wrote, or did and the transactional context in which the offeree verbalized or acted.

17A Am.Jur.2d *Contracts* § 91 (2d ed.2008).

In its Amended Counterclaim Jefferson Enterprises claims that the Bank initially committed to lend it money pursuant to Jefferson Enterprises' loan application, including the taking of a second lien position on the Eighty Acre parcel, but that the Bank later breached that commitment when it insisted on receiving a first lien position on the Eighty Acre parcel. *See* Amended Counterclaim, ¶¶ 10, 11, 17 and 19.

However, these allegations are not supported by the facts. In his deposition, Dustin testified as follows:

Q. Whenever it was, were you at that point committed to accept that loan from the Bank of Commerce?

A. Yes.

Q. So you had to accept the loan?

A. In a practical sense, yes, because I had to perform by a certain date, and I hadn't been pursuing a loan with anybody else.

Q. But I am saying legally were you obligated –

A. No.

Q. You weren't obligated to accept the loan that the bank gave you.

A. Not legally; ...

Id. at p. 67, l. 18 to p. 68, l. 4

Q. But you understand that the decision, whether the bank agrees to loan money or not, that's a decision they have; correct?

A. Yes.

Q. They are not obligated to accept your proposal just because it's your proposal, are they?

A. No,...

Id. at p. 70, ll. 7 to 13.

Q. But you wanted 2.8 million as well; right?

A. Yes.

Q. And you realize that what you want and what a lender may eventually approve are not always the same thing?

A. Absolutely....

Id. at p. 70, l. 24 to p. 71, l. 2.

Q. I'm saying did Jefferson Enterprises pay the bank any loan fee prior to closing?

A. Not that I'm aware of.

Id. at p. 83, ll. 7-9

Q. At that time you had this preapproval. Did you pay something to the Bank of

Commerce to hold that preapproval open?

A. You have asked that four times. No money was paid prior to the loan fee. Nobody ever paid for a preapproval to a bank.

Q. What was your understanding of the point in time that Jefferson Enterprises became obligated to the terms of the loan as offered by the Bank of Commerce?

A. Legally the day we signed papers.

Id. at p. 85, ll. 13-22.

From Dustin's own testimony, it is clear that there was no consideration paid for any loan preapproval or for any loan commitment. Dustin also testified that no such loan preapproval or loan commitment was in writing. The Bank had not given Jefferson Enterprises any kind of option contract prior to closing and the loan agreement did not become binding on the parties until it was entered into by both parties at the closing on May 10, 2006.

Because the evidence does not support any loan commitment prior to closing, there cannot be any breach of such a loan commitment. Therefore, this Court should grant the Bank summary judgment by dismissing Jefferson Enterprises' breach of contract claim.

2. Interference with a Prospective Economic Advantage

Jefferson Enterprises also claims the Bank's position requiring Jefferson Enterprises to use existing liquid cash reserves to place the Bank in a first position on the Eighty Acre parcel materially interfered with Jefferson Enterprises' foreseeable prospective economic advantage. *See* Amended Counterclaim, ¶ 24. However, the evidence simply does not support Jefferson Enterprises' allegation of interference with a prospective economic advantage.

Regarding the tort of intentional interference with a prospective economic advantage, the Idaho Supreme Court has stated:

To establish a claim for intentional interference with a prospective economic advantage, Cantwell must show (1) the existence of a valid economic expectancy, (2) knowledge of the expectancy on the part of the interferer, (3) intentional interference inducing termination of the expectancy, (4) the interference was wrongful by some measure beyond the fact of the interference itself, and (5) resulting damage to the plaintiff whose expectancy has been disrupted. *Highland Enter., Inc. v. Barker*, 133 Idaho 330, 338, 986 P.2d 996, 1004 (1999). The trial court granted summary judgment on this claim because Cantwell failed to raise a genuine issue of material fact concerning whether or not the defendants engaged in a wrongful interference. The district court did not err. In a recent case, this Court denied a claim for tortious interference with contract because the plaintiff failed to establish the alleged interferer was a third party to the contractual relationship. *See BECO Constr. Co. v. J-U-B Eng'rs*, 145 Idaho 719, 724–26, 184 P.3d 844, 849–51. The same result obtains here. Cantwell does not allege the defendants here acted outside the scope of their duties as Cantwell's supervisors. The actions of an agent are the actions of the corporation. *Ostrander v. Farm Bureau Mut. Ins. Co. of Idaho*, 123 Idaho 650, 654, 851 P.2d 946, 950 (1993). An agent is only liable for actions which are outside its scope of duty to the corporation. *Id.* Since Cantwell fails to establish that the defendants acted outside the scope of their authority, he fails to show any wrongful interference. Since there is no third party to the relationship, Cantwell cannot state a claim for tortious interference. *See Ostrander*, 123 Idaho at 654, 851 P.2d at 950; *BECO*, 145 Idaho at 725–26, 184 P.3d at 850–51.

Cantwell v. City of Boise, 146 Idaho 127, 137-38, 191 P.3d 205, 215-16 (2005).

In the present case, Jefferson Enterprises has failed to provide admissible evidence of any of the five elements to the claim of intentional interference with an economic prospective. There was no *valid* economic expectancy. Whether Jefferson Enterprises could have actually earned a profit if the Bank had not insisted upon a first priority lien position on the Eighty Acre parcel is completely speculative and therefore does not constitute a valid economic expectation. There is no admissible evidence that the Bank had knowledge of the expectancy, as even Dustin did not know the extent of his expectancy. Any knowledge of the expectancy on the part of the Bank is merely speculative. There is no admissible evidence that the Bank intentionally interfered and thus induced termination of the expectancy. There is no admissible evidence that the Bank's

conduct was wrongful. Moreover, there is no admissible evidence of Jefferson Enterprises' alleged damages. Finally, Jefferson Enterprises has failed to show any third party to the relationship.

Dustin testified:

Q. I think you referred to it as this beast. What did you mean by this beast?

A. It's the biggest subdivision, it's the biggest master plan subdivision I believe at the time in Idaho, still by far in Southeast Idaho, in this market, in this world. I mean nothing originally nationally but extremely original for the community, for the area, for the state.

Q. So it was kind of a cutting edge thing here –

A. For us, yes.

Dustin Morrison Depo. Tr., p.25, l. 21 to p. 26, l. 4.

Q. Those were all unknowns going into it.

A. Yes.

Q. And that's kind of what development is all about, you get an idea, you see a project, you dump some money in, and you hope it turns out.

A. Yes.

Id. at p. 35, l. 25 to p. 36, l. 5.

Q. So you are saying that when you closed on this loan on May 10, that you knew that you wouldn't be able to keep the property, you didn't think you had any chance in the world of being able to come up with some plan to salvage this property?

A. No, that's not fair...

...

So, no, my failure wasn't inevitable, it was just absolutely unknown, and I didn't know what the right thing to do was....

Id. at p. 80, l. 11 to p. 81, l. 9.

Q. ... In Paragraph 15 you allege that Jefferson and other related entities lost the ability to take advantage of the foreseeable prospective economic opportunities related to the 80 Acres parcel, the Southern Hills projects, and other real estate developments.

A. And this one wasn't truly foreseen, like to the extent that it impacted us, it wasn't foreseen or foreseeable with my set of knowledge. It was truly after we went out courting investors, them asking for financial statements and them seeing our weaknesses and defining our weaknesses as exactly what had just changed.

Q. So you at the time, you didn't realize the impact it potentially could have, you said you later discovered –

A. I knew it would have an impact on my appeal to investors. I didn't fully appreciate how to the extent.

Id. at p. 95, l. 15 to p. 96, l. 1.

As to whether the Bank's conduct was wrongful and intentional, Dustin testified as follows:

Q. Do you have some basis to believe that the bank legally couldn't make this loan to you or –

A. No, it just seems completely unsound. It seems like you are loan sharking at that time. You are lending money anticipating failure and anticipating getting the land back.

Q. Is that what you think the bank did?

A. I don't think the bank thought....

Id. at p. 79, ll. 9-16.

Q. Anything other than your experience in borrowing money that you rely on to make that statement that the bank deviated from recognized lending standards?

A. No, I guess not....

Id. at p. 91, l. 25 to p. 92, l. 4.

Q. In Paragraph 15 you also allege that the bank committed other wrongful conduct. What other wrongful conduct do you believe the bank committed?

A. I think that they should have considered one of the other options in order to mitigate the loss of the financing that was established and keep my balance sheet more sound....

Q. Other than [not] follow one of your recommendations, what other wrongful conduct did the bank engage in?

A. I think they changed the terms at the last minute. I think they went through and closed a loan they had no business closing, none whatsoever. I think the whole process was wrong, there was nothing in writing, there was nothing stipulating to anything, there was nothing stipulating my request to the board. It was just my request, my binder. It's my binder.

Q. Is there something in your mind legally, can you point me to something that says you can't do that?

A. No,...

Id. at p. 92, l. 18 to p. 93, l. 16.

Q. And, to your knowledge, does the bank's insistence that it have a first lien on the 80 Acres, is that somehow a violation of any statute that you are aware of?

A. No.

Q. Is it a violation of any regulation or rule that you are aware of?

A. I think like you said, they can ask for whatever they want. They can ask for my first born, I guess, if they want.

Id. at p.106, ll. 2-11.

Q. Ultimately you decided that you would accept the terms that the bank offered and close the loan.

A. Yes....

Id. at p. 73, ll. 20-22.

There is no admissible evidence that the Bank was the proximate cause of Jefferson Enterprises' damages. In fact, Dustin admitted that there are lots reasons why Jefferson Enterprises ultimately failed, when he testified:

A. ...

I don't know if I made the best choice or not, I regret it some days and some days I think – you guys were horrible. I don't know, it's definitely wrecked my life, it definitely has had an impact. I don't think it's solely due to the Bank of Commerce either, I think the market itself, the downturn in the market. Bank policy on spec construction and lending. Our own construction practices. A million things have played into it.

...

Id. at p. 104, ll. 8-16.

There is no admissible evidence that the Bank caused any calculable damages to Jefferson Enterprises. Again, Dustin testified:

Q. How did you calculate the damages that you think that you suffered as a result of the bank's conduct?

A. I don't know. This got me in trouble on the last one, too, I don't know what my damages are. I don't know what my damages are....

Id. at p. 97, ll. 16 to 21.

For Jefferson Enterprises to prevail on its claim of intentional interference with a prospective economic advantage, it must establish all of five elements as set forth by the Idaho Supreme Court. However, Jefferson Enterprises has failed to establish any of the five requirements. In addition, Jefferson Enterprises has not shown any third party to the relationship. Therefore, this Court should grant the Bank summary judgment by dismissing Jefferson

MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - 21

Enterprises' intentional interference with a prospective economic advantage claim.

3. Fraud and Misrepresentation

Jefferson Enterprises claims that the Bank fraudulently misrepresented that it would accept a second lien position on the Eighty Acre parcel and then allegedly changed its position less than 48 hours before the loan closing and the expiration of the option to purchase the Wood property by insisting on a first lien position. In addition, Jefferson Enterprises claims that the Bank fraudulently misrepresented that it would provide additional financing in the future, but that the Bank subsequently refused to provide that additional financing.

The Bank should be granted summary judgment on this fraud and misrepresentation issue for two reasons. First, Jefferson Enterprises has failed to plead fraud and misrepresentation with particularity as is required. *See* Rule 9(b), I.R.C.P. Second, Jefferson has failed to establish all of the elements required to establish a claim for fraud or misrepresentation.

The Idaho Supreme Court has set forth the requirements for fraud, as follows:

A claim of fraud requires the plaintiff to establish nine elements with particularity: (1) a statement or a representation of fact; (2) its falsity; (3) its materiality; (4) the speaker's knowledge of its falsity; (5) the speaker's intent that there be reliance; (6) the hearer's ignorance of the falsity of the statement; (7) reliance by the hearer; (8) justifiable reliance; and (9) resultant injury.

Chavez v. Barrus, 146 Idaho 212, 223, 192 P.3d 1036, 1047 (2008).

a. No Fraudulent Misrepresentation Regarding the Bank's Request to Be in First Priority Lien Position on the Eighty Acre Parcel

In order to establish fraud or misrepresentation, Jefferson Enterprises would need to set forth evidence that when Worton allegedly told Dustin that the Bank's Board of Directors initially had approved the loan by agreeing to take a second priority lien position in the Eighty Acres parcel, that the Bank and/or Worton knew that that statement was false and that the Bank

would really only agree to a first priority lien position in the Eight Acres parcel. However, there is no evidence to support Jefferson Enterprises' claim that the Bank's alleged original representation that it would take a second priority lien position was false at the time it was allegedly made. Nor is there any evidence that the Bank knew such alleged representation was false at the time it was allegedly made.

Regarding the issue of whether the Bank purposefully misled Jefferson Enterprises, Dustin testified as follows:

Q. In Paragraph 19 of your counterclaim you state that the change of position of the bank, and this is talking about the change in 80 Acres financing, was timed in such a manner that Jefferson was unable to seek alternate financing to exercise the option to purchase the Wood property.

Is it your position that the bank purposely misled you, kind of led you along to that point and then kind of hit you below the belt?

A. I haven't said that and you didn't read that in that Paragraph 19, that is a presumption you just jumped on.

Q. No, I am just asking –

A. I would say minimum negligently and I don't know, I don't know, you know...

Dustin Morrison Depo. Tr., p. 99, ll. 17-25.

A. ... Like you said, I am not saying that I have any evidence, there is nothing in writing, I'm not – I am just saying that, yeah, there could be some motivation for the bank getting this piece of property back under those terms.

Q. But do you believe that that was the motive that drove this supposed change as you call it?

A. I don't know for sure, but, no, my gut and my instinct is that it was simple negligence, the left hand didn't know what the right hand was doing, and that Tom's arrogance wouldn't consider something that would mitigate its impact on me. It was absolute negligence at least.

Q. You don't feel like Steve Worton was purposely trying to mislead you –

A. I don't think Steve Worton misled me.... I think Steve was forthright, I think Steve was as frantic as I was those two days before to clarify with Tom the board's intention.

Q. You are saying it wasn't purposeful, you don't think it was –

A. I'm not saying it wasn't purposeful. I am saying I don't think that it was but I don't know. I want that answer to be enough.

Q. But you don't have any facts that would support a belief that you can point to that caused you to say this was purposeful because of this?

A. That's right.

Id. at p.100, l. 11 to p. 101, l. 19.

Q. ... But is it your belief that when they supposedly gave you this precommitment that they knew at that time that they were later going to change their position?

A. No, I don't think. And you keep saying "they," understand the only contact was Steve until the day before the loan and then that was Steve and Tom. So "they" being Steve, no, I don't think that he had any intention of changing the game at the last minute.

Id. at p. 110, l. 17 to p. 111, l.1.

In addition, Dustin knew that Worton did not have the authority to approve the loan. Therefore, Dustin knew that any representation by Worton regarding the Bank's priority of the Bank's lien position would ultimately have to be approved by the Bank's board of directors. Therefore, it was not reasonable to rely on any alleged statement from Worton that the Bank would agree to a second lien position on the Eighty Acre parcel prior to the Board of Directors' actual approval of such. Dustin testified:

Q. During your discussions with Steve Worton, did you understand that Steve Worton didn't have authority by himself to approve this loan?

A. I felt that he did.

Q. What was it that led you to believe that he –

A. I'm sorry, strike that, that's not right. I felt he had the authority to represent the bank. In fact I somewhat knew that. Whether that was right or wrong, I don't know, but I knew at that point that Steve had authority to represent the bank.

Q. But you knew he had to go get approval from the board of directors on a loan of this size.

A. Yes.

Id. at p. 105, l. 14 to p. 106, l. 1.

Based on Dustin's own testimony, Worton did not know that his alleged false statement concerning the Eighty Acre parcel was false. There is no evidence that anyone at the Bank, besides Worton, made any such representation. There is no evidence that the Bank knew that Worton's alleged statement was false. Moreover, Dustin knew that Worton did not have the authority to approve the loan, but that the Bank's board of directors would have to approve it. Therefore, Jefferson Enterprises' claim of fraud and misrepresentation regarding the lien position in the Eighty Acre parcel is not supported by the evidence.

b. No Fraudulent Misrepresentation Regarding Additional Future Loans

Additionally, the Amended Counterclaim alleges that the Bank fraudulently misrepresented that it would subsequently provide additional financing. Again, the admissible evidence does not support such a claim. Dustin testified as follows:

A. ...

Steve says there is no way the bank wants you to fail, there is no way that the Bank wants this as an asset. So do whatever you think is the right thing for you to do, but if you do this, my hunch is that you will be able to come back into this bank and they will consider whatever your loss was.

So we did that, and we did come back into the bank several months later with applications for construction money to continue our operation in Stone Creek Estates and were denied that. And we brought that in at the encouragement of Steve.

So we moved forward understanding that it would be the bank's effort to mitigate this impact of this new requirement on our business.

Q. And that's based on what you claim Steve Worton told you?

A. He didn't say those words, but yes.

Q. And did he give you something in writing to that effect?

A. He didn't give me anything in writing for anything.

Q. So as I understand what you said, these are operating funds you think he was promising you?

A. No. The ability to operate without those funds. I don't think he was promising it, I think he was using some common sense argument that there is no way that the bank won't do this.

Q. So you didn't view that as a loan commitment from the bank?

A. No, I didn't....

Dustin Morrison Depo. Tr., p. 72, l. 12 to p. 73, l. 17.

Q. Now, you say you thought there would be. Are you saying there was a commitment on the part of the bank?

A. No.

Q. That's just what you thought would happen.

A. Yes....

Id. at p. 74, ll. 6-11.

Q. That wasn't a commitment of Steve Worton or anybody else at the bank, that's just what you thought.

A. That's right....

MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - 26

Id. at p. 74, ll. 19-21.

Q. And you made a decision.

A. I did.

Q. And that decision as you said was not based on some promise of future financing.

A. No, but it was a consideration of those things.

Q. Those are factors you considered.

A. Yes, consideration.

Q. But not a legal commitment on the part of the bank to provide financing.

A. Sure, that's right....

Id. at p. 82, ll. 2-12.

Based on Dustin's testimony, the only inference can be that the Bank did not make any false statement to Jefferson Enterprises regarding a commitment for future financing.

As such, the Bank should be granted summary judgment and Jefferson Enterprises' fraud and misrepresentation claim should be dismissed.

4. Promissory Estoppel

Jefferson Enterprises alleges promissory estoppel and that the Bank should be estopped from denying the terms and conditions of the lending agreement.

However, as set forth in detail above, there was no loan commitment prior to the closing on May 10, 2011. As such the Bank should not be estopped from denying a nonexistent agreement which would have violated the Statute of Frauds and to which the Bank's board of directors never consented to.

Apparently a similar argument was made in *Lettunich, supra*. In that case, the Idaho Supreme Court addressed promissory estoppel in a similar context as the present case. The Court stated:

Lettunich argues promissory estoppel should be used in this case to prevent KeyBank from denying the enforceability of an oral promise. Again, there was no complete promise here to be enforced. Promissory estoppel is simply a substitute for consideration, not a substitute for an agreement between parties. *Smith v. Boise Kenworth Sales, Inc.*, 102 Idaho 63, 68, 625 P.2d 417, 422 (1981). Consideration includes “action by the promisee which is bargained for and given in exchange for the promise.” *Day v. Mortgage Ins. Corp.*, 91 Idaho 605, 607, 428 P.2d 524, 526 (1967). It may also consist of a “detriment to the promisee or a benefit to the promisor.” *Surety Life Ins. Co. v. Rose Chapel Mortuary, Inc.*, 95 Idaho 599, 603, 514 P.2d 594, 598 (1973) (citations omitted). In this case, Lettunich clearly suffered a detriment when he purchased cattle without a way to pay for them. The doctrine of promissory estoppel is of no consequence in this case because there is evidence of adequate consideration. What is lacking is a sufficiently definite agreement. *Black Canyon Racquetball v. First Nat'l*, 119 Idaho 171, 178, 804 P.2d 900, 907 (1991).

Lettunich, supra, 141 Idaho at 367-68, 109 P.3d at 1109-10.

Similarly, the doctrine of promissory estoppel is not applicable to Jefferson Enterprises’ claims. There was adequate consideration. The Bank agreed to loan Jefferson Enterprises \$2.2 million in exchange for Jefferson Enterprises’ agreement to pay various closing costs, loan origination fees and interest over the term of the loan. There was not, however, a written loan commitment prior to the closing of the loan on May 10, 2006. Because there was no written loan commitment, there was no valid or definite agreement.

Therefore, this Court should grant the Bank summary judgment by dismissing Jefferson Enterprises’ promissory estoppel claim.

C. Novation

To the extent there was a valid loan commitment that would place the Bank in a second

lien position on the Eighty Acre parcel as alleged by Jefferson Enterprises, that loan commitment which incorporates all of his alleged claims would have been superceded by the actual loan documents that were executed by the parties on May 10, 2006. Therefore, the actual loan would be a novation of any alleged preapproval agreement. Moreover, the Promissory Notes and Mortgages were modified by the Bank and Jefferson Enterprises pursuant to the two Corporate Notes and Deed of Trust/Mortgage Agreements to Amend Terms that were executed on or about February 21, 2008. As a result of the modifications, both Notes became due and payable in full on May 1, 2008. Again, these modifications acted as a novation of the original loan documents which were executed by the parties on May 10, 2006.

The Idaho Supreme Court has explained the concept of a novation as follows:

A novation results when an accord and satisfaction is reached by substitution of a new agreement or performance in place of the performance or compromise of the original obligation. Thus, novation is a species of accord and satisfaction. 1 C.J.S. *Accord and Satisfaction* § 5, p. 465; *Wheeler v. Wardell*, 173 Va. 168, 3 S.E.2d 377 (1939). It is stated in *Wheeler v. Wardell, supra*, that novation is a contract consisting of two stipulations; first, to extinguish an existing obligation and, secondly, to substitute a new one in place of the original. The court stated:

“Every novation embraces, necessarily, an accord and satisfaction; the principle distinguishing feature between them being that a novation implies the extinguishment of an existing debt by the parties thereto and its transition into a new existence between the same or different parties, whereas an ‘accord and satisfaction’ relates solely to the extinguishment of the debt or obligation.”

To establish an accord and satisfaction the parties accepting a new or different obligation must do so knowingly and intentionally. *Heckman v. Boise Valley Livestock Comm'n Co.*, 92 Idaho 862, 452 P.2d 359 (1969); *Fairchild v. Mathews*, 91 Idaho 1, 415 P.2d 43 (1966); *Allan Steel Supply Co. v. Bradley*, 89 Idaho 29, 402 P.2d 394 (1943). An accord and satisfaction may be implied from the attendant circumstances. *Independent School Dist. Class A, Number One v. Porter*, 39 Idaho 340, 228 P. 253 (1924); *Fairchild v. Mathews, supra*; *Winn v. Rudy-Patrick Seed Co.*, 249 Iowa 431, 86 N.W.2d 678 (1957); *Scott v. Imperiol*

Hotel Co., 75 Ga.App. 91, 42 S.E.2d 179 (1947).

Harris v. Wildcat Corp., 97 Idaho 884, 886, 556 P.2d 67, 69 (1976)

To the extent there was a pre-loan representations as alleged by Jefferson Enterprises, they were subsequently modified by a series of novations. Therefore, Jefferson Enterprises' claim that the Bank breached the pre-loan commitment should be dismissed as any such agreement was subsequently extinguished and substituted by the \$2.2 million loan agreement entered into on May 10, 2006, as well as the other subsequent novations.

D. The Mortgages Contain Provisions that Preclude Jefferson Enterprises' Claims

The Mortgages contain the following integration clauses: "This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement." The Mortgages also include, by reference, the Promissory Notes. *See* Aff. A. Michael Morris, Exhibits B & D, ¶ 26.

Any alleged oral representations made prior to the execution of the Mortgages were superceded and not made part of the Mortgages. Therefore, all of Jefferson Enterprises' claims fail because any prior alleged oral agreement that the Bank would take a second lien position in the Eighty Acres was not incorporated into the written Mortgages.

In addition, both of the Mortgages signed by Jefferson Enterprises provide, in part, as follows: "Nothing in this Mortgage, however, shall constitute a commitment to make additional oral future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing." *Id.* at Exhibits B & D, ¶ 3.

Jefferson Enterprises knew or should have known that no future additional loans could be agreed to orally. Therefore, it was not reasonable for Jefferson Enterprises to rely on any such

alleged oral representations.

Based on the language contained in the Mortgages, this Court should grant the Bank summary judgment by dismissing Jefferson Enterprises' Amended Counterclaim in its entirety.

E. Judgment

The Court should declare that the Bank has the highest priority position in the Subject Property. The Court should enter a foreclosure judgment based on the Promissory Notes and Mortgages executed by Jefferson Enterprises. To the extent there is a deficiency following the foreclosure sale, then the Court should also enter a deficiency judgment against Jefferson Enterprises in an amount to be calculated using the principal amounts and per diem interest rates set forth in the Affidavit of Michael Morrison.

IV. CONCLUSION

This Court should grant the Bank summary judgment by dismissing Jefferson Enterprises' Amended Counterclaim and entering an order allowing the Bank to foreclose on the Subject Property and declaring that the Bank's priority rights are superior to all other claimed interests.

In addition, to the extent there is a deficiency following the foreclosure sale, then the Court should enter a deficiency judgment against Jefferson Enterprises in an amount to be calculated using the Affidavit of Michael Morrison.

DATED this 14 day of November, 2011.


BRIAN T. TUCKER

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 14 day of November, 2011, by mailing with the necessary postage affixed thereto or electronic mail.

Kirk Bybee
P.O. Box 4169
Pocatello, ID 83205

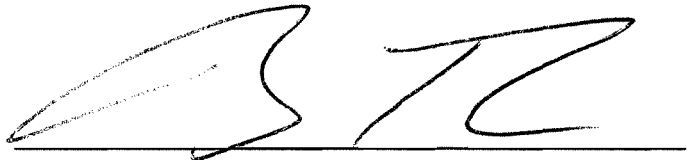
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BRIAN T. TUCKER

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Attorneys for The Bank of Commerce

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality,

Defendants.

DUSTIN MORRISON and SONYA KIDD
aka SONYA MORRISON, and
JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company,

Counterclaimants,

vs.

THE BANK OF COMMERCE, an Idaho
banking corporation,

Counterdefendant.

Case No. CV-08-4231-OC


**AFFIDAVIT OF
THOMAS J. ROMRELL**

STATE OF IDAHO)
) ss.
County of Bonneville)

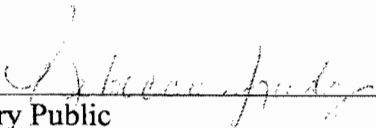
Thomas J. Romrell, after being first duly sworn upon oath, deposes and states as follows:

1. I am over the age of 18 years.
2. This affidavit is made based on my own personal knowledge.
3. I am and at all times relevant to the above-entitled litigation was the President and Chief Executive Officer of The Bank of Commerce (the "Bank").
4. I was present during the May 9, 2006 Meeting of the Officers and Directors of the Bank.
5. At the May 9, 2006, Meeting of the Officers and Directors of the Bank a loan to Jefferson Enterprises, LLC, ("Jefferson Enterprises") was approved. The minutes of that meeting are attached hereto as Exhibit "A". The redacted portions of that exhibit relate to loans presented that are not related to Jefferson Enterprises or its principals.
6. The May 9, 2006 Meeting of the Officers and Directors of the Bank was the only time this loan request of Jefferson Enterprises was presented to the Officers and Directors of the Bank. It was never presented at any prior meeting of the Officers and Directors of the Bank.
7. Any loan over \$250,000.00 must be approved by the Officers and Directors of the Bank in a formal meeting as this loan was approved.
8. I am and was a voting member of the Officers and Directors of the Bank. The vote to approve the loan was unanimous.

DATED this 10 day of November, 2011.


Thomas J. Romrell

SUBSCRIBED AND SWORN to before me this 10 day of November, 2011.


Notary Public
Residing at: Solaris Falls
Commission expires:

MY COMMISSION EXPIRES
April 17, 2015
BONDED THROUGH NOTARY PUBLIC UNDERWRITERS

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 11 day of November, 2011, by mailing with the necessary postage affixed thereto or electronic mail.

Kirk Bybee
P.O. Box 4169
Pocatello, ID 83205

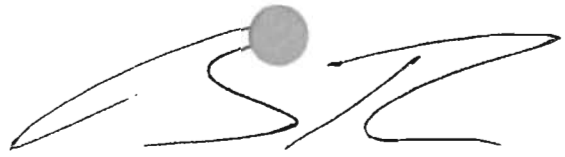
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BRIAN T. TUCKER

MINUTES OF OFFICERS AND DIRECTOR MEETING

Tuesday

May 9, 2006

Began 8:00 a.m.

Officers Present:

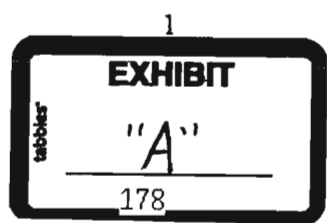
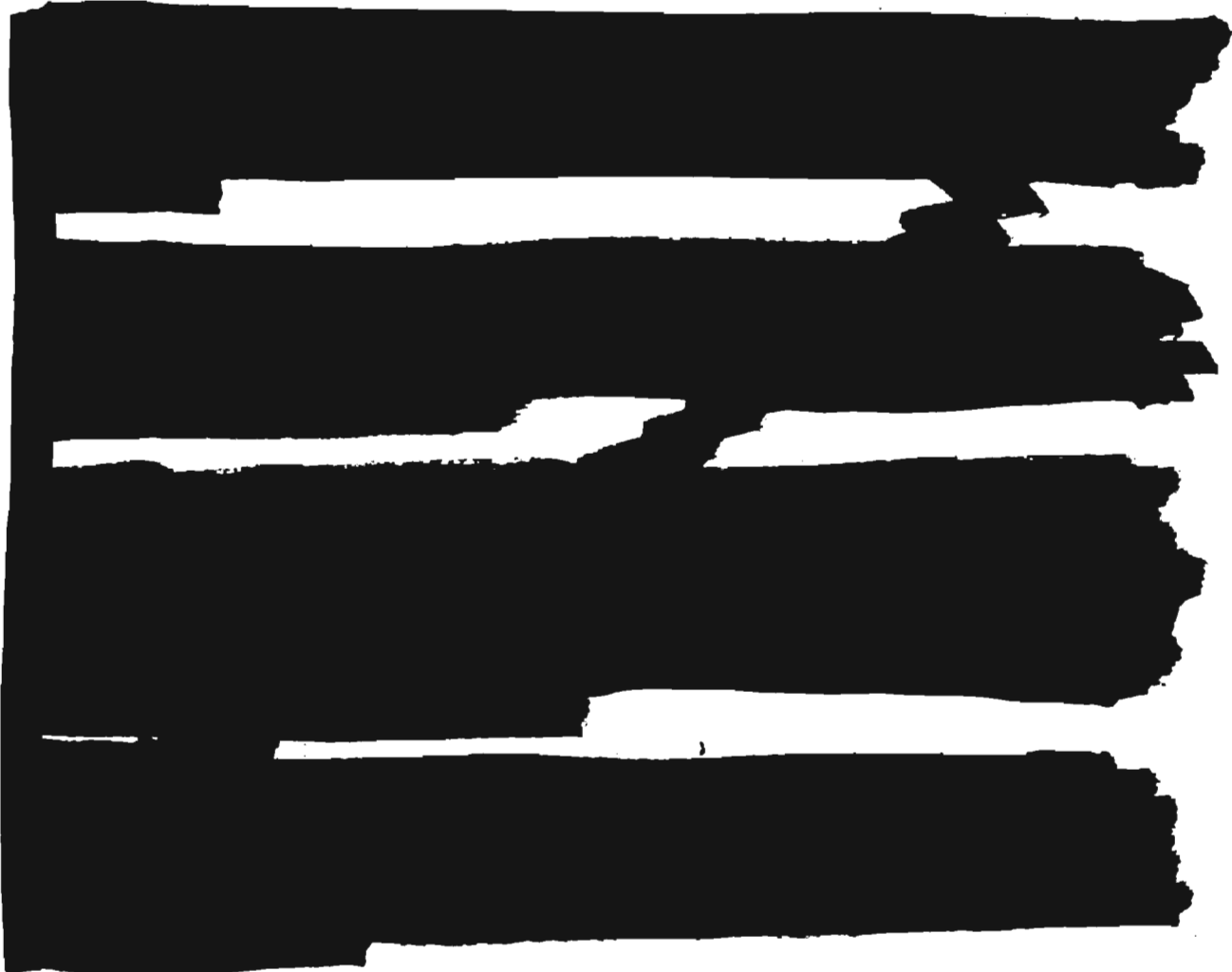
Tom Romrell
Ron Johnson
Chad Dance
Wayne Robertson
Terri Merkley
Nolan Lee
Travis Michaelson
Gary Gneiting

Ron Crystal
Max Loveland
Joanne Larsen
Justin Hokanson
Steve Worton
Jeromy Hart
Mike Morrison
Paul McQuivey

Directors Present:

John Erb
Julian Cowley
Richard Groberg

Calvin Erb
William Reed
Richard Adams



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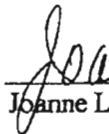
[REDACTED]

Steve Worton presented a loan request for Jefferson Enterprises, LLC (Dustin Morrison and Sonya Kidd). They are requesting \$2,800,000 to refinance development land; loan to mature in one year with interest due monthly; to be written on an adjustable rate at 2.00% over prime to adjust daily-floor 7.00% and secured with a 1st deed of trust on the 385 acres of development land, a \$500,000 Time CD held to cover interest payments for one year and guarantee of principals. It was recommended by Steve Worton that we approve \$2,200,000 with interest and principal all due in one year.....eliminating the Time CD to be held to pay interest, seconded by Calvin Erb and passed. (Loan to be closed by the Title Company and loan documents to be reviewed by the Bank Attorney). (Loan Grade 3/Fee \$28,000)

[REDACTED]

Ron Crystal reviewed loans over thirty days past due.

The meeting adjourned at 11:00 a.m.


Joanne L

1-1

Brian T. Tucker
ANDERSON NELSON HALL SMITH, P.A.
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Idaho State Bar Number 5236

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IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality,,

Defendants.

Case No. CV-08-4231-OC

AFFIDAVIT OF STEVE WORTON

STATE OF IDAHO)
) ss.
County of Bannock)

Steve Worton, after being first duly sworn upon oath, deposes and states as follows:

1. I am over the age of 18 years.
2. This affidavit is made based on my own personal knowledge.
3. I was a loan officer and vice president employed by Plaintiff The Bank of Commerce (the "Bank").

4. I was so employed by the Bank at all relevant times during 2006.

5. On April 21, 2006, I had a meeting with Dustin Morrison (“Dustin”), Pam Wake, Donna (last name unknown), and Andrew (last name unknown) at Pam Wake’s office in the Key Bank building. Morrison presented Jefferson Enterprises, LLC’s Southern Hills Development project (the “Project”). Morrison gave me a binder of information that had tax returns, financial entities statements, an appraisal of the subject property, projected sales and other information he believed was pertinent to the loan request. During this meeting, I asked Morrison about the Eighty Acres, Inc., mortgage which was on a portion of the subject property and whether the Bank of Commerce (the “Bank”) would be able to obtain a first-position security interest in that portion of the property. Morrison told all of us at that meeting that he thought he could obtain a subordination from Eighty Acres, Inc., which would allow the Bank to be placed in first position on the entire property, including the Eighty Acres, Inc., portion of the property. After the meeting, Morrison took me out to the Southern Hills Development property and we drove over the property.

6. On May 3, 2006, I met with Eric Polatis and Deena Green, who were officers at First American Title, to review the title commitment for the Project. Eric Polatis and Deena Green had some questions about the ability to put the Bank in first position on all of the land that Morrison had offered to secure the proposed loan from the Bank. I contacted Morrison by telephone and asked him to come to the First American Title office to clear up the liens on the property. When Morrison arrived he was shown the title commitment and prior lien holders. Morrison again indicated that the first lien holder would subordinate its lien position to the Bank’s lien position.

7. On May 8, 2006, the loan application package was submitted to the Bank's Loan Review Committee.

8. On May 9, 2006, the Bank's Board of Trustees (the "Board") approved a loan to Jefferson Enterprises, LLC, for \$2,200,000, rather than the requested \$2,800,000. I called and visited with Morrison about this change. Again, I reiterated that the Bank's mortgage would need to be in first position for all acreage. Later that evening, Morrison called me and said he was unable to get Eighty Acres, Inc., to subordinate their lien position. I therefore informed Morrison that the Eighty Acres, Inc.'s lien obligation would need to be paid off before the Bank would be able to proceed with the loan. Morrison suggested a couple of ideas for how he could meet the Bank's requirement to be in first position. For example, Morrison suggested that the loan amount could be increased to cover the additional money needed to pay off the Eighty Acres, Inc., lien obligation. Morrison also stated that he could put cash into a certificate of deposit and hold it in the Bank as additional security until the Bank's loan committee had time to review his additional request for more money to pay off the Eighty Acres, Inc., lien. Morrison said he would go to work on getting money together to make all of this work out, and I said I would have to talk to Tom Romrell ("Romrell"), the president of the Bank, to see if Morrison's suggestions would work. I told Morrison that I would call him the following morning after I had talked to Romrell.

9. On May 10, 2006, Karen Hammond ("Hammond") and I had an early morning telephone call with Romrell regarding Morrison's inability to place the Bank in first position on all of the secured property as the Board had required for the loan to be approved. I told Romrell about Morrison's idea to allow him time the following week to get the Board's

approval for an additional loan for funds to be used to pay off the Eighty Acre, Inc., debt. Romrell was not in favor of paying off the Eighty Acre, Inc., lien with an additional loan from the Bank. Instead, Romrell suggested that Morrison figure out a way to pay off the Eighty Acres, Inc., lien without an additional loan from the Bank. I then called Morrison and informed him that his idea of obtaining another loan from the Bank to pay off the Eighty Acre, Inc., lien would not work as the Bank needed its mortgage to be in first position before it would make the \$2,200,000 loan to Jefferson Enterprises, LLC and that \$2,200,000 was the limit that the Bank would loan on the project.

10. Later on May 10, 2006, I faxed a letter to the title company reiterating the Bank's position that its mortgage would need to be in first position.

11. Apparently, Morrison was able to pay off the Eighty Acres, Inc., debt, and thus release its lien. Thereafter, Morrison and his wife Sonya Morrison signed the note and mortgage securing the note on May 10, 2006 as members of Jefferson Enterprises, LLC. That mortgage placed the Bank in first position on all property subject thereto, including the property that had previously been encumbered by Eighty Acres, Inc. The Bank, therefore, loaned Jefferson Enterprises, LLC, \$2,200,000 (\$2,223,805 after including various charges) to purchase the subject real property on May 10, 2006. Morrison and his wife also signed personal guarantees, guaranteeing said loan.

12. From as early as at least April 21, 2006, the Bank's position was that its mortgage would need to be in first position for all property securing the loan to Jefferson Enterprises, LLC, including the Eighty Acre, Inc., property, before the Bank would loan money to Jefferson Enterprises, LLC.

13. Prior to the evening of May 9, 2007⁶, Morrison continued to represent that he believed he could get Eighty Acres, Inc., to subrogate its lien to the Bank's mortgage.

14. At no time did I ever tell Morrison that the Bank would loan him additional money to pay off the Eighty Acres, Inc., lien. Furthermore, I am not aware of any other Bank employee telling Morrison that the Bank would loan him additional money to pay off the Eighty Acres, Inc., lien.

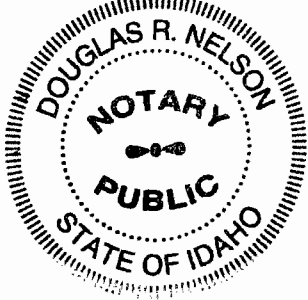
15. Neither Morrison nor his wife Sonya Morrison ever indicated to me that they were going to use all of their liquid assets to pay off the Eighty Acres, Inc., lien. Neither Morrison nor Sonya Morrison ever indicated to me that by paying off the Eighty Acres, Inc., lien, they and Jefferson Enterprises, LLC, would lose their ability to obtain other financing for this Project or for other projects.

DATED this 23rd day of June, 2009.

Steve Worton

Steve Worton

SUBSCRIBED AND SWORN to before me this 23rd day of June, 2009.



Douglas R. Nelson

Notary Public

Residing at:

Idaho Falls, Idaho

Commission expires:

4. 29. 2011

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 14 day of November, 2011, by hand delivery, mailing with the necessary postage affixed thereto, facsimile, or overnight mail.

Kirk Bybee
P.O. Box 4169
Pocatello, ID 83205

- Mailing
- Hand Delivery
- Facsimile: (208) 239-6986
- Overnight Mail

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350-0396

- Mailing
- Hand Delivery
- Facsimile: (208) 436-6804
- Overnight Mail

A. Bruce Larson
ABLE LAW, PC
P.O. Box 6369
Pocatello, ID 83205-6369

- Mailing
- Hand Delivery
- Facsimile: (208) 478-7602
- Overnight Mail



BRIAN T. TUCKER

Brian T. Tucker (ISB #5396)
NELSON HALL PARRY TUCKER, P.A.
490 Memorial Drive
Post Office Box 51630
Idaho Falls, Idaho 83405-1630
Telephone (208) 522-3001
Fax (208) 523-7254

FILED
JUL 17 2008
CLERK OF DISTRICT COURT
IDAHO FALLS, IDAHO
A. Michael Morrison

Attorneys for The Bank of Commerce

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality,

Defendants.

Case No. CV-08-4231-OC

**AFFIDAVIT OF
A. MICHAEL MORRISON**

DUSTIN MORRISON and SONYA KIDD
aka SONYA MORRISON, and
JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company,

Counterclaimants,

vs.

THE BANK OF COMMERCE, an Idaho
banking corporation,

Counterdefendant.

STATE OF IDAHO)
) ss.
County of Bonneville)

A. Michael Morrison, after being first duly sworn upon oath, deposes and states as follows:

1. I am over the age of 18 years.
2. This affidavit is made based on my own personal knowledge.
3. I am an executive vice president and the credit administrator of The Bank of Commerce (the "Bank").
4. I was employed by the Bank at all times relevant to the above-entitled litigation.
5. On May 10, 2006, the Bank loaned to Jefferson Enterprises, LLC, ("Jefferson Enterprises") the sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE DOLLARS (\$2,223,805.00). As evidence of said loan Jefferson Enterprises made its Promissory Note in writing on May 10, 2006, in the principal sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE DOLLARS (\$2,223,805.00). The Promissory Note also sets forth interest to be paid by Jefferson Enterprises. A true and correct copy of the Promissory Note is attached hereto as Exhibit "A" and is incorporated herein by reference.
6. As security for the repayment of said loan, together with interest, costs and attorney fees, Jefferson Enterprises made, executed and delivered to the Bank its Mortgage dated the May 10, 2006, and attached hereto as Exhibit "B" and incorporated herein as though set forth in full on the real property situated in Bannock County, State of Idaho described in said

mortgage. Said Mortgage was recorded May 10, 2006 in the records of Bannock County, Idaho under Instrument No. 20609793.

7. On June 27, 2007, the Bank loaned to Jefferson Enterprises the sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00). As evidence of this second loan Jefferson Enterprises made another Promissory Note in writing on June 27, 2007, in the principal sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00). This second Promissory Note also sets forth interest to be paid by Jefferson Enterprises. A true and correct copy of the Promissory Note is attached hereto as Exhibit "C" and is incorporated herein by reference.

8. As security for the repayment of both the May 10, 2006 loan and the June 27, 2007 loan, together with interest, costs and attorney fees, Jefferson Enterprises, LLC made, executed and delivered to the Bank another Mortgage dated the June 27, 2007, and attached hereto as Exhibit "D" and incorporated herein as though set forth in full on the real property situated in Bannock County, State of Idaho, described in said mortgage. Said Mortgage was recorded June 27, 2007, in the records of Bannock County, Idaho under Instrument No. 20715644.

9. Both of the above-described Promissory Notes and both of the above-described Mortgages were modified by the Bank and Jefferson Enterprises, LLC, pursuant to two separate Corporate Notes and Deed of Trust/Mortgage Agreements to Amend Terms. True and correct copies of both modifications are attached hereto as Exhibit "E". As a result of the modifications, both Notes became due and payable in full on May 1, 2008.

10. The Bank is the owner and holder of said Notes and Mortgages. On May 1, 2008, Jefferson Enterprises was in default in that it failed to pay the balance of said notes. On August 1, 2008, the Bank declared all sums owing under said Notes, Mortgages and related security documents due and payable in full.

11. After Jefferson Enterprises defaulted on the obligation as described above, the Bank made demand on Jefferson Enterprises for payment but Jefferson Enterprises has failed to pay as required by the Promissory Note.

12. The Bank incurred and paid the sum of SIX THOUSAND TWO HUNDRED TWENTY-SIX DOLLARS AND NINETY-NINE CENTS (\$6,226.99) for a Foreclosure Litigation Guaranty.

13. As of July 15, 2008, Jefferson Enterprises owed to the Bank under the terms and provisions of said Notes and Mortgages the sum of Two Million Seven Hundred Twenty-three Thousand Four Hundred Ninety-seven Dollars and Forty Cents (\$2,723,497.40) calculated as follows:

Principal balance due as of 7/15/08	\$2,647,217.13
Interest through 7/15/08	\$ 76,280.27
Total Principal and Interest due 7/15/08	\$2,723,497.40

14. Said Notes accrue interest at the combined per diem of \$507.68548.

15. The mortgaged premises have at all times heretofore been used together as one (1) lot or parcel and every part thereof is necessary for the best use and enjoyment of said mortgaged property and the same cannot be sold in separate parcels without material injury to the parties hereto.

16. After sale of the mortgage property, the court should determine the reasonable value of the property. In the event said reasonable value should be less than the amount of the Judgement requested, plus accruing interest, costs, and fees, Plaintiff intends to apply to the Court for the Entry of a Deficiency Judgment against Defendants Jefferson Enterprises, and for any deficiency remaining after application of the foreclosure sale proceeds to payment of the Judgement herein, plus accruing interest herein, costs and fees.

17. The Defendants Dustin Morrison and Sonya Kidd a.k.a. Sonya Morrison personally guaranteed each and every obligation of Jefferson Enterprises described above. A said copy of said guarantees are attached hereto as Exhibit "F".

18. As Guarantors, Dustin Morrison and Sonya Kidd, a.k.a. Sonya Morrison, are obligated to the Bank in the principal amount of \$2,723,497.40 plus interest accruing after July 15, 2008 at the per diem interest accrual of \$507.68548 as of July 15, 2008 based on the loan documents. However, due to their personal bankruptcy filings, no deficiency judgment is being sought against Dustin and Sonya Morrison. However, these amounts would and could be used as an offset against any amounts that may be awarded pursuant to their Counterclaim.

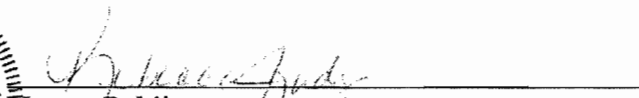
DATED this 10th day of November, 2011.



A. Michael Morrison

SUBSCRIBED AND SWORN to before me this 10 day of November, 2011.




Notary Public
Residing at: Malibu Falls
Commission expires:

MY COMMISSION EXPIRES
April 17, 2015
BONDED THIRD NOTARY PUBLIC UNDERWRITER

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 17 day of November, 2011, by mailing with the necessary postage affixed thereto or electronic mail.

Kirk Bybee
P.O. Box 4169
Pocatello, ID 83205

- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350-0396

- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail

A. Bruce Larson
ABLE LAW, PC
P.O. Box 6369
Pocatello, ID 83205-6369

- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail



BRIAN T. TUCKER

L:\BTT\0260.455\Affidavit of Mike Morrison.wpd

JEFFERSON ENTERPRISES, LLC
4755 HEIDI COURT
CHUBBUCK, ID 83202

JEFFERSON OF COMMERCE-AMERICAN FALLS
THREE
AMERICAN FALLS, ID 83211

Loan # 14802021
Date 05-09-2006
Maturity Date 06-01-2007
Loan Amount \$ 2,223,805.00
Renewal Of _____

BORROWER'S NAME AND ADDRESS
"I" includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns.

For value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of TWO MILLION TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED FIVE AND NO/100 Dollars \$2,223,805.00

Single Advance: I will receive all of this principal sum on 05-09-2006. No additional advances are contemplated under this note.
 Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On _____ I will receive the amount of \$ _____ and future principal advances are contemplated.

Conditions: The conditions for future advances are _____

Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on _____.
 Closed End Credit: You and I agree that I may borrow up to the maximum only one time and subject to all other conditions.

INTEREST: I agree to pay interest on the outstanding principal balance from 05-09-2006 at the rate of 9.750 % per year until 05-10-2006.

Variable Rate: This rate may then change as stated below.
 Index Rate: The future rate will be 2.000 PERCENT ABOVE the following index rate: HIGHEST PUBLISHED WALL STREET JOURNAL PRIME RATE SEE "LIMITATIONS" BELOW
THE RESULT OF THIS CALCULATION WILL BE ROUNDED TO THE NEAREST 0.001

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as EVERY DAY BEGINNING 05-10-2006
A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than 18.000 % or less than 7.000 %. The rate may not change more than _____ % each _____

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:
 The amount of each scheduled payment will change. The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:
 on the same fixed or variable rate basis in effect before maturity (as indicated above).
 at a rate equal to _____

LATE CHARGE: If a payment is made more than _____ days after it is due, I agree to pay a late charge of _____

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: \$30.00 OFFICIALS; \$1,475.00 TITLE POLICY; \$300.00 LEGAL; \$250.00 DOC FEE; \$21,750.00 ORIGINATION FEE

PAYMENTS: I agree to pay this note as follows:
ON DEMAND, BUT IF NO DEMAND IS MADE THEN 1 PAYMENT OF \$2,454,288.68 ON 06-01-2007. THIS IS A VARIABLE RATE LOAN AND THE FINAL PAYMENT AMOUNT MAY CHANGE.

ADDITIONAL TERMS:

SECURITY: This note is separately secured by (describe separate document by type and date):
MORTGAGE DATED 5-09-2006 AND PERSONAL GUARANTEES OF DUSTIN MORRISON AND SONYA KIDD AKA SONYA MORRISON
(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

PURPOSE: The purpose of this loan is BUSINESS R/F - TO REFINANCE LAND
SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

Signature for Lender


STEVEN E. WORTON, VICE PRESIDENT


DUSTIN MORRISON, MEMBER

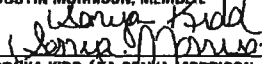

SONYA KIDD AKA SONYA MORRISON, MEMBER

EXHIBIT
A

UNIVERSAL NOTE

DEFINITIONS: As used on page 1, "I" means the Lender and "you" means the Borrower. "I" and "you" apply to this loan. "I," "me" or "my" means each Borrower, and "you," "you" or "your" means each person or legal entity (including partners, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW: The law of the state in which you are located will govern this note. Any term of this note which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

COMMISSIONS OR OTHER REMUNERATION: I understand and agree that any insurance premiums paid to insurance companies as part of this note will involve money retained by you or paid back to you as commissions or other remuneration.

In addition, I understand and agree that some other payments to third parties as part of this note may also involve money retained by you or paid back to you as commissions or other remuneration.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE: The index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

- "Right to receive money from you" means:
- (1) any deposit account balance I have with you;
 - (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
 - (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance due due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree

to hold you harmless from any such claim arising as a result of your exercise of your right of set-off.

REAL ESTATE OR RESIDENCE SECURITY: This note is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default are determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default if any one or more of the following occur: (1) fail to make a payment on time or in the amount due; (2) I fail to keep the property insured, if required; (3) I fail to pay, or keep any promise, on an debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral security this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season if I am a producer of crops; (11) an loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES: If I am in default on this note you have, but are not limited to the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued charges)
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "Set-Off" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using an other remedy.
- (4) You may refuse to make advances to me or allow purchases of credit by me.
- (5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up your right to later use any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to later consider that event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default in addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees an costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT: I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may do so without any notice that has not been paid (notice of dishonor). You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

FINANCIAL INFORMATION: I agree to provide you, upon request, an financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform you in writing of any change in my address. I will give any notice to you by mailing it first class to your address stated on page 1 of this agreement, or to any other address that you have designated.

PAYMENT BY CHECK: If any payment on this note is made with a check that is dishonored, I agree to pay you a \$20.00 fee.

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S INITIALS (not required)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST RATE	INTEREST PAYMENTS	INTEREST PAID THROUGH:
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
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	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	

[Handwritten Signature] (page 2 of 2)

2060 3

FIRST AND SECOND TITLE
RECORDED AT REQUEST OF

FEE 33.00 DEPUTY SB

MAY 10 PM 4 38

OFFICIAL RECORD BOOK 883

11-1

State of Idaho

Space Above This Line For Recording Data

BANNOCK COUNTY IDAHO

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. DATE AND PARTIES. The date of this Mortgage is 05-09-2006 and the parties and their addresses are as follows:

MORTGAGOR:

JEFFERSON ENTERPRISES, LLC
4755 HEIDI COURT
CHUBBUCK, ID 83202

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER:

THE BANK OF COMMERCE-AMERICAN FALLS
590 TYHÉE
AMERICAN FALLS, ID 83211

2. MORTGAGE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells and conveys to Lender the following described property:

SEE EXHIBIT 'A' WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

The property is located in BANNOCK at SEE ATTACHED EXHIBIT 'A' LEGAL
(County)

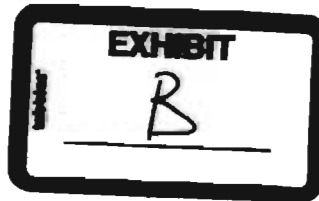
DESCRIPTION (Address) (City) Idaho (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

IDAHO - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT MORTGAGE (NOT FOR FIRMA, THLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES) /page 1 of 8/

Experta © 1993, 2001 Bankers Systems, Inc., St. Cloud, MN Form AGCORESIM-ID 1/7/2003

[Handwritten signatures]



3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 2,223,805.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:
A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate maturity date):

NOTE DATED 5-09-2006 IN THE AMOUNT OF \$2,223,805.00 TO MATURE ON 6-01-2007.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
- E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.

- 5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage. If any note evidencing the Secured Debt contains a variable rate feature, Grantor acknowledges that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated.
- 6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.
- 7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
- 8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
 - A. To make all payments when due and to perform or comply with all covenants.
 - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
 - C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
- 9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
- 10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.



11. ENTITY WARRANTIES AND REPRESENTATIONS. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:

- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. AUTHORITY TO PERFORM. If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. ASSIGNMENT OF LEASES AND RENTS. Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains and conveys to Lender all the right, title and interest in the following (Property).

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents as long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

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as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and all parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenant obligations. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe or comply with applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume and will not become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional tort. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
- A. Any party obligated on the Secured Debt fails to make payment when due;
 - B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
 - C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
 - D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to Mortgagor or any person or entity obligated on the Secured Debt;
 - E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
 - F. A material adverse change in Mortgagor's business including ownership, management, and financial condition which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
 - G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

17. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidence of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of an existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

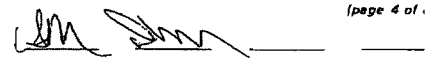
18. **REDEMPTION.** The period of redemption after sale on foreclosure shall be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.

19. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.

20. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:

- A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs or under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of

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- any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
 - E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
 - L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
21. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
22. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding sentence can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.
- All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.
- Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.
- Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

JM _____

Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.

C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

23. **NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

24. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

25. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

26. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

27. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

28. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all rights to homestead exemption, appraisal and the marshalling of liens and assets relating to the Property.

29. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:

Construction Loan. This Mortgage secures an obligation incurred for the construction of an improvement on the Property.

Fixture Filing. Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

Crops; Timber; Minerals; Rents, Issues and Profits. Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

Personal Property. Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

Filing As Financing Statement. Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.

30. **OTHER TERMS.** If checked, the following are applicable to this Mortgage:

Line of Credit. The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.

Separate Assignment. The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

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Additional Terms.

11-7

20609793

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: JEFFERSON ENTERPRISES, LLC

[Signature] 5.10.06
(Signature) DUSTIN MORRISON, MEMBER (Date)

[Signature] 5.10.06
(Signature) SONYA KIDD AKA SONYA MORRISON, MEMBER (Date)

(Signature) (Date)

(Signature) (Date)

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

A

ACKNOWLEDGMENT:

STATE OF _____, COUNTY OF _____) ss.
On this _____ day of _____, before me, a Notary Public, personally appeared

(Individual)

known or identified to me (or proved to me on the oath of _____),
to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that she/he/they
executed the same.
My commission expires:

(Notary Public)

STATE OF IDAHO, COUNTY OF Bannock) ss.

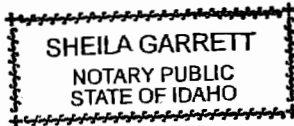
On this 9TH 10th 5th day of MAY, 2006, before me, a Notary Public, personally appeared

DUSTIN MORRISON; SONYA KIDD AKA SONYA MORRISON

(Business
or Entity
Acknowledgment)

known or identified to me (or proved to me on the oath of _____),
to be the MEMBER; MEMBER OF JEFFERSON ENTERPRISES, LLC

My commission expires: 9.17.2011



[Handwritten Signature]

(Notary Public)

[Handwritten Signature]

11-9

19793

LEGAL DESCRIPTION
Exhibit "A"

Real property in the County of Bannock, State of Idaho, described as follows:

PARCEL 1:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THE SAME BEING THE SOUTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 373461; THENCE NORTH 00°15'43" EAST FOR A DISTANCE OF 1320.91 FEET TO A FOUND 3/4 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, THENCE NORTH 89°50'47" WEST ALONG THE NORTH BOUNDARY LINE OF SOUTH VALLEY VIEW ESTATES FOR A DISTANCE OF 659.93 FEET; THENCE NORTH 00°06'14" EAST ALONG THE WEST BOUNDARY LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9 FOR A DISTANCE OF 1315.23 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 9; THENCE SOUTH 88°55'17" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 9 FOR A DISTANCE OF 1976.72 FEET TO THE EAST 1/16TH CORNER ON SAID CENTERLINE; THENCE SOUTH 00°05'41" WEST FOR A DISTANCE OF 2638.63 FEET TO THE EAST 1/16TH CORNER ON THE SOUTH LINE OF SECTION 9; THENCE NORTH 88°51'13" WEST FOR A DISTANCE OF 1320.88 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER, THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THENCE SOUTH 88°50' 35" EAST ALONG THE NORTH LINE OF SECTION 16 FOR A DISTANCE OF 800.00 FEET TO THE NORTHEAST CORNER OF PIEDMONT ACRES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 601980; THENCE SOUTH 00°46'58" WEST ALONG THE EAST SIDE OF PIEDMONT ACRES FOR A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°50'35" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF PIEDMONT ROAD FOR A DISTANCE OF 519.31 FEET TO THE WEST 1/16TH LINE OF SECTION, THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 25.00 FEET TO THE WEST 1/16TH CORNER ON THE NORTH LINE OF SECTION 16, THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 1319.24 FEET TO THE NORTH QUARTER CORNER OF SECTION 16, THENCE SOUTH 88°51'13" EAST FOR A DISTANCE OF 2641.77 FEET TO THE NORTHEAST CORNER OF SECTION 16, THENCE SOUTH 00°32'19" WEST ALONG THE EAST LINE OF SECTION 16 FOR A DISTANCE OF 2091.20 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 788114; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 1046.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 00°32'19" WEST FOR A DISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 89°20'56" EAST ALONG THE SOUTH LINE OF SAID LAND, THE SAME BEING THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 56.81 FEET; THENCE SOUTH 00°33'48" WEST FOR A DISTANCE OF 528.00 FEET; THENCE NORTH 89°20'55" WEST FOR A DISTANCE OF 329.11 FEET TO A POINT ON THE EAST 1/16TH LINE OF SECTION 16; THENCE NORTH 00°29'48" EAST FOR A DISTANCE OF 528.00 FEET TO THE EAST 1/16TH CORNER ON THE LATITUDINAL CENTERLINE OF SECTION 16; THENCE NORTH 89°20'56" WEST ALONG THE SAID LATITUDINAL CENTERLINE FOR A DISTANCE OF 1023.90 FEET TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 00°27'19" EAST FOR A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 89°20'56" WEST FOR A



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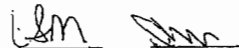
DISTANCE OF 295.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE NORTH 00°27'19" EAST ALONG THE MERIDIONAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 1236.51 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE FOLLOWING THE BOUNDARY LINES OF THE LAND DESCRIBED IN INSTRUMENT 621688 FOR THE NEXT FIVE (5) COURSES: (1) SOUTH 89°06'35" EAST FOR A DISTANCE OF 260.00 FEET; THENCE (2) NORTH 14°06'45" EAST FOR A DISTANCE OF 140.00 FEET; THENCE (3) NORTH 41°32'41" EAST FOR A DISTANCE OF 450.00 FEET; THENCE (4) NORTH 41°17'29" WEST FOR A DISTANCE OF 180.00 FEET; THENCE (5) SOUTH 48°42'31" WEST FOR A DISTANCE OF 907.24 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 88°35'51" WEST ALONG THE SAID NORTH BOUNDARY LINE FOR A DISTANCE OF 490.35 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 00°37'47" EAST ALONG THE EAST BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 675569 FOR A DISTANCE OF 435.85 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 264.18 FEET; THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 66.00 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 360.03 FEET TO A POINT ON THE WEST 1/16TH LINE OF SECTION 16, SAID POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 95003247; THENCE SOUTH 00°37'47" WEST ALONG THE WEST 1/16TH LINE FOR A DISTANCE OF 302.77 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 790.30 FEET; THENCE SOUTH 00°37'47" WEST FOR A DISTANCE OF 423.23 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD; THENCE NORTH 88°37'03" WEST ALONG THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD FOR A DISTANCE OF 193.21 FEET TO A POINT ON A CURVE IN THE EAST RIGHT OF WAY LINE OF OLD US HIGHWAY 30; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE, FOLLOWING A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF 05°02'19" AND AN ARC DISTANCE OF 507.38 FEET TO A POINT ON THE WEST LINE OF SECTION 16, THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH 41°10'59" WEST A DISTANCE OF 507.21 FEET; THENCE NORTH 00°46'58" EAST ALONG THE SAID WEST LINE FOR A DISTANCE OF 218.97 FEET TO THE SOUTHWEST CORNER OF PIEDMONT ACRES; THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 800.00 FEET TO THE SOUTHEAST CORNER OF PIEDMONT ACRES; THENCE NORTH 00°46'58" EAST ALONG THE EAST BOUNDARY LINE OF PIEDMONT ACRES FOR A DISTANCE OF 653.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BEING THAT PARCEL OF LAND DESCRIBED IN INSTRUMENT 634749 OF THE RECORDS OF BANNOCK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN; THENCE SOUTH 89°20'56" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 294.26 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 459.93 FEET; THENCE NORTH 48°49'49" WEST 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 48°49'49" WEST FOR A DISTANCE OF 208.71 FEET; THENCE SOUTH 53°40'56" WEST FOR A DISTANCE OF 213.80 FEET; THENCE SOUTH 48°49'49" EAST FOR A DISTANCE OF 208.71 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 213.80 FEET TO THE POINT OF BEGINNING.

PARCEL 3:



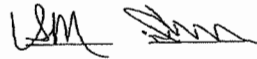
LOT 1, BLOCK 1; LOTS 1 THROUGH 7 AND 9 THROUGH 11, BLOCK 2, LOTS 1 THROUGH 12 AND 15 THROUGH 18, BLOCK 3; LOTS 1 THROUGH 11 AND 13 THROUGH 15, BLOCK 4; LOTS 1 THROUGH 9, BLOCK 5; LOTS 1 AND 2, BLOCK 6; LOTS 1, 3, 4, 7 THROUGH 11 AND 14 THROUGH 36, BLOCK 7; LOTS 2 THROUGH 20, BLOCK 8; LOTS 1 THROUGH 7, BLOCK 9, ALL LOCATED IN SOUTH VALLEY VIEW ESTATES SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED OCTOBER 16, 1961 AS INSTRUMENT NO. 373461.

PARCEL 4:

LOT ALL, BLOCK ALL, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

EXCEPTING THEREFROM:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10, BLOCK 2 AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9, BLOCK 3, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.



FFERSON ENTERPRISES, LLC
10 EAST CLARK STREET SUITE A
CATELLO, ID 83201

TH... C... 1MERCE-AMERICAN FALLS
5...
A... LS, ID 83211

Loan Number 02275
Date 06-27-07
Maturity Date 01-08-08
Loan Amount \$ 400,000.00
Renewal Of _____
PROCESSOR KLA

BORROWER'S NAME AND ADDRESS
* includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns.

I value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of FOUR HUNDRED THOUSAND AND NO/100
Dollars \$ 400,000.00

Single Advance: I will receive all of this principal sum on _____. No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On 06-27-2007

I will receive the amount of \$ _____ and future principal advances are contemplated.

Conditions: The conditions for future advances are UPON REQUEST OF CUSTOMER AND APPROVAL OF LOAN OFFICER

Open End Credit: You and I agree that I may borrow up to the maximum principal sum more than one time. This feature is subject to all other conditions and expires on _____.

Closed End Credit: You and I agree that I may borrow (subject to all other conditions) up to the maximum principal sum only one time.

INTEREST: I agree to pay interest on the outstanding principal balance from 06-27-2007 at the rate of 10.250% per year until 06-28-2007.

Variable Rate: This rate may then change as stated below.

Index Rate: The future rate will be 2.000 PERCENT ABOVE the following index rate: HIGHEST PUBLISHED WALL STREET JOURNAL PRIME RATE SEE "LIMITATIONS" BELOW
THE RESULT OF THIS CALCULATION WILL BE ROUNDED TO THE NEAREST 0.001

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as EVERY DAY BEGINNING 06-28-2007. A change in the interest rate will take effect ON THE SAME DAY.

Limitations: During the term of this loan, the applicable annual interest rate will not be more than 18.000% or less than 8.250%. The rate may not change more than _____% each _____.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

The amount of each scheduled payment will change. The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

GROSS MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

on the same fixed or variable rate basis in effect before maturity (as indicated above).

at a rate equal to _____.

LATE CHARGE: If a payment is made more than 15 days after it is due, I agree to pay a late charge of 5.000% OF THE LATE AMOUNT WITH A MIN OF \$5.00.

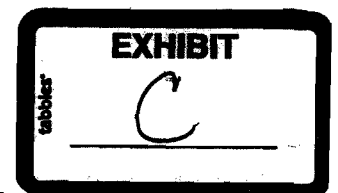
ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: IN CASH \$33.00 OFFICIALS \$1,430.00 TITLE POLICY \$1,000.00 LOAN DOC FEE

PAYMENTS: I agree to pay this note as follows:

MONTHLY PAYMENTS OF ACCRUED INTEREST CALCULATED ON THE AMOUNT OF CREDIT OUTSTANDING BEGINNING ON 07-01-2007 AND PRINCIPAL DUE ON 01-01-2008. THIS IS A VARIABLE RATE LOAN AND THE PAYMENT AMOUNTS MAY CHANGE. THE FINAL PAYMENT MAY ALSO CHANGE.

PURPOSE: The purpose of this loan is BUSINESS R/E- CONSTRUCTION COSTS AND INTEREST

ADDITIONAL TERMS:



Page 1 of 31
D7 LM

SECURITY INTEREST: I give you a security interest in the property described below that I own or in which I have sufficient right to transfer an interest, now or in the future, wherever the Property is located, and all proceeds and products of the Property. "Proceeds" includes all payments, accessories, repairs, replacements, improvements, additions, and accessions to the Property; any original evidence of title to the Property; "Proceeds" includes anything acquired by me, lease, license, or otherwise, on account of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property.

- Accounts and Other Rights to Payment:** All rights to payment, whether or not earned by performance, including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned. This includes any rights and interests (including all liens) which I have by law or agreement against any account debtor or obligor.
- Inventory:** All inventory held for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.
- Equipment:** All equipment including, but not limited to, machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and record keeping equipment, parts, and tools. The Property includes any equipment described in a list or schedule I give to you, but such a list is not necessary to create a valid security interest in all of my equipment.
- Instruments and Chattel Paper:** All instruments, including negotiable instruments and promissory notes and any other writings or records that evidence the right to payment of a monetary obligation, and tangible and electronic chattel paper.
- General Intangibles:** All general intangibles including, but not limited to, tax refunds, patents and applications for patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use my name.
- Documents:** All documents of title including, but not limited to, bills of lading, dock warrants and receipts, and warehouse receipts.
- Farm Products and Supplies:** All farm products including, but not limited to, all poultry and livestock and their young, along with their produce, products, and replacements; all crops, annual or perennial, and all products of the crops; and all feed, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.
- Government Payments and Programs:** All payments, accounts, general intangibles, and benefits including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance and diversion payments, production flexibility contracts, and conservation reserve payments under any preexisting, current, or future federal or state government program.
- Investment Property:** All investment property including, but not limited to, certificated securities, uncertificated securities, securities entitlements, securities accounts, commodity contracts, commodity accounts, and financial assets.
- Deposit Accounts:** All deposit accounts including, but not limited to, demand, time, savings, passbook, and similar accounts.
- Specific Property Description:** The Property includes, but is not limited by, the following:

PERSONAL GUARANTEES OF DUSTIN MORRISON AND SONYA MORRISON

If applicable, enter real estate description and record owner information: MORTGAGE DATED JUNE 27, 2007

The Property will be used for a personal business agricultural _____ purpose.
Borrower/Owner State of organization/registration (if applicable) _____

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

GENERALLY - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you fail with respect to such other debts, to make any required disclosure about this security agreement or if you fail to give any required notice of the right of rescission, if property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is located.

NAME AND LOCATION - My name indicated on page 1 is my exact legal name. If I am an individual, my address is my principal residence. If I am not an individual, my address is the location of my chief executive offices or sole place of business. If I am an entity organized and registered under state law, my address is located in the state in which I am registered, unless otherwise indicated on page 2. I will provide verification of registration and location upon your request. I will provide you with at least 30 days notice prior to any change in my name, address, or state of organization or registration.

OWNERSHIP AND DUTIES TOWARD PROPERTY - I represent that I own all of the Property, or to the extent this is a purchase money security interest I will acquire ownership of the Property with the proceeds of the loan. I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position. I will not use the Property for a purpose that will violate any laws or subject the Property to forfeiture or seizure.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property in my possession and will keep it in good repair and use it only for the purposes described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Property at my address listed on page 1 of this agreement, unless we agree I may keep it at another location. If the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt(s) if the debtor is not a natural person and without your prior written consent; (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of any loss or damage to the Property.

If I fail to perform any of my duties under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preclude you from exercising any of your other rights under the law or this security agreement.

PURCHASE MONEY SECURITY INTEREST - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order in which the items of collateral were acquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

PAYMENTS BY LENDER - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state of Idaho. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance (or fail to name you as loss payee) you may purchase it yourself.

WARRANTIES AND REPRESENTATIONS - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which are returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will do so. You may exercise my rights with respect to obligations of any account debtors, or other persons obligated on the Property, to pay or perform, and you may enforce any security interest that secures such obligations.

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

Any person who signs within this box does so to give you a security interest in the Property described on this page. This person does not promise to pay the note. "I" as used in this security agreement will include the borrower and any person who signs within this box.

Date _____

Signed _____

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agents to or through whom I may sell my farm products... I remain subject to all applicable laws and regulations... In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meanings given to them in the Federal Food Security Act of 1985.

If this agreement covers chattel paper or instruments, either as original collateral or proceeds of the Property, I will note your interest on the face of the chattel paper or instruments.

REMEDIES - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fail to keep any promise contained in the terms of this agreement... I will comply with, facilitate, and otherwise assist you in connection with obtaining possession of or control over the Property for purposes of perfecting your security interest under the Uniform Commercial Code.

ADDITIONAL TERMS OF THE NOTE

DEFINITIONS - As used on pages 1 and 2, "I" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW - The law of the state of Idaho will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement.

PAYMENTS - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note.

INTEREST - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE - The index will serve only as a device for setting the interest rate on any other loans. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

PDST MATURITY RATE - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph on page 2.

MULTIPLE ADVANCE LOANS - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

- "Right to receive money from you" means: (1) any deposit account balance I have with you; (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and (3) any repurchase agreement or other nondeposit obligation.

this note at the time you set off. This total amount for any balance due you date for which you properly accelerate under this note.

If my right to receive money from you is set off by someone who has not agreed to pay this note, your right to set off will apply to my interest in the obligation and to any other obligations I could withdraw on my sole request or endorsement. Your right to set off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

DEFAULT - I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the Property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES - If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges). (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein. (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy. (4) You may refuse to make advances to me or allow purchases on credit by me. (5) You may use any remedy you have under state or federal law. (6) You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES - I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment); (2) obtain official certification of nonpayment (protest); or (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

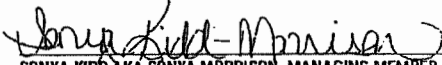
OBLIGATIONS INDEPENDENT - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

FINANCIAL INFORMATION - I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

PAYMENT BY CHECK - If any payment on this note is made with a check that is dishonored, I agree to pay you a \$20.00 fee.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1 AND 2). I have received a copy on today's date. JEFFERSON ENTERPRISES, LLC


DUSTIN MORRISON, MANAGING MEMBER


SONYA KIDD, AKA SONYA MORRISON, MANAGING MEMBER

SIGNATURE FOR LENDER: 
STEVEN E. WORTON, VICE PRESIDENT

ACKNOWLEDGMENT: STATE OF IDAHO, _____ County ss:
On this _____ day of _____ before me _____, a Notary Public in and for said county and state, personally appeared _____, known or identified to me (or proved on the oath of _____), to be the person(s) who executed this instrument, and acknowledged to me that _____ executed the same.
In Witness whereof I have set my hand and affixed my seal the day and year first above written.

Notary Public residing at: _____

(The Borrower's signature should be notarized when a secured interest is taken in a motor vehicle.)

15644

OFFICIAL RECORD BOOK # 8910
BANNOCK COUNTY IDAHO

RECORDED AT REQUEST OF
FEE \$3 DEPUTY BP

FIRST AMERICAN TITLE

2007106411

2007 JUN 29 10 26 00

FA 21932A

State of Idaho _____ Space Above This Line For Recording Data _____

REAL ESTATE MORTGAGE
(With Future Advance Clause)

1. DATE AND PARTIES. The date of this Mortgage is 06-27-2007 and the parties and their addresses are as follows:

MORTGAGOR:

JEFFERSON ENTERPRISES, LLC
440 EAST CLARK STREET SUITE A
POCATELLO, ID 83201

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER:

THE BANK OF COMMERCE-AMERICAN FALLS
590 TYHEE
AMERICAN FALLS, ID 83211

2. MORTGAGE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells and conveys to Lender the following described property:

SEE EXHIBIT 'A' WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

The property is located in BANNOCK at A TRACT OF LAND IN THE SOUTH HALF OF
(County)
SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., Idaho
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

IDAHO - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT MORTGAGE (NOT FOR FINMA, FHLMC, FNA OR VA USE, AND NOT FOR CONSUMER PURPOSES) (page 1 of 8)

Expens[®] © 1993, 2001 Bankers Systems, Inc., St. Cloud, MN Form AGCORESIM-ID 1/7/2003

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3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 400,000.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.
4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:
- A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., *borrower's name, note amount, interest rate, maturity date*):

NOTE DATED JUNE 27, 2007 IN THE AMOUNT OF \$400,000.00 TO MATURE ON JANUARY 1, 2008.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
- E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.
- If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.
5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage. If any note evidencing the Secured Debt contains a variable rate feature, Grantor acknowledges that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated.
6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.
7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
- A. To make all payments when due and to perform or comply with all covenants.
- B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.

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11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:
- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
 - B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
 - C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.
12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent. No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.
13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.
14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains and conveys to Lender all the right, title and interest in the following (Property):
- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
 - B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).
- In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement. Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents as long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

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- as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and that the obligations subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.
15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
- Any party obligated on the Secured Debt fails to make payment when due;
 - A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
 - The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
 - The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
 - A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
 - A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
 - Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default. At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
18. **REDEMPTION.** The period of redemption after sale on foreclosure shall be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.
19. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
20. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
- No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
 - Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
 - Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of

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- any Environmental Law concerning the Property. In such an event, Mortgagor will take necessary remedial action in accordance with Environmental Law.
- D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
 - E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
 - L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
21. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
22. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding sentence can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage. All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor. Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given. Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

(page 5 of 8)

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Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against loss arising from any accident or occurrence in or on the Property.

C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

23. NO ESCROW FOR TAXES AND INSURANCE. Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

24. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certifications in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

25. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND. All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

26. APPLICABLE LAW; SEVERABILITY; INTERPRETATION. This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

27. NOTICE. Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

28. WAIVERS. Except to the extent prohibited by law, Mortgagor waives all rights to homestead exemption, appraisalment or the marshalling of liens and assets relating to the Property.

29. U.C.C. PROVISIONS. If checked, the following are applicable to, but do not limit, this Mortgage:

Construction Loan. This Mortgage secures an obligation incurred for the construction of an improvement on the Property.

Fixture Filing. Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

Crops; Timber; Minerals; Rents, Issues and Profits. Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

Personal Property. Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

Filing As Financing Statement. Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.

30. OTHER TERMS. If checked, the following are applicable to this Mortgage:

Line of Credit. The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.

Separate Assignment. The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

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Additional Terms.

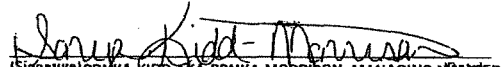
20715644

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: JEFFERSON ENTERPRISES, LLC


(Signature) DUSTIN MORRISON, MANAGING MEMBER (Date)


(Signature) SONYA KIDD AKA SONYA MORRISON, MANAGING MEMBER

(Signature) (Date)

(Signature) (Date)

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

ACKNOWLEDGMENT:

STATE OF _____, COUNTY OF _____) ss.
On this _____ day of _____, before me, a Notary Public, personally appeared

Individual

known or identified to me (or proved to me on the oath of _____),
to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that she/he/they
executed the same.

My commission expires:

(Notary Public)

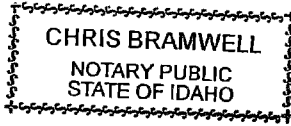
STATE OF IDAHO, COUNTY OF Bannock) ss.
On this 29th day of JUNE, 2007, before me, a Notary Public, personally appeared

DUSTIN MORRISON; SONYA KIDD AKA SONYA MORRISON

Business
or Entity
Acknowledgment

known or identified to me (or proved to me on the oath of _____),
to be the MANAGING MEMBER; MANAGING MEMBER

My commission expires: 10-30-12



Chris Bramwell
(Notary Public)
Residing at: Pocatello, ID

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Exhibit "A"

Real property in the County of Bannock, State of Idaho, described as follows:

PARCEL 1:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THE SAME BEING THE SOUTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 373461; THENCE NORTH 00°15'43" EAST FOR A DISTANCE OF 1320.91 FEET TO A FOUND 3/4 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF SOUTH VALLEY VIEW ESTATES, THENCE NORTH 89°50'47" WEST ALONG THE NORTH BOUNDARY LINE OF SOUTH VALLEY VIEW ESTATES FOR A DISTANCE OF 659.93 FEET; THENCE NORTH 00°06'14" EAST ALONG THE WEST BOUNDARY LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9 FOR A DISTANCE OF 1315.23 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 9; THENCE SOUTH 88°55'17" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 9 FOR A DISTANCE OF 1976.72 FEET TO THE EAST 1/16TH CORNER ON SAID CENTERLINE; THENCE SOUTH 00°05'41" WEST FOR A DISTANCE OF 2638.63 FEET TO THE EAST 1/16TH CORNER ON THE SOUTH LINE OF SECTION 9; THENCE NORTH 88°51'13" WEST FOR A DISTANCE OF 1320.88 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER, THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, THENCE SOUTH 88°50' 35" EAST ALONG THE NORTH LINE OF SECTION 16 FOR A DISTANCE OF 800.00 FEET TO THE NORTHEAST CORNER OF PIEDMONT ACRES, A SUBDIVISION RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 601980; THENCE SOUTH 00°46'58" WEST ALONG THE EAST SIDE OF PIEDMONT ACRES FOR A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°50'35" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF PIEDMONT ROAD FOR A DISTANCE OF 519.31 FEET TO THE WEST 1/16TH LINE OF SECTION, THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 25.00 FEET TO THE WEST 1/16TH CORNER ON THE NORTH LINE OF SECTION 16, THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 1319.24 FEET TO THE NORTH QUARTER CORNER OF SECTION 16, THENCE SOUTH 88°51'13" EAST FOR A DISTANCE OF 2641.77 FEET TO THE NORTHEAST CORNER OF SECTION 16, THENCE SOUTH 00°32'19" WEST ALONG THE EAST LINE OF SECTION 16 FOR A DISTANCE OF 2091.20 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN

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INSTRUMENT 788114; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 1046.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 00°32'19" WEST FOR A DISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE SAID LAND; THENCE SOUTH 89°20'56" EAST ALONG THE SOUTH LINE OF SAID LAND, THE SAME BEING THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 56.81 FEET; THENCE SOUTH 00°33'48" WEST FOR A DISTANCE OF 528.00 FEET; THENCE NORTH 89°20'55" WEST FOR A DISTANCE OF 329.11 FEET TO A POINT ON THE EAST 1/16TH LINE OF SECTION 16; THENCE NORTH 00°29'48" EAST FOR A DISTANCE OF 528.00 FEET TO THE EAST 1/16TH CORNER ON THE LATITUDINAL CENTERLINE OF SECTION 16; THENCE NORTH 89°20'56" WEST ALONG THE SAID LATITUDINAL CENTERLINE FOR A DISTANCE OF 1023.90 FEET TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 00°27'19" EAST FOR A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 93021655; THENCE NORTH 89°20'56" WEST FOR A DISTANCE OF 295.00 FEET TO THE NORTHWEST CORNER OF THE SAID LAND; THENCE NORTH 00°27'19" EAST ALONG THE MERIDIONAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 1236.51 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHEAST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE FOLLOWING THE BOUNDARY LINES OF THE LAND DESCRIBED IN INSTRUMENT 621688 FOR THE NEXT FIVE (5) COURSES: (1) SOUTH 89°06'35" EAST FOR A DISTANCE OF 260.00 FEET; THENCE (2) NORTH 14°06'45" EAST FOR A DISTANCE OF 140.00 FEET; THENCE (3) NORTH 41°32'41" EAST FOR A DISTANCE OF 450.00 FEET; THENCE (4) NORTH 41°17'29" WEST FOR A DISTANCE OF 180.00 FEET; THENCE (5) SOUTH 48°42'31" WEST FOR A DISTANCE OF 907.24 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 88°35'51" WEST ALONG THE SAID NORTH BOUNDARY LINE FOR A DISTANCE OF 490.35 FEET TO A POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 473513; THENCE NORTH 00°37'47" EAST ALONG THE EAST BOUNDARY LINE OF THE LAND DESCRIBED IN INSTRUMENT 675569 FOR A DISTANCE OF 435.85 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 264.18 FEET; THENCE NORTH 00°37'47" EAST FOR A DISTANCE OF 66.00 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 360.03 FEET TO A POINT ON THE WEST 1/16TH LINE OF SECTION 16, SAID POINT IS MARKED WITH A FOUND 1/2 INCH DIAMETER IRON PIN ACCEPTED AS THE NORTHWEST CORNER OF THE LAND DESCRIBED IN INSTRUMENT 95003247; THENCE SOUTH 00°37'47" WEST ALONG THE WEST 1/16TH LINE FOR A DISTANCE OF 302.77 FEET; THENCE NORTH 88°37'03" WEST FOR A DISTANCE OF 790.30 FEET; THENCE SOUTH 00°37'47" WEST FOR A DISTANCE OF 423.23 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD; THENCE NORTH 88°37'03" WEST ALONG THE NORTH RIGHT OF WAY LINE OF KATSILOMETES ROAD FOR A DISTANCE OF 193.21 FEET TO A POINT ON A CURVE IN THE EAST RIGHT OF WAY LINE OF OLD US HIGHWAY 30; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE, FOLLOWING A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF 05°02'19" AND AN ARC DISTANCE OF 507.38 FEET TO A POINT ON THE WEST LINE OF SECTION 16, THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH 41°10'59" WEST A DISTANCE OF 507.21 FEET; THENCE NORTH 00°46'58" EAST ALONG THE SAID WEST LINE FOR A DISTANCE OF 218.97 FEET TO THE SOUTHWEST CORNER OF PIEDMONT ACRES; THENCE SOUTH 88°50'35" EAST FOR A DISTANCE OF 800.00 FEET TO THE SOUTHEAST CORNER OF PIEDMONT ACRES; THENCE NORTH 00°46'58" EAST ALONG THE EAST BOUNDARY LINE OF PIEDMONT ACRES FOR A DISTANCE OF 653.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BEING THAT PARCEL OF LAND DESCRIBED IN INSTRUMENT 634749 OF THE RECORDS OF BANNOCK COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 16, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN; THENCE SOUTH 89°20' 56" EAST ALONG THE LATITUDINAL CENTERLINE OF SECTION 16 FOR A DISTANCE OF 294.26 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 459.93 FEET; THENCE NORTH 48°49'49" WEST 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 48°49'49" WEST FOR A DISTANCE OF 208.71 FEET; THENCE SOUTH 53°40'56" WEST FOR A DISTANCE OF 213.80 FEET; THENCE SOUTH 48°49'49" EAST FOR A DISTANCE OF 208.71 FEET; THENCE NORTH 53°40'56" EAST FOR A DISTANCE OF 213.80 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

LOT 1, BLOCK 1; LOTS 1 THROUGH 7 AND 9 THROUGH 11, BLOCK 2, LOTS 1 THROUGH 12 AND 15 THROUGH 18, BLOCK 3; LOTS 1 THROUGH 11 AND 13 THROUGH 15, BLOCK 4; LOTS 1 THROUGH 9, BLOCK 5; LOTS 1 AND 2, BLOCK 6; LOTS 1, 3, 4, 7 THROUGH 11 AND 14 THROUGH 36, BLOCK 7; LOTS 2 THROUGH 20, BLOCK 8; LOTS 1 THROUGH 7, BLOCK 9, ALL LOCATED IN SOUTH VALLEY VIEW ESTATES SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED OCTOBER 16, 1961 AS INSTRUMENT NO. 373461.

PARCEL 4:

LOT ALL, BLOCK ALL, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

EXCEPTING THEREFROM:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10, BLOCK 2 AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9, BLOCK 3, EIGHTY ACRES, INC. SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 28, 1950 AS INSTRUMENT NO. 271259.

**CORPORATE
NOTE AND DEED OF TRUST/MORTGAGE
AGREEMENT TO AMEND TERMS**

20803692

THIS AGREEMENT is made and entered into this 21st day of February, 2008, by and between Jefferson Enterprises, LLC, as Grantor(s), whose address is 440 East Clark Street, Suite A, Pocatello, ID 83201 and THE BANK OF COMMERCE, as Beneficiary, whose address is 590 Tyhee, American Falls, ID 83211 to modify a NOTE and DEED OF TRUST/MORTGAGE dated June 27, 2007 recorded June 29, 2007 as Instrument No. 20715644 records of Bannock County, Idaho, by which the Grantor(s) conveyed the real property therein described to First American Title (as trustee), to secure payment to Beneficiary of the promissory note therein identified and also such other sums and/or the performance of such other obligations as provided in said Deed of Trust/Mortgage which by this reference is incorporated herein for all necessary and proper purposes. REAL PROPERTY DESCRIBED AS: See attached exhibit "A"

Grantor(s) and Beneficiary now desire and do hereby modify the original Note and Deed of Trust in the following respects: To modify the maturity date of 01/01/08 to now become due 05/01/08 and to increase the original loan amount from \$400,000.00 to 420,062.20.

All the terms and conditions of the original Note and Deed of Trust/Mortgage, shall remain in full force and effect except as herein modified.

THE BANK OF COMMERCE

By: Ron F. Crystal EOP

Jefferson Enterprises, LLC

(1) [Signature]
Dustin Morrison Managing Member
(2) [Signature] [Signature]
Sonya Kidd AKA Sonya Morrison Managing Member

STATE OF
COUNTY OF IDAHO

On this 21st day of February 2008, before me, a Notary Public in and for said State, personally appeared Dustin Morrison & Sonya Morrison known to me to be the Managing Members respectively, of the Corporation that executed the within instrument or the person(s) who executed the instrument in behalf of said Corporation, and acknowledge to me that such Corporation executed the same. llc

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written,

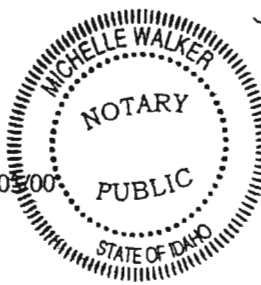


[Signature]
Notary Public
Residing at Pocatello, Id
My commission Expires 9.3.10

STATE OF
COUNTY OF

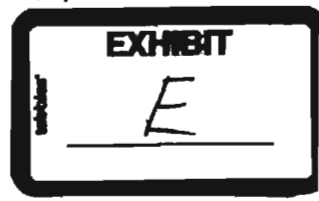
On this 20 day of FEBRUARY in the year 2008, before me, a Notary Public in and for said State, personally appeared RON F. CRYSTAL to me known to be the EVP of THE BANK OF COMMERCE of Idaho Falls, Idaho, and acknowledged to me that said corporation had executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written.



Michelle Walker
Notary Public
Residing at Idaho Falls
My commission Expires February 4, 2014

RE/MOD-14 Revised 01/05/00



CORPORATE
NOTE DEED OF TRUST/MORTGAGE
AGREEMENT TO AMEND TERMS

03693

THIS AGREEMENT is made and entered into this 21st day of February, 2008, by and between Jefferson Enterprises, LLC, as Grantor(s), whose address is 440 East Clark Street, Suite A, Pocatello, ID 83201 and THE BANK OF COMMERCE, as Beneficiary, whose address is 590 Tyhee, American Falls, ID 83211 to modify a NOTE and DEED OF TRUST/MORTGAGE dated May 09, 2006 recorded May 10, 2006 as Instrument No. 20609793 records of Bannock County, Idaho, by which the Grantor(s) conveyed the real property therein described to First American Title (as trustee), to secure payment to Beneficiary of the promissory note therein identified and also such other sums and/or the performance of such other obligations as provided in said Deed of Trust/Mortgage which by this reference is incorporated herein for all necessary and proper purposes. REAL PROPERTY DESCRIBED AS: See attached exhibit "A"

Grantor(s) and Beneficiary now desire and do hereby modify the original Note and Deed of Trust in the following respects: To modify maturity date of 06/01/07 to now become due 05/01/08

All the terms and conditions of the original Note and Deed of Trust/Mortgage, shall remain in full force and effect except as herein modified.

THE BANK OF COMMERCE

By: Ron F. Crystal EVP

Jefferson Enterprises, LLC

(1) [Signature]

Dustin Morrison Managing Member

(2) [Signature]

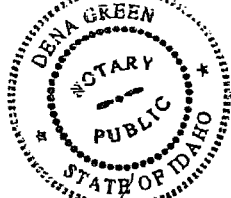
Sonja Kidd AKA Sonja Morrison Managing Member

STATE OF

COUNTY OF

On this 21st day of February, 2008, before me, a Notary Public in and for said State, personally appeared Dustin Morrison & Sonja Morrison known to me to be the Managing Members respectively, of the Corporation that executed the within instrument or the person(s) who executed the instrument in behalf of said Corporation, and acknowledge to me that such Corporation executed the same. LLC

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written,



[Signature]
Notary Public

Residing at Pocatello, Id.

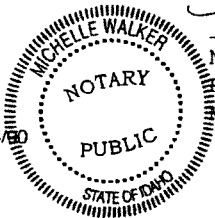
My commission Expires 4.3.10

STATE OF

COUNTY OF

On this 20 day of FEBRUARY in the year 2008, before me, a Notary Public in and for said State, personally appeared RON F. CRYSTAL to me known to be the EVP of THE BANK OF COMMERCE of Idaho Falls, Idaho, and acknowledged to me that said corporation had executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificated first above written.



[Signature]
Notary Public

Residing at Idaho Falls

My commission Expires February 4, 2014

RE/MOD-14 Revised 01/03/00

GUARANTY

AMERICAN FALLS

(City)

IDAHO

(State)

FEBRUARY 21, 2008

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

- A. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: NOTE DATED 02/21/08 FOR JEFFERSON ENTERPRISES, LLC IN THE AMOUNT OF \$420,062.20 TO MATURE 05/01/08, and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").
B. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s):

The Undersigned further acknowledges and agrees with Lender that:

- 1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.
2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof.
3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ 420062.20 (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is [X] unsecured; [] secured by a mortgage or security agreement dated 2-21-08; [] secured by

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONJA KIDD AKA SONJA MORRISON

*Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.



6. If the relationship between the Lender and Borrower has been changed or ended and this guaranty has been revoked, but shall not be obligated to, enter into transactions resulting in the creation or continuance of indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

AMERICAN FALLS

(City)

IDAHO

(State)

JUNE 27, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): NOTE DATED JUNE 27, 2007 IN THE NAME OF JEFFERSON ENTERPRISES, LLC. IN THE AMOUNT OF \$400,000.00.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ _____ (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is [X] unsecured; [] secured by a mortgage or security agreement dated _____; [] secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONYA KIDD AKA SONYA MORRISON

*Undersigned" shall refer to all persons who sign this guaranty, severally and jointly

6. The [redacted] not any existing relationship between the [redacted] and Borrower has been changed or ended and [redacted] not this guaranty has been revoked, [redacted] y, but shall not be obligated to, enter into transactions resulting in the creation or continuance of [redacted] edness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned) (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

(page 2 of 2)
D7 [Signature]

GUARANTY

AMERICAN FALLS

(City)

IAHW

(State)

MAY 09, 2006

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce THE BANK OF COMMERCE-AMERICAN FALLS (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of JEFFERSON ENTERPRISES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): NOTE DATED 5-09-2006 IN THE NAME OF JEFFERSON ENTERPRISES, LLC IN THE AMOUNT OF \$2,223,805.00.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is [X] unsecured; [] secured by a mortgage or security agreement dated ; [] secured by

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

DUSTIN MORRISON
SONYA KIDD AKA SONYA MORRISON

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

6. If the not any existing relationship between the Lender and Borrower has been changed or ended and if the Lender has not this guaranty has been revoked, the Lender, but shall not be obligated to, enter in transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Lender and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period); (iii) any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iv) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (v) any full or partial release of, settlement with, or agreement not to sue Borrower or any other guarantor or other person liable in respect of any Indebtedness; (vi) any discharge of an evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vii) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (viii) any foreclosure or enforcement of any collateral security; (ix) any transfer of any Indebtedness or any evidence thereof; (x) any order of application of any payments or credits upon Indebtedness; (xi) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

page 2 of 2


Brian T. Tucker (ISB #5396)
NELSON HALL PARRY TUCKER, P.A.
490 Memorial Drive
Post Office Box 51630
Idaho Falls, Idaho 83405-1630
Telephone (208) 522-3001
Fax (208) 523-7254

CLERK OF DISTRICT COURT
BANNOCK COUNTY, IDAHO
JUL 14 2008
IDAHO FALLS, IDAHO
[Handwritten signature]

Attorneys for The Bank of Commerce

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an Idaho
banking corporation,

Plaintiff,

v.

JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company, DUSTIN
MORRISON and SONYA KIDD aka
SONYA MORRISON, THE CITY OF
POCATELLO, an Idaho municipality,

Defendants.

DUSTIN MORRISON and SONYA KIDD
aka SONYA MORRISON, and
JEFFERSON ENTERPRISES, LLC, an
Idaho limited liability company,

Counterclaimants,

vs.

THE BANK OF COMMERCE, an Idaho
banking corporation,

Counterdefendant.

Case No. CV-08-4231-OC

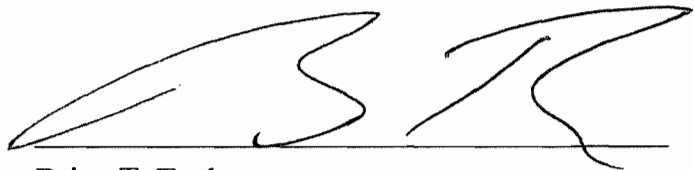
**AFFIDAVIT OF
BRIAN T. TUCKER**

STATE OF IDAHO)
) ss.
County of Bonneville)

Brian T. Tucker, after being first duly sworn upon oath, deposes and states as follows:

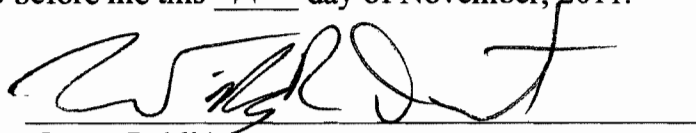
1. I am over the age of 18 years.
2. This affidavit is made on my own personal knowledge.
3. I am one of the attorneys representing The Bank of Commerce (the "Bank") in the above-entitled matter.
4. Attached hereto as Exhibit "A" is a true and correct copy of selected portions of the transcript of the Deposition of Dustin Reed Morrison taken in this case, with non-relevant and inadmissible portions removed or redacted.

DATED this 11 day of November, 2011.

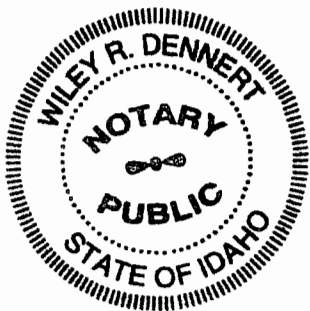


Brian T. Tucker

SUBSCRIBED AND SWORN to before me this 11th day of November, 2011.



Notary Public
Residing at: Idaho Falls, Idaho
Commission expires: 17 Oct 2014



CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 14 day of November, 2011, by mailing with the necessary postage affixed thereto or electronic mail.

Kirk Bybee
P.O. Box 4169
Pocatello, ID 83205

- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail

Brent T. Robinson
ROBINSON & ASSOCIATES
P.O. Box 396
Rupert, ID 83350-0396

- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail

A. Bruce Larson
ABLE LAW, PC
P.O. Box 6369
Pocatello, ID 83205-6369

- Mailing
- Hand Delivery
- Facsimile
- Overnight Mail



BRIAN T. TUCKER

L:\BTT\0260.455\Affidavit of BTT.wpd

DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

THE BANK OF COMMERCE, an)
Idaho banking corporation,)
Plaintiff,)
vs.) Case No.
JEFFERSON ENTERPRISES, LLC,) CV 08-4231 OC
an Idaho limited liability)
company, DUSTIN MORRISON)
and SONYA KIDD aka SONYA)
MORRISON, THE CITY OF)

(Caption continued.)

ORAL DEPOSITION OF DUSTIN REED MORRISON

Taken on November 4, 2011

REPORTED BY:

PAUL D. BUCHANAN, RPR, RMR,
CSR No. 7, and Notary Public

EXHIBIT
"A"

Page 2

1 Pocatello, an Idaho)
 2 municipality,)
 3 Defendants.)
 4 _____)
 5 DUSTIN MORRISON and SONYA KIDD)
 6 aka SONYA MORRISON, and)
 7 JEFFERSON ENTERPRISES, LLC,)
 8 an Idaho limited liability)
 9 company,)
 10 Counterclaimants,)
 11 vs.)
 12 THE BANK OF COMMERCE, an Idaho)
 13 banking corporation,)
 14 Counterdefendant.)
 15 _____)
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 17
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 21
 22
 23
 24
 25

Page 3

1 APPEARANCES:
 2
 3 For the Plaintiff:
 4 BRIAN T. TUCKER
 5 Nelson Hall Parry Tucker
 6 Attorneys at Law
 7 P. O. Box 51630
 8 Idaho Falls, Idaho
 9
 10 For the Defendants Jefferson Enterprises, LLC,;
 11 A. BRUCE LARSON
 12 ABLE Law, PC
 13 Attorney at Law
 14 155 South Second
 15 Pocatello, Idaho
 16
 17 Also Present:
 18 Michael Morrison
 19
 20
 21
 22
 23
 24
 25

Page 4

I N D E X

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 3 Examination By: Page
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 5 Mr. Tucker 5
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 7 No Exhibits Marked
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Page 5

1 BE IT REMEMBERED that on November 4, 2011, at
 2 the hour of 12:35 p.m. the deposition of DUSTIN REED
 3 MORRISON, produced as a witness at the instance of the
 4 plaintiff in the above-entitled action now pending in
 5 the above-named court, was taken before Paul D.
 6 Buchanan, CSR #7, and notary public, State of Idaho, in
 7 the law offices of ABLE Law PC, 155 South Second Avenue,
 8 Pocatello, Bannock County, Idaho.
 9
 10 WHEREUPON, the following proceedings were had:
 11
 12 DUSTIN REED MORRISON,
 13 called at the instance of the plaintiff, having been
 14 first duly sworn, was examined and testified as follows:
 15 EXAMINATION
 16 BY MR. TUCKER:
 17 Q. Would you state your name for the record?
 18 A. Dustin Reed Morrison.
 19 Q. Mr. Morrison, have you had your deposition
 20 taken before?
 21 A. I have.
 22 Q. How many times?
 23 A. Twice.
 24 Q. Which cases were those involved in?
 25 A. All in the same case, a litigation against

<p style="text-align: right;">Page 6</p> <p>1 Shawn Bridger and Re/Max, Country Real Estate. 2 Q. So as we take the deposition, you have been 3 present while we have had the other depositions the last 4 couple of days. 5 A. Yes. 6 Q. I will reiterate some of the advice given by 7 your counsel as far as trying to answer audibly when I 8 ask questions, try to, instead of nodding your head, 9 answer audibly. You understand that? 10 A. Sure. 11 Q. Also as I ask questions, I will try to ask 12 them intelligently but if for some reason you don't 13 understand what I am asking, feel free to tell me you 14 don't understand and I will try to rephrase. 15 A. Very good. 16 Q. And if you answer the question, I will assume 17 you understood it and we will proceed. Does that make 18 sense? 19 A. Yes. 20 Q. Are you under any medication or anything today 21 that would affect your ability to testify? 22 A. No. 23 Q. Do you have a clear mind, you are not -- 24 A. I wouldn't go that far, but as clear as it 25 gets.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And then your college courses were shortly 2 after that? 3 A. Yeah, but probably over three years, four 4 years maybe. 5 Q. And you didn't actually graduate with a 6 bachelor's degree. 7 A. No. 8 Q. How about your work experience after high 9 school, what was your work experience? 10 A. I built houses for about four or five years 11 with my grandfather in Lava; in the summer I would work 12 at Mark III as an electrical apprentice in Soda Springs. 13 Worked for Mullen Crane. Worked various jobs welding. 14 Worked for the Union Pacific for a little while welding. 15 A lot of construction, pipeline jobs, a lot of 16 industrial, commercial jobs when I was a kid, followed 17 the money, you know, just followed shut-downs and stuff 18 like that. 19 Q. Eventually you started doing your own 20 construction and building; is that right? 21 A. Yes. 22 Q. When was that? 23 A. '97 is when I decided now or never, so I 24 started in 1998, just a dba. And then I changed the 25 name to American Dream Home Builders in 2000.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Why don't you tell me a little bit about your 2 education? 3 A. It's reasonably limited. I graduated from 4 Pocatello High School and went to Idaho State 5 University for a little while while working. I think I 6 got 88 credits or something like that, changed my major 7 three times. A lot of training, a lot of construction 8 related training. 9 Q. Was that college related or is that 10 on-the-job? 11 A. A lot of certifications, ANSI certifications 12 for welding and welding inspection and hazmat training, 13 blueprint take-off, scheduling courses, bookkeeping and 14 accounting courses, MSDS training, lockout/tagout 15 training, certifications; just a lot of construction 16 related certifications to enable us to qualify to do 17 jobs. 18 Q. What was your major when you were in college? 19 A. Construction management and then ISU had a 20 program called engineering management, they don't have 21 it anymore, but it was related to construction 22 management. 23 Q. What year was it that you graduated from high 24 school? 25 A. 1990.</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. So these various welding, Union Pacific, 2 different jobs, those would have all been from the time 3 you got out of high school in 1990 until approximately 4 1998? 5 A. Yes. 6 Q. And then in 1998 you began in earnest to be 7 your own developer. 8 A. Yes -- well, builder first and then 9 development followed. 10 Q. When did you get into development? 11 A. 2003. 12 Q. And what was your experience with development, 13 what kind of developments did you do? 14 A. Well, up to 2003 none. The evolution was 15 really about the frustration with building. So we 16 started buying lots and building houses, and then we 17 would buy groups of lots and build houses. And the idea 18 was to kind of control your comparables, the houses that 19 were next to you. And then that evolved into -- so 20 during that I was around the development part of it. So 21 in 2003 I decided that I had the capital and the 22 knowledge and the contacts to try it. 23 Q. So what does that typically involve as far as 24 your understanding as far as development, what's the 25 difference between building and developing?</p>

1 A. Development is a lot easier. It takes a lot
 2 more money. So what's involved in development?
 3 Q. What's the difference between the two.
 4 A. Well, they are not really related --
 5 development, in my case, you know, commercial and
 6 residential development, it really starts out with
 7 finding a piece of land that you are intrigued with and
 8 it fits what you want to do. And then negotiating a
 9 purchase at a price you decide you can cash flow after
 10 all the expenses are deducted.
 11 So a lot of that has to do with density, how
 12 many lots can I get approved per acre, that will decide
 13 per-acre value. The higher the density, more value.
 14 And then you want to be in the path of progress, I
 15 guess, if you will, you want to be where the growth
 16 seems to be heading. So for me that's a big one. There
 17 is a whole another market for just the opposite,
 18 discount purchases and low income housing.
 19 So the first thing is to find a piece of land.
 20 The second thing is to design it, and then get some kind
 21 of preliminary approval, and then attach estimates as
 22 close as you can get to accurate bids, you know. I used
 23 to try to attach bids first even and then take it to the
 24 bank with what I call a pro forma, but a proposal on how
 25 it will perform and what assumptions you are using.

1 entity?
 2 A. Myself.
 3 Q. Have there been other members or owners?
 4 A. Yes, Sonya Morrison has been a member.
 5 Q. Sonya is your former wife?
 6 A. Yes.
 7 Q. When was it she was no longer a member of
 8 Jefferson Enterprises?
 9 A. September.
 10 Q. Of this year?
 11 A. Yes.
 12 Q. And is that part of your divorce?
 13 A. Yes.
 14 Q. As part of that she, what, transferred her
 15 interest in Jefferson Enterprises to you?
 16 A. Yes.
 17 Q. Have there been any other owners or members of
 18 that entity?
 19 A. No.
 20 Q. Currently who are the managers of that entity?
 21 A. Myself.
 22 Q. And prior to September of 2011 was Sonya also
 23 a manager?
 24 A. I don't think she was a managing member, I
 25 think she was just a member.

1 And then they take it and appraise it and the
 2 appraisal will either reconcile or show discrepancies
 3 between your estimates and what theirs are. And if
 4 those are reconciled, then a bank will make a
 5 determination and they have their criteria on
 6 determining that.
 7 Q. You said you got into development because of
 8 frustration. What --
 9 A. Well, frustration with building houses that
 10 maybe were worth \$250,000 to have another builder come
 11 in next to you and build a \$180,000 house. And it was
 12 great benefit to them but it would also for the same
 13 reasons pull ours done. So it went from that to buying
 14 full retail price, six or seven lots, to realizing that
 15 we could probably develop six or seven lots and create a
 16 little bit of a competitive advantage over just
 17 purchasing lots.
 18 Q. I want to walk through some of the different
 19 entities that you either have or you are involved with
 20 now or used to be involved with.
 21 A. Sure.
 22 Q. Jefferson Enterprises, LLC, you are familiar
 23 with that entity?
 24 A. Yes.
 25 Q. And who are the owners or members of that

1 Q. Is there anyone else who had authority for
 2 that entity other than yourself?
 3 A. No.
 4 Q. Did that entity, Jefferson Enterprises, have
 5 employees?
 6 A. No.
 7 Q. What type of business did Jefferson
 8 Enterprises, LLC, do?
 9 A. It really was just a holding company,
 10 acquisition and holding, bare land.
 11 Q. And that's the entity that acquired the
 12 property that's the subject of this litigation --
 13 A. Yes.
 14 Q. -- correct?
 15 A. Yes.
 16 Q. I know you know where I am going, but let me
 17 try to finish before you answer, that will help Paul
 18 with his transcription.
 19 A. Very good.
 20 Q. Other than this property -- what do you call
 21 it, do you call this the Southern Hills property?
 22 A. Yes.
 23 Q. Other than the Southern Hills property, did
 24 Jefferson Enterprises ever acquire any other property?
 25 A. Yes.

Page 14

1 Q. What property did it acquire?
 2 A. A parcel I call Stone Creek Estates in Idaho
 3 Falls off of 49th Street.
 4 Q. Is that a piece of property that was developed
 5 by Jefferson Enterprises?
 6 A. Yes.
 7 Q. And when was that development completed?
 8 A. It's not; it's ongoing.
 9 Q. So does Jefferson Enterprises still own some
 10 of the Stone Creek property?
 11 A. Yes.
 12 Q. How much acreage, if you know, in the Stone
 13 Creek development does Jefferson Enterprises own?
 14 A. I am not certain. It owns 12 developed lots
 15 and I am just going to guess ten acres.
 16 Q. When you say twelve developed lots, what does
 17 that mean? That have improvements on them?
 18 A. Yes.
 19 Q. So they are lots that you could build on now.
 20 A. Yes.
 21 Q. And then the ten acres, is that also within
 22 the Stone Creek subdivision?
 23 A. Yes.
 24 Q. Any other property that's owned by Jefferson
 25 Enterprises?

Page 15

1 A. No.
 2 Q. Any other assets of Jefferson Enterprises?
 3 A. No.
 4 Q. Other than this obligation of owing to the
 5 Bank of Commerce that we are going to discuss, any other
 6 liabilities that Jefferson Enterprises has?
 7 A. Yes.
 8 Q. Who does it owe money to?
 9 A. Bank of Idaho.
 10 Q. How much does it owe Bank of Idaho?
 11 A. I'm not certain but between six and \$700,000.
 12 Q. Is that secured by these lots that we talked
 13 about?
 14 A. Yes.
 15 Q. And the acreage?
 16 A. Yes.
 17 Q. So are you building any homes on those lots at
 18 this time?
 19 A. No.
 20 Q. How about American Dream Home Builders, LLC,
 21 are you familiar with that entity?
 22 A. Yes.
 23 Q. Is that entity still in existence?
 24 A. Yes, I changed the name to ADHB, LLC.
 25 Q. The same owners and members?

Page 16

1 A. Yes.
 2 Q. Sonya used to be a member of that, like
 3 Jefferson Enterprises?
 4 A. Yes.
 5 Q. Let me go back to the Bank of Idaho loan. Are
 6 you current on your obligation to Bank of Idaho in the
 7 Jefferson Enterprises loan?
 8 A. No.
 9 Q. Is that development, are those lots in
 10 foreclosure?
 11 A. No.
 12 Q. Are you negotiating with them on repayment?
 13 A. I think we have resolved it, so I don't know
 14 if the answer is right, that I am not current. We are
 15 not under the same obligations as the initial financing
 16 was set up. So we have kind of come to some resolution
 17 that we are going to do it different.
 18 Q. So is it fair to say you had a loan with Bank
 19 of Idaho with certain terms and at some point those
 20 terms were modified to allow you some additional time?
 21 A. Yes, perfect.
 22 Q. As far as you know, you are within those
 23 different time frames and you are just moving on trying
 24 to finish that?
 25 A. Yes.

Page 17

1 Q. This ADHB, LLC, any other managers other than
 2 the same ones we went through with Jefferson
 3 Enterprises?
 4 A. No.
 5 Q. How about employees, does it have employees?
 6 A. It did; it doesn't now.
 7 Q. What kind of business was ADHB or American
 8 Dream Home Builders, what type of business did it engage
 9 in?
 10 A. It's still doing business as American Dream
 11 Home Builders, so if you want to refer to it as that, I
 12 would be fine with that. It's a construction company,
 13 builds houses and small commercial buildings.
 14 Q. And it's still operating today?
 15 A. Yes.
 16 Q. And even though you have changed the name,
 17 it's essentially the same entity.
 18 A. Yes.
 19 Q. What was the reason for the name change?
 20 A. Just personal reasons and I'll probably change
 21 it back, I'm not certain yet.
 22 Q. And does it have any assets?
 23 A. Yes.
 24 Q. It being American Dream Home Builders.
 25 A. Yes.

Page 18

1 Q. What assets does it have?

2 A. It has some tools -- I am not real sure on

3 what exactly they are, but it has some tools and

4 equipment.

5 Q. So is this the entity that actually goes in

6 and builds homes?

7 A. Yes.

8 Q. So it wouldn't necessarily carry real

9 property, that's not what its purpose is for.

10 A. That's not what its purpose is for, but it

11 ends up that it actually owns an interest in Vinyard

12 Court subdivision. I had that subdivision paid off and

13 took a loan out on it while I was in Hong Kong. And the

14 Bank of Idaho did the loan under American Dream Home

15 Builders and I ended up, just because I was out of town,

16 signing it. Technically they owned Vinyard Court, but

17 its purpose was not to own that. It was owned prior by

18 Jefferson Enterprises and then it got paid off.

19 Q. So has American Dream Home Builders, has it

20 been in operation essentially since 2003?

21 A. Since 2000. I believe we made it a limited

22 liability company in 2001.

23 Q. And has it operated continuously throughout

24 that period of time?

25 A. Yes.

Page 19

1 Q. What about American Dream Construction, Inc.?

2 A. It was an excavation and development company.

3 Q. When was it that?

4 A. 2003.

5 Q. And then I assume by your answer that it

6 changed at some point?

7 A. Yes. In 2008 we liquidated the equipment. We

8 couldn't keep up. We weren't doing any consequential

9 business that justified the debt service. So we

10 liquidated the equipment and satisfied the debt in full

11 and put the company to sleep for a while.

12 Q. So you say it was an excavation and

13 development company?

14 A. Yes.

15 Q. Doing developments like Jefferson Enterprises

16 was?

17 A. Well, Jefferson Enterprises didn't actually

18 develop, they contracted the development of. So they

19 were kind of the end user client, if you will. So they

20 would contract with maybe Johnson Excavation or American

21 Dream Construction, Inc., to come in there and do

22 improvements to that bare land.

23 So the idea was that you had a land holding

24 company that would contract with the development

25 company, would come in and improve bare land, change use

Page 20

1 to finished lots, and then American Dream Home Builders

2 would come in and put the final product on that lot.

3 Q. You mentioned Johnson. Is that another one

4 of your --

5 A. No, that's just an example, because Jefferson

6 had Johnson do some development, improvements.

7 Q. And that was unrelated to you, that entity.

8 A. Yes, unrelated.

9 Q. Are the owners and shareholders the same for

10 American Dream Construction as the other two entities?

11 A. Yes.

12 Q. And, again, the controlling interest was by

13 you and Sonya until recently with your divorce.

14 A. Yes.

15 Q. How about Southern Hills Development, LLC?

16 A. I don't even think that's a company anymore.

17 I think it's just an asset of Jefferson Enterprises that

18 we have just not modified, because all the taxes are

19 still listed there, so I think we just assigned all the

20 interest of Southern Hills Development to Jefferson

21 Enterprises.

22 Q. So that entity, as far as you are concerned,

23 doesn't operate anymore.

24 A. That's right.

25 Q. And whatever it had is now Jefferson

Page 21

1 Enterprises.

2 A. That's right.

3 Q. And the ownership of Southern Hills

4 Development Company, LLC, was the same as what we have

5 talked about with the other entities?

6 A. Yes, it's now just Jefferson Enterprises. But

7 I don't even think it exists anymore, I don't even think

8 I have renewed it, I think it's expired, I think it's

9 gone.

10 Q. What was the purpose of that entity, do you

11 know?

12 A. Probably the purpose of that entity was to

13 acquire options and cause the change of use and

14 commitment of entitlements, et cetera, by or from the

15 city. There was a lot of money spent so just felt like

16 it was a good idea to keep it separate.

17 Q. 80 Acres, Inc., that's not your entity, is it?

18 A. No.

19 Q. Who are the owners or shareholders of 80

20 Acres, Inc.?

21 A. I don't know. Actually Lyman was one of them,

22 who was their representative.

23 Q. And how was it that you came in contact with

24 80 Acres, Inc.?

25 A. I just liked the lot, liked the parcel of

1 land, looked at ownership, contacted that group. I
2 believe they were out of Moscow. Made them an offer,
3 negotiated, and purchased the land.

4 Q. But you don't know who the shareholders or
5 officers of that company are?

6 A. I don't. I only dealt with one.

7 Q. That was the Ashley Lyman?

8 A. Right.

9 Q. Now, the 80 Acres, Inc., property that we have
10 talked about over the last couple of days, does it
11 actually comprise 80 Acres?

12 A. No.

13 Q. How many acres does it actually comprise?

14 A. 67.

15 Q. When we refer to the 80 Acres, Inc., property
16 you know what we are talking about.

17 A. Yes.

18 Q. You talked about the Jefferson Enterprises
19 acquiring the Southern Hills Development Company and I
20 think that happened in 2005. What was the rationale
21 there? What was going on, why did you consolidate
22 those.

23 A. It was always intended, I think, to be an
24 asset or, you know, in the same context as the other
25 developments held by Jefferson Enterprises.

1 Q. So at some point for tax reasons or talking
2 with your accountant, you just decided to kind of
3 collapse those two or merge them together so they were
4 just the one entity.

5 A. Yeah, make how it was really thought of
6 anyway, you know, Southern Hills as an asset held by
7 Jefferson Enterprises.

8 Q. We have talked a little bit about what's
9 called commonly the Wood property. What is your
10 understanding of what the Wood property is?

11 A. I think it's -- I don't know what the exact
12 acreage is but I think it's somewhere around 325 or 330
13 acres. But it is contiguous with the 80 Acres, Inc.,
14 piece of 67 acres we were just speaking of. It combined
15 with another entity it had called Black Cliffs
16 Development, which was a preplatted, preapproved
17 subdivision that had some presold interest in it became,
18 in my kind of global idea, Southern Hills.

19 Q. So Southern Hills, when we talk Southern
20 Hills, that's a global word for the Wood property, the
21 80 Acres property, and this Black Cliffs property?

22 A. Yes, and the Black Cliffs is really part of
23 the Wood property. So there are two distinct pieces,
24 Woods and 80 Acres, Inc., in my head.

25 Q. How was it that you came about this idea to

1 Q. But was it specifically for the Southern Hills
2 Development?

3 A. Initially to get it approved and an entitled
4 annexed project. It was its own animal. Then once it
5 was approved and entitled and annexed, then it just
6 became part of Jefferson Enterprises. But it took a
7 little while, because I was busy and it wasn't really a
8 priority, and then all of a sudden ownership literally
9 closed into Southern Hills Development, became the
10 owner, and then tax filings, you know, the parcel
11 numbers were recorded and tax filings were sent out. So
12 rather than go in there and change all of that stuff,
13 just one day my accountant and I decided to just make
14 Southern Hills Development an asset of Jefferson
15 Enterprises and it's one less tax return and it's truly
16 where it belonged anyway.

17 Q. Did Jefferson Enterprises pay Southern Hills
18 Development something for that property?

19 A. No. I believe that Jefferson Enterprises was
20 actually listed as the owner of Southern Hills
21 Development when Southern Hills Development was set up.
22 I'm not positive of that, but I believe that. And I
23 believe my signature on Southern Hills Development,
24 LLC's, filing was as a representative of Jefferson
25 Enterprises.

1 develop that property?

2 A. I don't know. It was really an evolution that
3 started with my interest of that with the high school
4 location. The next step with that interest was talk of
5 a Cheyenne Street overpass. The third interest in that
6 was discussing it with Bill Isley, an old business
7 associate, and he kind of maybe reinforced support for
8 it. And then the fourth step of that evolution was that
9 we kind of aligned our ships, essentially decided to
10 partner up to go develop this beast.

11 And then the fifth was that we decided not to
12 partner up --

13 Q. This is you and Bill?

14 A. Yes. And then the sixth was that I went out
15 on my own and designed it with an engineering firm,
16 Rocky Mountain Engineering and Survey, went to the
17 different owners and negotiated sales, put it together
18 in the same format that I went through prior, which
19 eventually led to a market feasibility analysis and
20 appraisal and finally term financing.

21 Q. I think you referred to it as this beast.
22 What did you mean by this beast?

23 A. It's the biggest subdivision, it's the biggest
24 master plan subdivision I believe at the time in Idaho,
25 still by far in Southeast Idaho, in this market, in this

1 world. I mean nothing original nationally but extremely
2 original for the community, for the area, for the state.

3 Q. So it was kind of a cutting edge thing here --

4 A. For us, yes.

5 Q. Now, this Bill Isley, you say he was partners
6 and then he wasn't partners. He is not involved with
7 the project?

8 A. No.

9 Q. What was his involvement as your partner
10 originally?

11 A. Oh, he was my co-day dreamer, I guess. Just
12 kind of developed the idea, if you will. But then when
13 it got to the point of actually doing something, I think
14 he just decided that it probably wasn't something that
15 he wanted to focus the balance of his life on.

16 Q. Did you leave on good terms with Bill?

17 A. Okay. As it relates to Southern Hills,
18 perfect terms. We had some other issues with some money
19 that he owed me that he didn't want to pay, and I
20 finally just walked away from it.

21 Q. So you never did get the money issue resolved?

22 A. Unrelated to Southern Hills, yes. We managed
23 some construction projects for him that we didn't get
24 paid on.

25 Q. When was it that Bill Isley got out of the

1 A. No, I'm not a hundred percent sure but I
2 believe that I negotiated extremely favorable terms and
3 just performed in early '05, maybe April. And got a
4 deal done. They financed it. I gave them I think a
5 quarter million dollars down or something like that.

6 I might be really getting out of line here by
7 saying it, because I'm not a hundred percent sure what
8 it was. But again quite a bit of money down and then
9 negotiated really good terms for the balance of five
10 years with a balloon payment due, I want to say 2011 or
11 12 or something like that. And it was zero interest
12 financing, too. They started out as wanting -- or
13 basing it off a premise of 4.5 percent interest but what
14 they really did was just capitalize that anticipated
15 interest into an overall purchase price.

16 Q. So when you say, when we say that there wasn't
17 interest, I mean there was interest on what the amount
18 was, it was just built into it, you didn't have to pay
19 that annually?

20 A. Yes, it wasn't interest. The price was borne
21 of a principal and interest relationship that was
22 converted into or capitalized into a principal only
23 loan.

24 Q. So if you had gone in and bought the property
25 outright at that time, you would have paid less --

1 Southern Hills project as a partner?

2 A. I'd say May of 2005 maybe.

3 Q. At that point was the Southern Hills project
4 approved, in other words --

5 A. No --

6 Q. -- gotten its entitlements --

7 A. Hadn't even been submitted yet.

8 Q. At some point you acquired an option on the
9 Southern Hills property; is that correct?

10 A. The Wood property. Is that what you are
11 asking me?

12 Q. Yes.

13 A. Yes.

14 Q. When was it that you obtained that option?

15 A. I don't know, I don't remember. Sometime
16 around that same time. Both options were negotiated
17 early, early '05, I want to say like February of '05.

18 Q. When you say both options, which options are
19 you talking about?

20 A. The one for 80 Acres, Inc., and then the one
21 for the Wood property.

22 Q. So both of those started out as options.

23 A. Yes.

24 Q. On the 80 Acres, Inc., property, did you
25 extend that option?

1 A. No, that was their point, is they didn't value
2 cash over time, they didn't see there being any value to
3 having the cash now, they didn't want the cash now, they
4 didn't want it paid off now, they wanted that money to
5 earn money.

6 Q. So they would rather have the loan --

7 A. Yes.

8 Q. -- than have the cash.

9 A. Yes. So there was not one dollar incentive to
10 pay that off one day early.

11 Q. So was that what they told you when you
12 acquired the property?

13 A. Yes. In fact I think almost verbatim they
14 said the price will be the same if you pay us today or
15 if you pay us over time.

16 Q. What was the interest rate that they built
17 into it?

18 A. I don't remember; I think it was like four and
19 a quarter or something like that. And I am not a
20 hundred percent sure how they did it, if it was
21 amortized or if it was just a straight flat this
22 percentage annually of the balance. I can't remember.
23 It really wasn't of that much interest to me because the
24 purchase price was just fantastic to begin with.

25 Q. Now, the Wood property, you didn't close on

<p style="text-align: right;">Page 30</p> <p>1 that property until May of 2006; correct?</p> <p>2 A. That's right.</p> <p>3 Q. Or you had an option on it much earlier; is</p> <p>4 that right?</p> <p>5 A. Yes, that option could have been late '04. It</p> <p>6 could have been October of 2004 when it was initially</p> <p>7 began negotiated. Part of me thinks that there was a</p> <p>8 six-month extension and then a one-year extension, so</p> <p>9 that's where I am going back 18 months from the closing</p> <p>10 date to come up with that date.</p> <p>11 Q. So that option you extended a couple different</p> <p>12 times?</p> <p>13 A. Twice, yes. Maybe it was three six-month</p> <p>14 extensions, I am not sure.</p> <p>15 Q. What did you pay for the option on that</p> <p>16 property, on the Wood property?</p> <p>17 A. I am just going to make this up, but it's</p> <p>18 something in the world of a hundred thousand dollars up</p> <p>19 front and then I believe each extension I paid something</p> <p>20 like \$20,000 maybe.</p> <p>21 Q. And so you had --</p> <p>22 A. Maybe it was more, maybe it was 10 percent of</p> <p>23 the purchase price I paid for the option. But not as a</p> <p>24 fee, it went towards the principal upon performance.</p> <p>25 Q. But on closing, when you closed in May of</p>	<p style="text-align: right;">Page 32</p> <p>1 unencumbered title.</p> <p>2 Q. Now, you extended that option a couple of</p> <p>3 different times.</p> <p>4 A. Yes.</p> <p>5 Q. Was that a problem getting that extended?</p> <p>6 A. The last six months was. There was starting</p> <p>7 to be quite a bit of interest because we had obviously</p> <p>8 already taken this project public and he gave me every</p> <p>9 bit of assurance that there wouldn't be another one.</p> <p>10 And he reassured me of that when I asked him for another</p> <p>11 one prior to the final closing. He said, no, there will</p> <p>12 be no more extensions, we have got tentative offers on</p> <p>13 this piece of land for more than I am selling it to you</p> <p>14 for. If you don't close, I am moving forward.</p> <p>15 Q. You say the last time, whenever that was that</p> <p>16 you got your last extension until May -- when was the</p> <p>17 last extension?</p> <p>18 A. I believe that it would have been October of</p> <p>19 '05, right in the middle of the approval process with</p> <p>20 the city. We started that whole public process I</p> <p>21 believe in August of '05, so it was televised. So in</p> <p>22 October I think we got a six-month extension.</p> <p>23 Q. And that would taken you until -- what was</p> <p>24 your drop dead date as far as you were concerned?</p> <p>25 A. Well, it was April, the end of April, May,</p>
<p style="text-align: right;">Page 31</p> <p>1 2006, you had a credit of \$140,000 as a down payment --</p> <p>2 A. Is that right?</p> <p>3 Q. Assuming that's what the settlement statement</p> <p>4 showed, that would be what you paid for the option --</p> <p>5 A. Yes, the option and extensions.</p> <p>6 Q. Whatever that amount was on the settlement</p> <p>7 sheet that they gave you as a credit for the down</p> <p>8 payment, that's what you had paid?</p> <p>9 A. That's a fair assumption.</p> <p>10 Q. Who owned the Wood property?</p> <p>11 A. Mike Wood.</p> <p>12 Q. Is he local?</p> <p>13 A. Yes.</p> <p>14 Q. Local meaning he lives in Pocatello?</p> <p>15 A. I don't know where he is at right now, but he</p> <p>16 was an older gentleman who was a part owner of Bannock</p> <p>17 Paving that ended up owning that as part of his</p> <p>18 severance, I guess.</p> <p>19 Q. If you recall, what were the provisions of</p> <p>20 your option on that property?</p> <p>21 A. I don't think there were any. A purchase</p> <p>22 price and a closing date. I think there was a due</p> <p>23 diligence period for the first six months that it passed</p> <p>24 that we were comfortable with. And some title</p> <p>25 contingencies, you know, providing that you could offer</p>	<p style="text-align: right;">Page 33</p> <p>1 whenever it was, six months, you know.</p> <p>2 Q. But the closing took place of the Wood</p> <p>3 property, you closed on the Wood property, according to</p> <p>4 the settlement documents, May 10 of 2006.</p> <p>5 A. Yes, the drop dead date.</p> <p>6 Q. That was your closing --</p> <p>7 A. That was the date.</p> <p>8 Q. Prior to that, in October of 2005 or whenever</p> <p>9 it was that you obtained that next extension, that last</p> <p>10 extension, you are saying at that point Mr. Wood told</p> <p>11 you there would not be any other extensions?</p> <p>12 A. Yes.</p> <p>13 Q. So you knew then that this was your last</p> <p>14 chance.</p> <p>15 A. Yes.</p> <p>16 Q. I think you said however in May of 2006 prior</p> <p>17 to closing that you actually approached him about</p> <p>18 another extension?</p> <p>19 A. Yes.</p> <p>20 Q. And at that time he told you no.</p> <p>21 A. Yes.</p> <p>22 Q. And that was because he had other people that</p> <p>23 were willing to buy it?</p> <p>24 A. Yes.</p> <p>25 Q. What was the down side to you if you didn't</p>

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1 exercise your option?
 2 A. Lost the project and all that had been
 3 invested in the project, the equity we had gained in the
 4 project, which was substantial. We had taken an
 5 absolutely useless piece of land, to the definition of
 6 useless, it had never been used for anything, hadn't
 7 been able to be approved for anything, and turned it
 8 into a multi family, multi use, mixed use
 9 commercial-residential, fantastic development, and got
 10 approved and entitled.
 11 Q. So you had dumped you say a lot of your money
 12 into it?
 13 A. Yes. I want to say close to a million dollars
 14 maybe. If you take all of the down payments and the
 15 options, purchases and all of that, you know, money plus
 16 the money that -- yeah, a lot of money, and a lot more
 17 time than money, too.
 18 Q. And you spent all of that money knowing that
 19 you didn't have at the time money to purchase the
 20 property?
 21 A. No. We didn't have money to purchase because
 22 we hadn't asked yet, because we didn't know what its
 23 value would be until we were done with the process. So
 24 we knew that there would be money available, we didn't
 25 know how much money there would be available.

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1 Q. So you took a risk and spent a million
 2 dollars --
 3 A. Don't hold me to that, it might have been
 4 eight or seven, but a substantial amount of money.
 5 Q. You spent a substantial amount of money in
 6 getting entitlements, doing all of those things on the
 7 property --
 8 A. Engineering, all of that, yes.
 9 Q. -- with the hope and belief that you would
 10 eventually be able to get financing for it.
 11 A. Yes.
 12 Q. You knew that was a risk going into it.
 13 A. No, and I may have been wrong. The risk would
 14 have been how much money we could get for it. And keep
 15 in mind when we started spending money, we didn't know
 16 what it would cost to complete the process. The risk
 17 was that the value would increase parallel to the
 18 expenses or at least outpace the expenses.
 19 We always knew we could get financing on
 20 something if approved, and we had assurances from the
 21 city that we could get something approved. But it could
 22 have been \$1.5 million that we could have borrowed on a
 23 \$2.2 million project, which would have meant that we
 24 would have come into the game with \$700,000.
 25 Q. Those were all unknowns going into it.

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1 A. Yes.
 2 Q. And that's kind of what development is all
 3 about, you get an idea, you see a project, you dump some
 4 money in, and you hope it turns out.
 5 A. Yes.
 6 Q. There has been a lot of talk about these
 7 exceptionally favorable terms on the 80 Acres, Inc.,
 8 property. In your mind what are those exceptionally
 9 favorable terms?
 10 A. Initially the purchase price was fantastic.
 11 The Wood property depended on the 80 Acres, Inc.,
 12 property. Annexation depended on the 80 Acres, Inc.,
 13 property because of the contiguous stipulation,
 14 requirement for annexation. It's the flattest piece of
 15 property out there, so its density has the greatest --
 16 or I mean it has the greatest potential for higher
 17 density. I think I bought it for \$10,000 an acre or
 18 under 11, I think. The interest rate was extremely low
 19 on the balance. The payment terms were fantastic, as it
 20 related to my agenda, my development agenda and so
 21 forth. It wasn't a big requirement of debt service for
 22 four or five years.
 23 Like I said, it was no interest, it was no
 24 interest, that was the biggest thing. I mean the
 25 purchase price may have been adjusted a little bit

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1 higher for that stipulation of no interest, but it
 2 wasn't an option either.
 3 Q. Because they didn't want the cash.
 4 A. Right. They didn't want all the cash.
 5 Q. Or the problem.
 6 A. Right. So it couldn't have been better, in my
 7 opinion, I couldn't have asked for better terms. The
 8 purchase price was fantastic, it was less than 50
 9 percent of what I had paid for reasonably comparable
 10 land in the past in the same market. And it was a
 11 critically important piece of property, they could have
 12 probably asked for twice.
 13 Q. When you say it was critically, it was
 14 critically important to this project, the Southern Hills
 15 project.
 16 A. Yes, it could have lived on its own without
 17 the Wood property.
 18 Q. Could the Wood property --
 19 A. No.
 20 Q. Let me finish, I know you know where I am gong
 21 with this.
 22 Could the Wood property survive on its own
 23 without the 80 Acres property?
 24 A. No, it could not. Not as I had it designed.
 25 Q. So in your mind, if you look at -- I don't

1 want to spend time looking through the appraisal, you
2 know kind of what the appraisers came up with on the
3 value of the Wood property, value of the 80 Acres
4 property. In your mind the 80 Acres property was
5 probably worth more than what the appraisal came back
6 at?

7 A. No. But if you look at the acreage versus the
8 appraised values and you compare those, the appraisal is
9 even indicating that the 67 acres are worth more than
10 the other 325 acres per acre.

11 Q. So the 80 Acres, Inc., property was owner
12 financed.

13 A. Yes.

14 Q. Or I should say probably seller financed.
15 They were going to finance it for you.

16 A. Yes.

17 Q. Now, D.L. Evans at some point obtained a
18 position in that property; is that correct?

19 A. Yes.

20 Q. And D.L. Evans, what was the purpose of that
21 loan?

22 A. Much like the purpose of the Bank of Commerce
23 loan, a bridge loan. Let us set up terms on this 80
24 Acres, Inc., piece, move forward with this global
25 development agenda, and then kind of wrap it together,

1 looking for financing for the entire project?

2 A. I don't know, maybe. We were looking for
3 financing starting in December of '05, I think.

4 Q. When you say you were looking for financing,
5 you were looking for financing for the entire Southern
6 Hills project, to acquire the Wood property?

7 A. Yes, exactly as submitted. We wanted to --
8 whoever it was, we always -- and, see, we never
9 submitted to D.L. Evans for any amount less than the
10 \$2.8 million, it was always that number.

11 And the reason why was we wanted to get our
12 out-of-pocket expenses reimbursed and offset that by
13 this new equity position that those funds actually
14 generated, to put back into our working capital so that
15 there wasn't deficient due to this project that at that
16 point hadn't generated anything besides just equity.

17 Q. Tell me again when you started looking for
18 that financing?

19 A. Probably December of '05 maybe.

20 Q. The Wood property, was it located within the
21 City of Pocatello at the time?

22 A. Not at the time, no.

23 Q. Was it eventually annexed into the city?

24 A. Yes.

25 Q. When did that take place?

1 offer the balance of the equity in the 80 Acres, Inc.,
2 piece to the term note that pays for the front end of
3 the 80 Acres, Inc., financing. So you buy a piece of
4 land with no improvements and no annexation or no
5 entitlements for whatever the price was, I can't
6 remember, half of its appraised value. So you have got
7 a 50 percent equity position in there.

8 And then you go put the whole thing together
9 as a package, you maintain the terms of this loan, you
10 pay off the front end \$250,000 payment and offer the
11 balance of equity, a second position or whatever you
12 wanted to look at it, whatever the rest of it is, for
13 consideration of that \$250,000.

14 Q. Do you remember how much the D.L. Evans loan
15 was for?

16 A. I don't; it was less than 250.

17 Q. What did you use those funds for?

18 A. To pay to Ashley Lyman.

19 Q. So that's where you got your down payment to
20 acquire that property?

21 A. Yes.

22 Q. Do you know when the D.L. Evans loan became
23 due?

24 A. I don't.

25 Q. Was it due in April of 2006 when you were

1 A. I don't remember. Publicly it happened
2 January of 2006 but I don't know if it was -- so it
3 became part of the city, started getting taxed as a city
4 entity January of 2006, but I don't think the annexation
5 agreement was signed until late of '07.

6 Q. Late of '07, so a year after?

7 A. Yes.

8 Q. What was the Wood property zoned or did it
9 have multiple use zoning?

10 A. Multiple use.

11 Q. What was your agreement, what were some of the
12 terms of the annexation with the city?

13 A. You guys should have a copy of that.

14 Q. Those are just as spelled out in the
15 annexation agreement?

16 A. Yes.

17 Q. Nothing that's not in the annexation agreement
18 that you understand?

19 A. I don't know that.

20 Q. I guess what I am asking, are there terms or
21 requirements that you have to perform and the city has
22 to perform that aren't included in the annexation
23 agreement?

24 A. I don't know.

25 Q. Is there a reason why they wouldn't be

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1 included in the annexation agreement?

2 A. You know, it was difficult to get that
3 annexation agreement produced in the first place, it was
4 a nightmare. It was just a terrible process. And so
5 that would be the reason why there could be things that
6 I may be obligated to or they may be obligated to that
7 aren't spelled out in the annexation agreement.

8 Q. As you sit here today, is there anything that
9 you can think of that you know is not included in the
10 annexation agreement that either the city was required
11 to do or that you were required to do?

12 A. I don't know. I think there were some
13 deadlines that they didn't meet and that weren't
14 stipulated in the annexation agreement. But I haven't
15 reconciled that so I don't know. I sound like a
16 babbling idiot right now, I know, but I don't know.

17 Q. When you say deadline they didn't meet, you
18 are saying deadline that the city didn't meet?

19 A. Yes.

20 Q. Eventually was the master plan for the
21 Southern Hills Development approved by the city?

22 A. Yes.

23 Q. And when was that approved?

24 A. I think it was a city council meeting the
25 middle of January of 2006.

1 A. No.

2 Q. What are the other pages?

3 A. Estimates of costs and quantities,
4 quantitative take-offs with quantitative multipliers,
5 pricing, and then a cash flow with some assumptions of
6 absorption and interest and so forth. This is what I
7 call a pro forma, I don't even think that's a real word,
8 but --

9 Q. I think pro forma is a real word.

10 A. Is it?

11 Q. So as far as the actual engineering expenses
12 that were incurred, you are not sure what those are?

13 A. Sure, engineering costs paid through July 31,
14 2005 (indicating) for \$140,000. Rocky Mountain
15 Engineering & Survey to date, \$90,000.

16 Q. So you are looking at the first page of
17 Deposition Exhibit No. 21.

18 A. Yes. I am sure it's reasonably accurate. It
19 seems like I supplied the bank with a real breakdown,
20 though, of receipts.

21 Q. Here on Deposition Exhibit No. 21 it says Bill
22 and Brad for their expenses toward -- I am reading it
23 upside down -- is that --

24 A. Earnest money and engineering costs through
25 July 31.

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1 Q. So sometime early 2006 the project was
2 approved and obtained the entitlements?

3 A. January.

4 Q. Of 2006.

5 A. Yes.

6 Q. And the property, again, that was included in
7 that included the Wood property and the 80 Acres, Inc.,
8 property.

9 A. Yes.

10 Q. You talked about the expenses that either you
11 or your entities spent working on this Southern Hills
12 Development property, things like engineering,
13 surveying, all of those type of things. Are there
14 documents that detail what those are?

15 A. Yes.

16 Q. And are those documents that we have looked
17 at?

18 A. I doubt it.

19 Q. They are not included in, for example,
20 Deposition Exhibit No. 21 (indicating)?

21 A. Yes, this is probably a good accounting, but I
22 mean I think I have it even further broke down.

23 Q. We are looking at the first page of Deposition
24 Exhibit No. 21. Are the pages subsequent to that, are
25 those breakdowns of costs that you have incurred?

1 Q. That's \$140,000. What's the Bill and Brad?

2 A. That's what I was telling you about prior when
3 we kind of decided to line ourselves up and partner up
4 on this and go fishing and exploring.

5 Q. Did Bill and Brad advance that \$140,000?

6 A. They spent that much as their portion of our
7 fishing trip.

8 Q. Who is Brad?

9 A. Bill's partner in their Tuscany Hills
10 development.

11 Q. So that's back to where you said they started
12 out kind of being partners with you and eventually they
13 were no longer partners with you.

14 A. Right.

15 Q. But while they were partners with you, they
16 spent \$140,000 of their money to go ahead on the
17 project.

18 A. Yes.

19 Q. And did they get that back?

20 A. Yes, I paid that to them, I have a check.

21 Q. When were they paid back?

22 A. I would guess sometime prior to July 31, 2005,
23 as those were costs paid through July 31, 2005.

24 Q. I think you said in December of 2005 you
25 started looking for financing to acquire the Wood

1 property.

2 A. Yes, and it may have been earlier than that.

3 Q. Who all did you approach to try to obtain
4 financing?

5 A. I went to D.L. Evans Bank and they showed
6 interest in the project. They agreed to go to step one
7 and forward the money on the 80 Acres, Inc., parcel,
8 knew the agenda. And then when I proposed the 2.8
9 million, they said that they didn't want to reimburse
10 anything, but expressed that they may be able to do a
11 2.2.

12 So my time line is a little bit different than
13 everybody else's who have been deposed, so I am just
14 going to say mine and leave a contingency out there that
15 I may be a little bit wrong because theirs are all
16 pretty sound and reconciled with each others'. But I
17 recall Pam and some guy, partner, at the public
18 meetings -- which were over in January of '06, so I am
19 saying sometime in December -- interested in the
20 project's approval, expressing interest in assisting in
21 the financing of both the acquisition and the
22 development. I wasn't overly interested in what they
23 had to offer or say because I felt like I had a
24 reasonably sound commitment from D.L. Evans.

25 So after the approval in January, I made a

1 Rudd & Company, until Steve felt like he had a handle on
2 the project. And it seems like that took several weeks.
3 And then it seems like sometime around April 21 we met,
4 almost as a final meeting but a first formal meeting of
5 this understanding of the request.

6 Like I say, I might be wrong, but just no way
7 did this happen in three weeks. In fact I even believe
8 that it was proposed and -- I believe that it was
9 proposed to Bank of Commerce and then sent back for
10 supplementation and then repropoed -- anyway, that's my
11 recollection. It's a little bit different than
12 everybody else's and mine could be wrong.

13 Q. I appreciate that. That's helpful to at least
14 have an idea from your standpoint of the time frames.
15 But going back to the D.L. Evans, I mean part of the
16 reason why you moved to the bank or at least were
17 looking for somewhere else to finance the project is
18 because at some point D.L. Evans had not necessarily
19 denied your request, but didn't approve it the way you
20 wanted it approved.

21 A. That's right.

22 Q. So that was kind of the timeframe of when you
23 went to Pam.

24 A. That's right.

25 Q. Other than D.L. Evans -- now, you said

1 formal request verbatim like I did to -- it was the same
2 package --

3 Q. You are talking about a request to D.L. Evans;
4 right?

5 A. Yes. It was the same package that you guys
6 ended up with, or the Bank of Commerce ended up with.
7 And their response was exactly the same as Bank of
8 Commerce's, it's just that it happened two months prior.
9 So when they turned down the 2.8 which included this
10 reimbursement that really was going to go back and
11 reimburse my working capital and afford my ability to
12 debt service this debt -- right? So they said, no, we
13 would like you to keep some skin in the game.

14 So then I opened the door to Pam, let's see
15 what else you have got, or let's see what you have got.
16 And that's really where the evolution of me and Bank of
17 Commerce started. It wasn't necessarily a denial like
18 represented from D.L. Evans, it was just a denial of
19 what I was requesting.

20 And so my recollection is that I first met
21 with Steve and Pam early April, maybe late March.

22 Q. Of 2006.

23 A. Yes. And we went over this package several
24 times to get an understanding, supplemented it with
25 maybe a financial statement or balance statement from

1 something about some gentleman or someone at the public
2 hearings --

3 A. Pam's associate.

4 Q. So were they there because -- and they had
5 expressed interest in doing the project, and when I say
6 doing the project, I guess I am saying providing the
7 financing to acquire the project.

8 A. And then once I told her that I thought they
9 had the acquisition covered, then they were interested
10 in supplying financing for the development through, you
11 know, pension fund money, insurance money, private
12 money, anything but hard money.

13 Q. But you weren't that interested in those funds
14 because you thought you had D.L. Evans?

15 A. No, that's not right. I wasn't interested in
16 the development money because I just wasn't there yet in
17 the project. We were still wrapping up final approval,
18 annexation, and so forth. And I wasn't interested in
19 other acquisition money because I thought I had
20 everything --

21 Q. You thought you were good with D.L. Evans.

22 A. Yes.

23 Q. Did you shop at the Bank of Idaho?

24 A. I didn't shop it to anybody because we were
25 received so well the first shot. In fact, it might have

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1 even been Kim Webber that reached out first before I
2 started even looking for money it seems like.
3 I had known Kim Webber from back when he was
4 with the Small Business Administration prior to D.L.
5 Evans and had a reasonably good relationship with him.
6 I believed that it may have been that he reached out to
7 me in August when we had just started the public process
8 to see if he could be of any benefit to the project.
9 And I am not sure if that's how it happened, but it
10 strikes me that that's how it happened.

11 So once we got that initial commitment, a
12 conditional commitment providing values or where you
13 think they will be, providing your costs or where you
14 think they will be, and providing that it reconciles
15 with an appraiser's prediction or estimation of
16 absorption and values and all of that. Conditional on
17 all of these things being whatever, this ratio.

18 So I didn't even know if we need or could get
19 one half million dollars, two and a half million
20 dollars, three, just didn't know for sure until you
21 really get the firm numbers. But we knew numbers like
22 costs would be between \$8,500 and \$12,000. Values would
23 be between 25,000 and \$32,000. We knew those enough to
24 get us a range. We knew that within that range would
25 still comfortably allow a 50 percent loan to value and

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1 Evans, it was just give me whatever you can.
2 A. No, that's not right either. We had something
3 with D.L. Evans that was conditional on values,
4 conditional on equity. Much like you would go into a
5 bank and get a preliminary approval of \$250,000 to
6 purchase a house providing that your income was X,
7 providing that the value of the home was this, providing
8 that the cost was this, and providing that there was an
9 equity position of 30 percent, how's that. We can see
10 that you could debt service that balance.

11 Q. So that's what you had with D.L. Evans?

12 A. Something similar to that. It's not quite
13 that. With commercial -- you ask for something
14 arbitrary and what you offer in exchange for a
15 commitment to something that arbitrary is a condition of
16 equity. So providing you have an equity position of 60
17 percent, so your loan to value is 40 percent, say, and
18 you can keep doing that until you get to, say, 5
19 percent, say I want to borrow 5 percent of its appraised
20 value, you see what I am saying, you can get a
21 commitment on an arbitrary undefined amount of money.

22 Q. So eventually D.L. Evans came back and you
23 said would loan you 2.2 million.

24 A. So after that commitment then I went back to
25 them with a request for \$2.8 million with an appraisal,

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1 cover our costs.

2 Q. But the request to D.L. Evans was for 2.8
3 million or did you have a specific request?

4 A. The first request was for I am going to say a
5 quarter million. I know, I have seen the numbers to 80
6 Acres, Inc., but I'm not certain that they are
7 necessarily that accurate either. I don't know that
8 they necessarily represent what I put down as earnest
9 and what I put down, you know. So I am going to say a
10 quarter million dollars.

11 And then a conditional approval on an
12 undefined amount of money based on values. And based on
13 absorption rates and all of that, reconciling with an
14 appraiser.

15 Q. But at that time did you have a specific
16 dollar amount you needed or were you just saying -- I
17 think you said it could have been a million, it could
18 have been a million and a half?

19 A. A million and a half to two and a half or
20 three. It just depended on what the values were and
21 what the cost were, what the project was worth.

22 Q. But you knew you had to come up with at least
23 2.1, right, to acquire the Wood property?

24 A. Sure.

25 Q. But you didn't have a defined request to D.L.

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1 with all of these things, an appraisal produced for D.L.
2 Evans, a pro forma with actual costs based on engineer's
3 estimates, all of that stuff, that package that was
4 given to Bank of Commerce.

5 That package was given to D.L. Evans,
6 requested \$2.8 million, requested exactly like it was
7 requested of Bank of Commerce, leave my 80 Acres, Inc.,
8 financing alone. You can have the balance of its value.
9 Give me this amount of money to, No. 1, debt service the
10 \$2 million to Mike Wood, which I think that was about
11 the balance, I think it was \$1,900,000 after the 140
12 payoff, it was under \$2 million; and then give me two
13 years capitalized, no interest; and then give me my
14 receipts back for what I have spent. You are still at a
15 loan to value, you know, of under 50 percent, loan to
16 value.

17 And the answer was very similar to Bank of
18 Commerce's, no, we will give you what you need. We want
19 you to keep the skin that you have got in there in
20 there. But at the time I had this bird in my ear saying
21 we can do better, we can do better, call Pam. Then
22 Steve came in and I explained to him what had gone on
23 with D.L. Evans. I don't see any reason why we can't
24 get you that. Went through the project at length.

25 And that process started dancing really close

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1 to my deadlines and I was extremely agitated and nervous
2 and anxious about us approaching that to the point that
3 I did say to Steve, we are passing a point of no return.
4 I have either got to get a commitment on the amount I
5 need to perform elsewhere or you have got to give me
6 something concrete that we can go to sleep on.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 And then we met on May 3 to go over the Black
18 Cliffs Development title issues that we needed lien
19 waivers on from the undivided interests in Black Cliffs
20 Development. And then we met on the 8th, I believe, or
21 the 9th, or we spoke on the 9th, I guess, about the 80
22 Acres, Inc., piece. And I know Steve testified or
23 whatever you call it that you do in a deposition that I
24 had always represented that we could get subordination
25 on 80 Acres, Inc., and it was absolutely false, never

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1 represented that, never hinted to that. And the notion
2 seems just silly to me that why would 80 Acres, Inc.,
3 give up a first position with no consideration.

4 Q. But you said they didn't want the cash.

5 A. They didn't want the cash, but they certainly
6 wanted the collateral until they get the cash. That
7 just seems so naive for a grown man to say something
8 like that. Yes, we have a first position.

9 It would be like me buying a car and then
10 going to the bank the next day and saying, by the way,
11 can I have my title. I understand I still owe \$50,000
12 on this car, but could I have the title so I could take
13 it over here and get another loan on that title.

14 It just seems -- I just heard that out loud,
15 didn't I -- crazy to me that he would think that, that
16 he would think that I was a sound minded person by
17 representing that these guys have a first position and
18 for no consideration they are willing to give it up.
19 Why would they. It's just silly.

20 Q. I want to come back and we will talk about
21 some of that stuff. You thought you were good with D.L.
22 Evans and it turned out you weren't, or at least you
23 didn't like --

24 A. No, you are putting words in my mouth.

25 Q. It turned out you didn't like the deal that

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1 D.L. Evans offered you.

2 A. That's not what I said at all.

3 Q. Let's put it this way. You didn't accept
4 whatever D.L. Evans offered you.

5 A. That's not fair either.

6 Q. What is --

7 A. You can say what you want, I don't care.

8 Q. I'm just trying to --

9 A. If you would like me to tell you what
10 happened, I'd be happy to.

11 Q. Go ahead, tell me.

12 A. I asked for \$2.8 million, they turned it down.
13 They said that we don't want to go 2.8 million but we
14 may resubmit it at \$2.2 million be fine there. Then I
15 didn't respond.

16 I contacted Pam and said I was hoping to get
17 this working capital, this money that I have invested in
18 this project back based on the premise that the equity
19 was enough to cover it. If you think you can do better
20 than this, let's see what you have got. And she says I
21 think I can do better than this. Here is what I have
22 got. And she provided Steve Worton. I meet with Steve
23 Worton, Steve Worton says I think we can get you what
24 you want. I don't respond to D.L. Evans.

25 Q. So you made a choice to go a different

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1 direction at that point.

2 A. No, I made a choice to explore another option
3 before I made a decision.

4 Q. But at some point you didn't go back to D.L.
5 Evans, you never went back to D.L. Evans at any time and
6 explore another option with D.L. Evans.

7 A. That's right.

8 Q. And I think Pam testified she had this out to
9 lots of different people clear back in 2005 even.

10 A. (Witness shrugs shoulders.) I don't know.

11 Q. So were you working with her -- you don't
12 remember when you started working with Pam?

13 A. I never really worked with Pam. Like I told
14 you before, I'll restate it, that she was interested in
15 the project. When she learned that there wasn't a need
16 for the acquisition money, she started pursuing avenues
17 for development money. Not at my instruction, not at my
18 request, on her own will, so that she might have them in
19 anticipation of my need of them.

20 I expressed to her that I wasn't interested in
21 exploring the development money at that point. And then
22 it left there for 60 days until D.L. Evans come back
23 with 2.2 million -- or not 2.8 million. You can't have
24 any money back, is what it really boiled down to, you
25 can't have any money back.

1 I didn't say no to D.L. Evans. I didn't make
2 a choice, I just wanted to find out what the other
3 choices were before I made one, and it simply evolved
4 into --

5 Q. Did D.L. Evans say no to you?

6 A. No, they said no to \$2.8 million.

7 Q. You have been involved in lots of different
8 financing for commercial property, haven't you?

9 A. No; some.

10 Q. But you have done some. Is 20 days a pretty
11 quick turn-around on a commercial development
12 acquisition loan?

13 A. Yes.

14 Q. I know the time frames, we may have
15 differences of opinion on when those time frames were,
16 but based on at least Pam and Steve's recollection, from
17 the time that Steve was presented this and the time that
18 the loan actually closed was 20 days; correct?

19 A. Yes.

20 Q. I want to go back to what you talked a little
21 bit about this commitment that you had received from
22 Steve Worton and the bank. You understand based on the
23 testimony of Mr. Worton and the documents that the loan,
24 at least from the bank's standpoint, was considered and
25 approved one time; correct?

1 everything in that package was complete, true, correct,
2 verified, whatever, that we had a deal.

3 Q. And the April 25 date, is there some reason
4 that that's --

5 A. No, no.

6 Q. That's just a day you --

7 A. Just plucked out of the air. So after the
8 25th it became about reconciling the package with facts,
9 meaning title searches, contacting the appraiser,
10 putting it in the bank's format, all of that stuff.

11 Whether I am right or wrong, I want you to
12 understand I don't care and it shouldn't be a principal
13 point of this whole case. I am just saying that this is
14 my recollection of it.

15 Q. I understand.

16 A. Even more impressive if you first got this
17 package on the 21st and still closed it on the 10th,
18 even more impressive.

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 A. Yes.

2 Q. And what ~~date~~ do you understand that to be?

3 A. The 8th or 9th. The 8th.

4 Q. Or maybe the 9th? We can look at it.

5 A. Maybe.

6 Q. In that May 9, 2006, timeframe.

7 A. Yes.

8 Q. Now, you talked about a prior commitment.
9 Tell me about that specifically. When was that --

10 A. I can't. And I want you to hear me disclaim
11 what I am saying because it's very easy to just say I
12 don't know, and I am happy to say that if you prefer
13 that.

14 But my recollection is such that it took three
15 weeks to get it past Steve's understanding. He really
16 was diligent, did a fantastic job of understanding the
17 project. Prior to presenting it to anybody.

18 So I am humbly proposing that it's possible
19 that the 21st, April 21st meeting, that Pam and Steve
20 have offered as the first meeting was simply the first
21 formal meeting of understanding this request,
22 understanding this project, but it was post due
23 diligence.

24 And then after that I think that it got ran up
25 the flag pole and on the 25th of April we knew that if

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
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 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 Q. Now, back to this idea of, as you called it,
 2 kind of a precommitment, was there a precommitment given
 3 to you in writing?
 4 A. There was nothing given to me in writing.
 5 Q. So this precommitment idea that you are
 6 referring to again related to what you claim Steve
 7 Worton told you?
 8 A. Everything was related to what Steve Worton
 9 told me because there wasn't one thing in writing,
 10 nothing. There wasn't an approval in writing, there
 11 wasn't a list of conditions in writing, contingencies in
 12 writing. There wasn't a formal request in writing.
 13 Nothing was in writing.
 14 Q. The conditional approval that you got from
 15 D.L. Evans, was that in writing?
 16 A. Never got a conditional approval.
 17 Q. I thought you said you had kind of a
 18 conditional approval with them, if it came within these
 19 parameters, is that not what you told me?
 20 A. No, I had a preliminary approval based on
 21 these assumptions, and that was just verbal.
 22 Q. So that preliminary approval with D.L. Evans
 23 was a verbal.
 24 A. Yes.
 25 MR. TUCKER: Let's take a little break.

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 Q. And when were these conversations that you
 20 recall with Steve Worton?
 21 A. Within that 48 or 72-hour period prior to
 22 closing.
 23 Q. So if the loan closed May 10, these would have
 24 been --
 25 A. The 8th, 9th, 10th.

1 (Short recess.)
 2 MR. TUCKER: Back on the record.
 3 Q. I am going to refer to a paragraph in your
 4 amended complaint -- I should say your answer to our
 5 amended complaint and your counterclaim. These are
 6 legal documents filed by your attorney regarding this
 7 case.
 8 In Paragraph 10 of that Amended Counterclaim
 9 you state that Steve Worton on behalf of the Bank of
 10 Commerce informed Jefferson that the loan pertaining to
 11 the Southern Hills project had been approved by the
 12 board of directors of the Bank of Commerce.
 13 Is that that April 25 phone conference you are
 14 talking about?
 15 A. I don't know for sure if it was April 25, but
 16 yes.
 17 Q. But you believe it was sometime prior to May
 18 9, 2006.
 19 A. Yes.
 20 Q. I think you said that was over the phone.
 21 A. Yes.
 22 Q. And nothing in writing.
 23 A. Yes.
 24 Q. So that April 25 date is just your best guess
 25 as to when that was?

1 A. Yes.
 2 Q. Also in Paragraph 10 it says, The board's
 3 approval recognized that the bank would have a second
 4 mortgage on the 80 Acre parcel which would preserve the
 5 favorable financing arrangements enjoyed by Jefferson as
 6 well as leaving intact other liquid assets of Morrison,
 7 the related entities of Jefferson.

8 How did that approval from Mr. Worton
 9 recognize that?

10 A. Because the approval -- I understood that it
 11 was approved based on the request modified only to the
 12 extent of the amount loaned. And in the request, which
 13 this (indicating) was part of the request, Exhibit
 14 No. 21, it laid out that I wanted money and that there
 15 would remain this outstanding debt on 80 Acres, Inc.,
 16 these terms right here (indicating).

17 So when it was first brought to my attention,
 18 the very first time that it was brought to my attention,
 19 it was brought to my attention by Steve on I believe the
 20 9th of May. But Mr. Romrell had issues with the second
 21 position on 80 Acres, Inc., and understood that there
 22 was to be a first position to the Bank of Commerce.
 23 Then my response was -- and Steve also expressed to me
 24 that that was not the understanding of the board who
 25 voted on it. That the board voted on my proposal as

1 A. No.
 2 Q. You weren't obligated to accept the loan that
 3 the bank gave you.

4 A. Not legally; I could have lost the project.
 5 Also when that information was given to me by
 6 Steve on the 9th that Tom was requiring a first position
 7 and didn't care how it was provided, but he was
 8 requiring a first position, I'd made several offers to
 9 mitigate the impact of, No. 1, losing those favorable
 10 terms with the 80 Acres, Inc., and also providing a
 11 window of time for clarification so that I wouldn't have
 12 to give up that working capital, which I told Steve
 13 would be detrimental to my business if I were to give it
 14 up. So what I offered him was I will give you the 700
 15 and some thousand dollars, put it in the bank for a week
 16 until you can reassemble that board and make
 17 clarification to Tom. That was one offer.

18 The other offer was leave that financing with
 19 80 Acres, Inc., in place and apply that same dollar
 20 figure to the principal of the Wood property, which
 21 would leave you in exactly the same position, bank, but
 22 it would also leave my terms in place with the 80 Acres,
 23 Inc.

24 So I even offered to Steve to offer Tom, make
 25 the loan less, make the loan seven hundred and some

1 proposed.
 2 Q. But that's talking about the May 9 decision.
 3 A. Yes.
 4 Q. I am asking about this what you called kind of
 5 this preapproval, on this April 25 approval when Steve
 6 Worton called you.

7 A. Yes. Like I said, I don't know if it was
 8 April 25, but it was prior to the 9th.

9 Q. But, again, that wasn't in writing.
 10 A. No.

11 Q. Nothing in writing that said that the bank
 12 would take a second position of that property.

13 A. No.

14 Q. At that point, and I am just using this April
 15 25 date, not because -- you are not sure when it is --

16 A. It could have been March, it could have been
 17 May 2.

18 Q. Whenever it was, were you at that point
 19 committed to accept that loan from the Bank of Commerce?

20 A. Yes.

21 Q. So you had to accept the loan?

22 A. In a practical sense, yes, because I had to
 23 perform by a certain date, and I hadn't been pursuing a
 24 loan with anybody else.

25 Q. But I am saying legally were you obligated --

1 thousand dollars less on the Mike Wood property and
 2 apply that money to the Mike Wood principal. I offered
 3 him five things like just to mitigate this, because once
 4 that loan was paid off, it's paid off, those terms are
 5 gone, I can never rehave those terms again.

6 Q. Explain, make the loan less?

7 A. Yes.

8 Q. If the loan is less, how do you close on the
 9 Mike Wood property?

10 A. Because I take the same amount of money that I
 11 had to come in to closing with to pay off the first
 12 position of 80 Acres, Inc. I could bring that same
 13 amount of money in and put it on the principal of the
 14 Mike Wood property, which would make my financial
 15 statement, my balance sheet far more appealing.

16 Q. You are saying -- still you wouldn't get the
 17 subordination or the paying off the 80 Acres, Inc.?

18 A. Right, but their exposure dollar for dollar
 19 would be the same, because rather than loaning 2.2
 20 million they would be loaning 1.5 or 1.4 something and
 21 then that money that was paying the 80 Acres, Inc.,
 22 piece would go to the principal of the Mike Wood
 23 property.

24 I offered a ton of things to not have that
 25 happen. It was horrible. And there was nothing to do

1 about it. We couldn't wait until the next board
2 meeting, we couldn't wait. I said loan more, loan less,
3 do anything but ask me to do what you are asking me to
4 do.

5 And Steve took all of those, Steve would say,
6 okay, I'll call you back, and he would call Tom --

7 Q. But you understand that the decision, whether
8 the bank agrees to loan money or not, that's a decision
9 they have; correct?

10 A. Yes.

11 Q. They are not obligated to accept your proposal
12 just because it's your proposal, are they?

13 A. No, but that's how it was applied for. Since
14 there weren't any stipulations against the way it was
15 applied for, we moved forward.

16 And nowhere in my -- there are documents in my
17 writing that say that the debt will still remain. There
18 is nothing in there that implies 80 Acres, Inc., will
19 subordinate, the note will be satisfied, submitted as
20 collateral to the bank; nothing, nothing like that.
21 Didn't want that. It doesn't work.

22 Q. But you wanted 2.8 million as well; right?

23 A. Yes.

24 Q. And you realized that what you want and what a
25 lender may eventually approve are not always the same

1 million, I guess.

2 Q. But you continued to operate after that,
3 didn't you?

4 A. No, we suffered, we bled, desperately. So
5 when I told Steve this, you understand there is no way I
6 can maintain my business without my working capital.
7 That working capital will disappear if I do what you are
8 asking me to do. If I don't do what you are asking me
9 to do, I lose this project and every dime that I have
10 spent on this project to date. So I'm at a mitigation
11 point, crossroads right now.

12 Steve says there is no way the bank wants you
13 to fail, there is no way that the bank wants this to
14 fail, there is no way the bank wants this as an asset.
15 So do whatever you think is the right thing for you to
16 do, but if you do this, my hunch is that you will be
17 able to come back into this bank and they will consider
18 whatever your loss was.

19 So we did that, and we did come back into the
20 bank several months later with applications for
21 construction money to continue our operation in Stone
22 Creek Estates and were denied that. And we brought that
23 in at the encouragement of Steve.

24 So we moved forward understanding that it
25 would be the bank's effort to mitigate this impact of

1 thing?

2 A. Absolutely. Two totally different issues.
3 One is I can't have my cash that's been spent
4 reimbursed. The other thing is that they have approved
5 this loan based on, No. 1, my income and my capacity to
6 earn. No. 2, my liquidity and ability to debt service
7 over time because we knew this project wouldn't generate
8 a dime based on these numbers that I provided the bank
9 as a break even point of year four or year seven. So it
10 was going to require debt service for a period of time.

11 Keep in mind the reimbursement wasn't to come
12 to my pocket, it was to go to a CD to debt service the
13 darn loan at Bank of Commerce. That's one issue, I can
14 live without that issue.

15 The problem was we have approved you based on
16 your capacity to earn and your capacity to debt service
17 this loan and now you fully acknowledge, Steve,
18 everybody acknowledges there is not an option for
19 subordination, guys. They are not going to just for
20 free give up first position, we have to pay this off if
21 we want first position. In order to pay that off we are
22 going to liquidate our working capital, which will
23 substantially affect our ability to earn because we are
24 a spec home construction company, \$700,000 borrows \$3
25 million; right? 20 percent, you know, so whatever, \$3.5

1 this new requirement on our business.

2 Q. And that's based on what you claim Steve
3 Worton told you?

4 A. He didn't say those words, but yes.

5 Q. And did he give you something in writing to
6 that effect?

7 A. He didn't give me anything in writing for
8 anything.

9 Q. So as I understood what you said, these are
10 operating funds you think he was promising you?

11 A. No. The ability to operate without those
12 funds. I don't think he was promising it, I think he
13 was using some common sense argument that there is no
14 way that the bank won't do this.

15 Q. So you didn't view that as a loan commitment
16 from the bank?

17 A. No, I didn't. It was just one penny of a
18 dollar's worth of consideration on what to do at that
19 crossroads at that point in the 11th hour.

20 Q. Ultimately you decided that you would accept
21 the terms that the bank offered and close the loan.

22 A. Yes. But I mean there was a temporary
23 atmosphere to that commitment, too.

24 Q. What do you mean by that?

25 A. Meaning I felt like that we would probably go

1 back to the table afterwards and figure something else
2 out. Because it was so clearly expressed to Steve that
3 from a common sense point of view I cannot continue to
4 operate my business as we are doing now without this
5 working capital.

6 Q. Now, you say you thought there would be. Are
7 you saying there was a commitment on the part of the
8 bank?

9 A. No.

10 Q. That's just what you thought would happen.

11 A. Yes. That was a consideration that I made in
12 choosing to do what I did.

13 Q. So that was just your own belief that I think
14 I can maybe go in and get some financing to replace
15 my --

16 A. Some consideration, yes; from the bank, yes.

17 Q. From the Bank of Commerce or somebody else?

18 A. No, the Bank of Commerce, the only one --

19 Q. That wasn't a commitment of Steve Worton or
20 anybody else at the bank, that's just what you thought.

21 A. That's right. But the thought wasn't free of
22 root, it came from the idea that there is no way that
23 this loan could happen if you didn't have that working
24 capital. The bank knows that you have to have this
25 working capital to make this loan work, to debt service

1 equity. Once the option expires I lose the equity, yes.
2 So by owning the option I own the equity at that time,
3 but I don't own the land that the equity is attached to.
4 I think that's a fair distinction.

5 Q. But the one year that you had, I mean during
6 that period of time, wasn't it your belief that you
7 could go out and find investors and maybe even sell the
8 project or bring somebody else in to help you with the
9 development?

10 A. No. That was initially the belief, not the
11 structure of the loan, so I'll tell you exactly what the
12 belief was. The belief was that in a worst case
13 scenario I had \$2.2 million obligation that I needed to
14 satisfy and actually the 80 Acres piece could be
15 maintained over the next five or six years at \$35,000 a
16 year, which was nothing at that time. So I had the
17 option always to take whatever working capital I had,
18 and at the time I had other equity, too, that amounted
19 to essentially a million dollars.

20 So, you know, worst case scenario in a year
21 from that point we could refinance it, get an extension
22 and offer more collateral or offer more cash or discount
23 the loan in some fashion to make it more appealing to
24 continue with another lender or with the same lender.
25 So those were options that were considered as an exit

1 this loan, to continue business making money.

2 Q. Was this loan a bridge loan?

3 A. It was.

4 Q. Under this loan you didn't have any debt
5 service requirements on this loan for a year, did you?

6 A. Sure I did. That was expressed the other day,
7 too, or today -- or yesterday, because it was an annual
8 lump sum interest payment that was due, but it still had
9 to be maintained.

10 Q. What do you mean by maintained?

11 A. The project wasn't going to increase in value
12 at the rate of the interest.

13 Q. But you had the opportunity, I mean on May 9,
14 2006, you don't own anything as it relates to the Wood
15 property other than the option.

16 A. Yeah, and the engineering and all of that,
17 yes, I own a lot of stuff, but I don't actually own the
18 deed, yes.

19 Q. You dumped a lot of money into the project but
20 the only thing you have is the option to acquire it.

21 A. Yes. And the equity. I mean I own the equity
22 at that point until it closes.

23 Q. Well, until you close on it, until you own the
24 property, you don't even own the equity, do you?

25 A. Sure I do. By owning the option I own the

1 strategy failing to find investors or partners.

2 But that said, it was never an option to sell
3 the project at that time. That option only came after
4 2009, in the interest of mitigating the risk to the
5 bank. But at the time it was really to find investors,
6 find partners, get the thing in motion. A gamut, a
7 rainbow of options in there, short-term investors,
8 partners, any of that stuff.

9 But the critical main thing that it hinged on
10 was our ability to go in and demand as a builder
11 building 20 percent of the permits issued at the time in
12 the City of Pocatello, we have this to offer you as a
13 partner, an investor. We get to commit to you that we
14 have a line of credit of \$3.5 million with Washington
15 Federal that we can produce homes on these lots for. We
16 can become our own market. We are a strong partner
17 financially, we have something to lose, we personally
18 guaranteed this partnership and this land.

19 All of those things wiped out with this change
20 of condition.

21 Q. So if that is the case, you really were wiped
22 out by that change of condition, why did you close the
23 loan?

24 A. Because at the time it seemed like the best of
25 all evils, the best of the worst, maintain the equity,

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1 then go back into Bank of Commerce and re-establish some
 2 kind of operating line of credit, utilizing this equity
 3 of seven hundred and some thousand dollars that we had
 4 just contributed to this project, this new unanticipated
 5 equity. Something, something, anything.
 6 But it really was a choice between losing the
 7 equity in this project or losing the ability to make
 8 this project a success after you do maintain the equity
 9 in the project. In the hopes and the understanding that
 10 the Bank of Commerce doesn't want to see it fail, they
 11 will step up and facilitate whatever they have caused in
 12 deficiency.
 13 And the understanding wasn't a speculative
 14 whim, it was extremely sound. You couldn't have
 15 approved the project the way you funded the project. I
 16 don't even think you could have legally done the project
 17 the way you did the project because we had no money.
 18 Q. Who couldn't have legally done it?
 19 A. The bank. We had no capacity at that point to
 20 debt service anything. We had no capacity at that point
 21 to offer a partner anything of consequence.
 22 Q. Wait a second. You are suggesting that
 23 legally the bank couldn't make the loan?
 24 A. I don't know, okay? I don't know. I am
 25 saying that it was so unsound the way that it was, so

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1 they processed it with X amount of money as working
 2 capital, and this liquidity that this buyer has.
 3 And by Steve and everybody else's accounting
 4 without that or if it was \$723,000 less than that, no
 5 way could I have recommended the loan and no way would
 6 the board have approved it. But that's what the bank
 7 made happen, by requiring this new stipulation of first
 8 position.
 9 Q. Do you have some basis to believe that the
 10 bank legally couldn't make this loan to you or --
 11 A. No, it just seems completely unsound. It
 12 seems like you are loan sharking at that time. You are
 13 lending money anticipating failure and anticipating
 14 getting the land back.
 15 Q. Is that what you think the bank did?
 16 A. I don't think the bank thought. I think the
 17 bank should have taken any of the six options I offered
 18 them to buy that amount of time to clarify what the hell
 19 they were doing. They should have done that, I'll die
 20 thinking that.
 21 That was unsound what they did, it was
 22 absolutely unreasonable to at that point say your option
 23 is either to forego \$5 million of equity, of potential
 24 equity, or give up every ounce of operating capital and
 25 your means of income, your ability to earn, and your

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1 ability to debt service the very loan that you are
 2 committing to.
 3 And it's totally against our policy to do
 4 that, it's not in our regulations, it's not in our
 5 protocol for approval, it's not in any of these things.
 6 We know, we recognize that if you pay this land off,
 7 it's coming -- like we recognize that's where the money
 8 is coming from, is from your bank account, because that
 9 was clearly stated to Steve and clearly stated to Tom by
 10 me.
 11 Q. So you are saying that when you closed on this
 12 loan on May 10, that you knew that you wouldn't be able
 13 to keep that property, you didn't think you had any
 14 chance in the world of being able to come up with some
 15 plan to salvage this property?
 16 A. No, that's not fair. I had 48 hours, I hadn't
 17 digested everything, I hadn't processed every option. I
 18 think the bulk of that 48 hours until maybe -- actually
 19 until 11:30 the day of closing my efforts were to change
 20 Tom's mind. They weren't how can I make this work in
 21 these conditions.
 22 But my conclusion at that time, without
 23 processing and without digesting the whole thing is
 24 there is absolutely no way that I can maintain this
 25 income that's depending on this \$3.5 million line of

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1 credit. There is no way I can maintain the same income
 2 without that capital that secures or enables this line
 3 of credit. That seems like common sense. I didn't know
 4 if I was going to get lucky the next day and land some
 5 hospital job that I could build a hospital, I didn't
 6 know that for sure.
 7 So, no, my failure wasn't inevitable, it was
 8 just absolutely unknown, and I didn't know what the
 9 right thing to do was. And I begged Steve for counsel,
 10 I begged Tom for counsel.
 11 Q. Ultimately, though, the decision was yours.
 12 A. It was, and the decision considered those
 13 other things that I just said. They considered the
 14 bank's ethical obligation to facilitate or to compensate
 15 or to cover, mitigate what they had just taken --
 16 Q. Wait a second. You are saying some ethical
 17 obligation again. Was there some discussion about some
 18 impropriety or ethical obligation at that point?
 19 A. Not impropriety but there was a discussion
 20 with Steve that says the bank doesn't want to see you
 21 fail in this, the bank is not going to set you up to
 22 fail. Just get through this and then go back and have
 23 this conversation.
 24 Q. Ultimately you had to decide what was best for
 25 you?

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1 A. I did, I did.
 2 Q. And you made a decision.
 3 A. I did.
 4 Q. And that decision as you said was not based on
 5 some promise of future financing.
 6 A. No, but it was in consideration of those
 7 things.
 8 Q. Those are factors that you considered.
 9 A. Yes, consideration.
 10 Q. But not a legal commitment on the part of the
 11 bank to provide financing.
 12 A. Sure, that's right. And I honestly didn't
 13 know what the equity position to my balance sheet would
 14 do. There was part of me that thought maybe the
 15 increase in this equity, the increase in my balance
 16 sheet, maybe that changes things, you know, maybe that
 17 provides another avenue for continued financing --
 18 Q. But there's lots of opportunity --
 19 A. Yes, but there is no way to know that at 11:30
 20 on Thursday, the day we are closing.
 21 Q. I know Jefferson Enterprises paid a loan fee
 22 at closing to the Bank of Commerce.
 23 A. Right.
 24 Q. Prior to that, Jefferson Enterprises didn't
 25 pay anything to the Bank of Commerce, did they?

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1 A. They did at the end of the term.
 2 Q. I am talking about prior to the loan --
 3 A. I don't know. I think that there was some
 4 money paid for an appraisal that was ordered by D.L.
 5 Evans but paid for by the Bank of Commerce. I think
 6 that happened. I am not positive of that, though.
 7 Q. I'm saying did Jefferson Enterprises pay the
 8 bank any loan fee prior to closing?
 9 A. Not that I am aware of.
 10 Q. I want to go back, I don't want to spend a lot
 11 of time on this April 25, I know it's not the exact
 12 date, but this precommitment. That was just we think
 13 we might be able to get something approved, I mean it
 14 was --
 15 A. No, it was more than that.
 16 Q. Not in writing but --
 17 A. Nothing was in writing, understand me saying
 18 that.
 19 Q. What were the terms of this loan that the bank
 20 had committed to you at that time?
 21 A. I believe there was an interest rate
 22 expressed. I believe that there was a condition or a
 23 change from my application that was spelled out in the
 24 amount, the loan amount, not 2.8, we will do 2.2. No
 25 other conditions. And the term, one year. That's it,

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1 that's it. 2.2 for one year.
 2 The words weren't saying everything else in
 3 your application or loan request are acceptable or
 4 approved, but there was certainly the effort to clarify
 5 the changes to my loan request and application.
 6 Q. So they were telling you what they thought the
 7 changes would have to be.
 8 A. Yes.
 9 Q. In order to even have the board approve that
 10 loan.
 11 A. It was more than that, it was somebody had
 12 said we could do this. If everything checks out, after
 13 due diligence, if everything checks out as you implied,
 14 we could do this, it was that far.
 15 Q. Again, we have a difference of opinion. Steve
 16 Worton has testified that he thought that you would be
 17 subordinating the 80 Acres, Inc., property.
 18 A. Yes, I heard that. Again, never ever
 19 expressed, implied, ever.
 20 Q. Did you ever approach the 80 Acres, Inc.,
 21 people? I think you said you did.
 22 A. I did, that last day. The day of closing I
 23 called Ashley Lyman up and I said I know this is going
 24 to sound insane to you, but is there any way that I
 25 could pay you some portion of the balance outstanding

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1 for a subordination, anything short of the 700 and some
 2 odd thousand dollars. Could I pay you a quarter million
 3 dollars for your first position, I could I pay you a
 4 half a million dollars, could I pay you \$699,000 for
 5 your subordination.
 6 Because the bank is requiring subordination
 7 for your position in some form or another. They want
 8 first position in order to close on this other piece.
 9 And he responded exactly like any thinking person over
 10 12 years old would have responded, with a chuckle, no,
 11 you can't have the title to that car that you owe
 12 \$50,000 on until you pay the \$50,000 off.
 13 Q. At that time you had this preapproval. Did
 14 you pay something to the Bank of Commerce to hold that
 15 preapproval open?
 16 A. You have asked that four times. No money was
 17 paid prior to the loan fee. Nobody ever paid for a
 18 preapproval to a bank.
 19 Q. What was your understanding of the point in
 20 time that Jefferson Enterprises became obligated to the
 21 terms of the loan as offered by the Bank of Commerce?
 22 A. Legally the day we signed papers.
 23 Q. Up until the time you actually closed the
 24 loan --
 25 A. But practically before that, because we had no

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1 other options.
 2 Q. I understand you had these other sources or
 3 influences that may have been causing you to act certain
 4 ways, but legally you could have walked away from that
 5 loan up until the minute you signed the documents.
 6 A. Certainly. And that's really what the thought
 7 process was, an evaluation of which is the greater loss,
 8 which is the lesser evil, on that day. And it took some
 9 doing to round up that money in that much time.
 10 Q. How did Jefferson, you round up the money to
 11 pay off the 80 Acres, Inc., loan?
 12 A. Depleted almost all of its cash. Withdrew it.
 13 Dug it up, unburied it.
 14 Q. In Paragraph 13 of your counterclaim you state
 15 that following the abrupt change in position, the bank
 16 through its officers recognized that it would provide
 17 additional financing to continue the Southern Hills
 18 project, recognizing that its actions had impacted the
 19 financial ability of Jefferson and other related
 20 businesses to continue their operations by consuming a
 21 substantial portion of the liquid financial reserves.
 22 This representation was made prior to the time the loan
 23 was to close and the time the Wood parcel was to be
 24 purchased.
 25 I thought you said there wasn't any commitment

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1 on the part of the bank.
 2 A. There wasn't anything in writing.
 3 Q. I think you said there wasn't any commitment.
 4 A. No, I think you asked me if there was a
 5 commitment in writing. It was a little bit ambiguous
 6 for sure, but, yeah --
 7 Q. It was this idea maybe they would loan you
 8 some money?
 9 A. More than maybe; likely, very likely. And
 10 that was the exact context without any flavor to it,
 11 exactly the context. There was no way the bank wants
 12 you to fail, they don't want to own this piece of
 13 property, they are not going to do this. You know, get
 14 some applications together for some homes and bring them
 15 in.
 16 Q. So you would have to go out and do something
 17 and then they would maybe consider another loan.
 18 A. I don't know if I went that far with it, even.
 19 Maybe it was just offering a line of credit to continue
 20 construction in place of what the capital would provide.
 21 Q. So was there an offer of a line of credit?
 22 A. No. There was the offer of the potential of a
 23 line of credit.
 24 Q. But you knew that wasn't a commitment.
 25 A. I think that there was to the extent -- why

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1 are you laughing? Do you not want the answer?
 2 Q. I do want the answer.
 3 A. Then why are you laughing.
 4 Q. What was the commitment?
 5 A. I think the commitment was a little bit
 6 ambiguous versus how you are trying to package it. And
 7 I am aware of what that sounds like. The commitment was
 8 the bank will do whatever it can to facilitate your
 9 success.
 10 Q. And this commitment was, again, verbally from
 11 Mr. Worton?
 12 A. Yes. And it was assuming the bank's logic --
 13 Q. So the bank would have to approve it.
 14 A. Yes. And probably define terms and all of
 15 those things, you know.
 16 Q. So none of that was decided or discussed.
 17 A. That's right. The commitment was broad and
 18 more in principle, you know, the bank will do what it
 19 can to facilitate your success with this project and
 20 continued income.
 21 Q. I mean there wasn't this discussion, where you
 22 said, okay it would be this much money for this long,
 23 for this interest rate or --
 24 A. That's right, you are right.
 25 Q. In Paragraph 15 of your counterclaim you

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1 allege that the bank deviated from recognized lending
 2 standards. What specifically are those lending
 3 standards that you are referring to?
 4 A. No. 1, making sure that the loan can be debt
 5 serviced. No. 2, making sure that I have a loan to
 6 value of whatever the market and risk warrant.
 7 Q. I guess I am asking more about the standards
 8 in general. Is there some recognized standards that you
 9 are aware of?
 10 A. I think that there are standards in a loan
 11 having an ability to be successful or to be paid back or
 12 whatever.
 13 Q. What governing body recognizes these standards
 14 that you --
 15 A. I think it's probably just the industry. I
 16 have never heard in my life of a loan that doesn't
 17 require the capacity, the capacity, even if it's a long
 18 shot, the capacity to debt service this loan. So we are
 19 looking at a potential debt service requirement at the
 20 end of that year of a quarter million dollars, maybe,
 21 maybe.
 22 And clearly no capacity to do that, none
 23 whatsoever, not even a considerable minute chance that I
 24 could debt service this in the conditions that I was in
 25 ten minutes prior to closing and ten minutes after

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<p>1 closing the loan, by any evaluation.</p> <p>2 Q. You could have gone out and gotten an</p> <p>3 investor --</p> <p>4 A. I couldn't at that point because I didn't have</p> <p>5 any financial strength to offer anything to an investor.</p> <p>6 I had a project that was sellable.</p> <p>7 Q. Did you try to sell it?</p> <p>8 A. I didn't the first year. I offered.</p> <p>9 Q. You offered or you --</p> <p>10 A. I didn't market it, I offered it to the people</p> <p>11 that I pursued as investors.</p> <p>12 Q. So you looked for investors, you didn't try to</p> <p>13 sell the project?</p> <p>14 A. But I did offer to the investors that they buy</p> <p>15 it at the end of that -- within three months of the end</p> <p>16 of the term.</p> <p>17 Q. I understand that you think that there were</p> <p>18 these recognized standards or there are these standards,</p> <p>19 but you are not aware of any set standards like when you</p> <p>20 build a house, there are some building codes that you</p> <p>21 have to follow; correct?</p> <p>22 A. I think very similar to my standards there are</p> <p>23 those same standards in the building industry.</p> <p>24 Q. I am asking you what those standards are.</p> <p>25 A. I think the standards are that there needs to</p>	<p>1 borrowing money that you rely on to make that statement</p> <p>2 that the bank deviated from recognized lending</p> <p>3 standards?</p> <p>4 A. No, I guess not. I mean I have had</p> <p>5 conversations with other bank officials and gathered</p> <p>6 that, yeah, that is a bad loan.</p> <p>7 Q. You understand different lenders can have</p> <p>8 different criteria and --</p> <p>9 A. I don't think they do, I don't think they have</p> <p>10 a lot of different criteria. I don't think there is a</p> <p>11 lot of difference between any of the lenders.</p> <p>12 Q. And that's just based again just on your</p> <p>13 experience.</p> <p>14 A. Right. On their requirements, Washington</p> <p>15 Federal's, Bank of Commerce's, Bank of Idaho's,</p> <p>16 Citizens', their requirements are all within tiny, tiny</p> <p>17 differences.</p> <p>18 Q. In Paragraph 15 you also allege that the bank</p> <p>19 committed other wrongful conduct. What other wrongful</p> <p>20 conduct do you believe that the bank committed?</p> <p>21 A. I think that they should have considered one</p> <p>22 of the other options in order to mitigate the loss of</p> <p>23 the financing that was established and keep my balance</p> <p>24 sheet more sound. And it wouldn't have hurt the bank at</p> <p>25 all. It wouldn't have changed the bank's exposure or</p>
<p>Page 91</p> <p>1 be some established loan to value. There needs to be</p> <p>2 some established capacity to perform on the debt service</p> <p>3 requirement. There needs to be some exit strategy or</p> <p>4 capacity to liquidate. There needs to be all of those</p> <p>5 things in place, I think, for your industry to borrow</p> <p>6 money. I think there is a difference between the</p> <p>7 banking industry and cash and loan places, I think there</p> <p>8 are different set standards.</p> <p>9 Q. So your belief is that somehow those</p> <p>10 standards, whatever they may be, weren't followed.</p> <p>11 A. Sure.</p> <p>12 Q. And then do you have any expertise in those</p> <p>13 standards?</p> <p>14 A. Just my own, the loans that I have taken out</p> <p>15 in the past, listening to their evaluations, as to</p> <p>16 whether the loan was acceptable or not or whether it was</p> <p>17 a good loan or bad loan, whether the risk versus reward</p> <p>18 were viable to justify lending money.</p> <p>19 Q. But you don't have any expertise in those</p> <p>20 standards other than just your personal experience in</p> <p>21 borrowing --</p> <p>22 A. Yes, but I would say they are substantial. My</p> <p>23 personal experience is probably greater than most in</p> <p>24 borrowing money, establishing lines of credit.</p> <p>25 Q. Anything other than your experience in</p>	<p>Page 93</p> <p>1 risk or anything, it would have been fine, they could</p> <p>2 have done a million things, twelve things differently to</p> <p>3 maintain their own position and not affect mine so much.</p> <p>4 Q. Other than follow one of your recommendations,</p> <p>5 what other wrongful conduct did the bank engage in?</p> <p>6 A. I think they changed the terms at the last</p> <p>7 minute. I think they went through and closed a loan</p> <p>8 they had no business closing, none whatsoever. I think</p> <p>9 they did a lot of wrong things, yeah. I think the whole</p> <p>10 process was wrong, there was nothing in writing, there</p> <p>11 was nothing stipulating anything, there was nothing</p> <p>12 stipulating my request to the board. It was just my</p> <p>13 request, my binder. It's my binder.</p> <p>14 Q. Is there something in your mind legally, can</p> <p>15 you point me to something that says you can't do that?</p> <p>16 A. No, but it seems so convenient and</p> <p>17 hypocritical for you guys to be able to take any high</p> <p>18 ground or comfort whatsoever in any misunderstanding</p> <p>19 when you make no effort to clarify an understanding,</p> <p>20 none whatsoever. My signature is not on one thing, you</p> <p>21 know.</p> <p>22 Q. You did sign the loan documents; correct?</p> <p>23 A. Yes, but not on one thing that was applied,</p> <p>24 nothing. A million, you have twelve things for sure,</p> <p>25 that practice.</p>

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1 Q. So what are those twelve things?

2 A. I don't know how many I have just named.

3 Q. You said that you didn't sign anything.

4 A. They didn't have any clarification of

5 protocol, what I was asking and what I needed. They

6 didn't have any format of exchange between the applicant

7 and the bank or the bank to the applicant, no set

8 conditions or contingencies. I have seen far more in

9 depth real estate offers and purchases and sales; you

10 offered nothing, nothing.

11 Q. You would agree that this was in a pretty

12 condensed timeframe?

13 A. Very much so. But I don't think the protocol

14 would have cost one minute more of time. You still went

15 through the same steps. Had there been some sort of

16 protocol, I think that there could have been some

17 options maintained. So I think that, I think that the

18 bank is unwilling to look at its impact on me --

19 Q. That goes back to not going with one of your

20 options?

21 A. Or offering another one. It doesn't matter,

22 it doesn't have to be one of my options, just something

23 else. Just a ton of things, terrible. Approving the

24 loan the way they approved it.

25 Q. So you didn't like the approval that you got?

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1 A. Are you kidding me? They gave me a \$2.2

2 million loan with sixty some thousand dollars of working

3 capital in the bank, liquid asset in the bank, and no

4 means of continuing the income that they used to approve

5 the loan? Yeah, there is some issues there, I think.

6 Q. Then you decided to go ahead with the loan.

7 A. Clearly, you can say it eight more times and I

8 am going to say yes every time.

9 Q. Good. In Paragraph 15 you allege that

10 Jefferson and other related entities lost the ability

11 to take advantage of the foreseeable prospective

12 economic opportunities related to the 80 Acres parcel,

13 the Southern Hill projects, and other real estate

14 developments.

15 A. And this one wasn't truly foreseen, like to

16 the extent that it impacted us, it wasn't foreseen or

17 foreseeable with my set of knowledge. It was truly

18 after we went out courting investors, them asking for

19 financial statements and them seeing our weaknesses and

20 defining our weaknesses as exactly what had just

21 changed.

22 Q. So you at the time, you didn't realize the

23 impact it potentially could have, you said you later

24 discovered --

25 A. I knew it would have an impact on my appeal to

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1 investors. I didn't fully appreciate how to the extent.

2 Q. Do you believe that the downturn in the

3 economy had any effect on these things?

4 A. For sure, but not at that time. There was no

5 downturn in the market in the spring of 2006.

6 Q. In fact at that time things were going upward

7 and onward.

8 A. Yes, and it was definitely in my agenda to

9 establish an investor immediately and go like crazy. We

10 had I think on that 80 Acres, Inc., piece, Phase 1, 280

11 lots that were flat high density lots that were really

12 inexpensive to develop and the idea was we could

13 probably hit a break even point through those.

14 Q. At that point in time it was almost as if you

15 could get a piece of property and develop it, if you had

16 any development skill at all, you could turn a profit on

17 a project?

18 A. Yeah, because of the way we were positioned,

19 yes. We had competitive positions from the purchase of

20 land, design of land, put it through excavation,

21 development, construction, final product. Our

22 production costs, yeah, we had a fantastic competitive

23 advantage. And we were talking about servicing a market

24 that really wasn't being serviced in Pocatello that

25 would have extended far beyond where the rest of the

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1 market ended. We wanted to build \$180,000 houses as you

2 have in your packet.

3 Q. And those were some of the factors, again,

4 that would lead you to think that even though I might

5 not like the offer, loan offer, that the Bank of

6 Commerce has given me, I think there is enough to go

7 forward because we hope all of these things happen?

8 A. I don't know if I thought that, I don't think

9 that's fair. I think that's kind of putting words into

10 my mouth. I don't know what I thought at that point.

11 It threw a stick in the spoke, threw us. I think at

12 that point it really was different, it was regroup,

13 regain, re-establish a game plan, maintain the equity

14 that you just spent a million dollars and two years of

15 your life building.

16 Q. How did you calculate the damages that you

17 think that you suffered as a result of the bank's

18 conduct?

19 A. I don't know. This got me in trouble on the

20 last one, too, I don't know what my damages are. I

21 don't know what my damages are. I know what my damages

22 are in principle. I don't know the amounts of them yet

23 because I am not that comfortable with the

24 reconciliation.

25 I have in my mind that we would have hit a

1 break even point and it would have taken the pressure
2 off by 2009 and we could have at that point been
3 Satterfields and just provided lots as the market
4 demanded. The project is worth \$60 million, it's a
5 thousand lots. I don't know over what timeframe.

6 That's the variable that you really -- I want
7 you to hear me say, that's why I haven't defined a
8 number on that. I think you need somebody a little bit
9 smarter than me to define that number, but I can tell
10 you in principle where the damages came from.

11 Q. That was where?

12 A. From just standing in the way of this
13 project's success.

14 Q. Can you think of anything else?

15 A. Yeah, it was lost revenue in lot sales, it was
16 lost revenue in construction, excavation. Had this set
17 of equipment that we owed less than \$200,000 on that we
18 bought for seven hundred and some thousand dollars that
19 now was now sitting, weeds growing around it.

20 Q. Did the downturn in the economy have anything
21 to do with that?

22 A. I think it does have an influence. But that's
23 what I'm saying, I don't know what that number is after
24 the downturn in the economy, but it's certainly plus
25 something. The value is still something. Maybe it

1 paranoid or conspiracy theorist, but it is hard to
2 ignore that there could be some inherent benefit to the
3 Bank of Commerce recovering that piece of property under
4 those terms.

5 Q. What do you think the inherent benefits to the
6 Bank of Commerce would be?

7 A. Well, I think it could become an asset to
8 another client that has got the capacity to bring more
9 money to the bank. And it also has a value to a
10 potential client that you don't have that has a lot more
11 financial strength than I do. Like you said, I am not
12 saying that I have any evidence, there is nothing in
13 writing, I'm not -- I am just saying that, yeah, there
14 could be some motivation for the bank getting this piece
15 of property back under those terms.

16 Q. But do you believe that that was the motive
17 that drove this supposed change as you call it?

18 A. I don't know for sure, but, no, my gut and my
19 instinct is that it was just simple negligence, the left
20 hand didn't know what the right hand was doing, and that
21 Tom's arrogance wouldn't consider something that would
22 mitigate its impact on me. It was absolute negligence
23 at least.

24 Q. You don't feel like Steve Worton was
25 purposely trying to mislead you --

1 wasn't what I projected it to be in 2006 or 2005 or
2 2004, but it still has some value there.

3 Q. We have talked about the lack of writing. You
4 don't have any written documents from the Bank of
5 Commerce on any of these commitments that --

6 A. Brian, how many times have you asked me that?

7 Q. I don't know.

8 A. At least five; right? Maybe six. There is
9 nothing in writing. There wasn't even a final approval
10 in writing.

11 Q. In Paragraph 19 of your counterclaim you state
12 that the change of position of the bank, and this is
13 talking about the change in 80 Acres financing, was
14 timed in such a manner that Jefferson was unable to seek
15 alternate financing to exercise the option to purchase
16 the Wood property.

17 Is it your position that the bank purposely
18 misled you, kind of led you along to that point and then
19 kind of hit you below the belt?

20 A. I haven't said that and you didn't read that
21 in that Paragraph 19, that is a presumption you just
22 jumped on.

23 Q. No, I am just asking --

24 A. I would say minimum negligently and I don't
25 know, I don't know, you know. I don't fancy myself a

1 A. I don't think Steve Worton misled me. I think
2 Steve Worton came in here today and absolutely said 20
3 things that were not off but were totally untrue. Now,
4 whether that's because he doesn't remember or whether
5 it's because he signed some hold harmless thing with the
6 Bank of Commerce, I don't know, it doesn't matter to me.
7 I know what happened with Steve. I think Steve was
8 forthright, I think Steve was as frantic as I was those
9 two days before to clarify with Tom the board's
10 intention.

11 Q. You are saying it wasn't purposeful, you don't
12 think it was --

13 A. I'm not saying it wasn't purposeful. I am
14 saying I don't think that it was but I don't know. I
15 want that answer to be enough.

16 Q. But you don't have any facts that would
17 support a belief that you can point to that caused you
18 to say this was purposeful because of this?

19 A. That's right.

20 Q. That might be your suspicion but --

21 A. I could say it could have been purposeful at
22 the benefit to Bank of Commerce because of this, doesn't
23 mean that was your intent.

24 Q. That's what I'm saying, you don't have --

25 A. Nothing in writing.

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1 Q. That's not what I'm asking. You don't have
2 any, you are not aware of some facts, you haven't heard
3 from somebody that the bank was trying to get this
4 property from you for the benefit of some other
5 customer?

6 A. No facts. I think I mentioned to Mike one
7 time that his mortgage department lady or something had
8 expressed that this land was going into foreclosure at
9 the time I was trying to liquidate it and was speaking
10 with Allen Ball and a few Idaho Falls money people. It
11 was out on the street that the land was going into
12 foreclosure prior to going into foreclosure because of
13 the Bank of Commerce, because of a lady at the mortgage
14 place. And I think I gave you her name and I think you
15 guys did due diligence in exploring whether there was
16 any truth to it or not. And I kind of let it die, too,
17 I don't really think there is any point in pursuing it
18 either. It was legitimate, it came from someone who
19 only could have heard it from her.

20 Q. But that was way past closing the loan.

21 A. Yes, way past closing the loan.

22 Q. I am talking about things that happened before
23 the loan closed that made you think that they were --

24 A. I think that Tom didn't want the loan to go
25 through. I think that Tom called my bluff. I think

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1 that Tom didn't think that I'd perform. So I don't
2 think that Tom went in there and re-evaluated it based
3 on new numbers, based on my new financial situation
4 after paying this piece of land off. I think he called
5 my bluff. I truly believe that. I think he did it
6 negligently, I think it was dishonest, I think it was
7 shitty.

8 Q. So was this a power struggle between you and
9 Tom --

10 A. A little bit, but it wasn't between me and
11 Tom, it was between Tom and his board, who voted
12 unanimously in favor of this project.

13 Q. You said Tom, you didn't think Tom would call
14 your bluff.

15 A. I think that Tom called my bluff is what I
16 just said.

17 Q. So he didn't think you would ever close --

18 A. That's right.

19 Q. And you were going to show him that you were
20 going --

21 A. No. You just put those words into my mouth,
22 Brian, that was an absolute ridiculous effort to
23 manipulate what I just said. It was sickening, don't do
24 it anymore. I didn't say anything remotely close to
25 that.

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1 I said that's what I think that Tom's
2 intention was. I didn't act on behalf of that
3 whatsoever. I acted exactly as I told you I acted. I
4 acted on behalf of mitigating the loss to me the best I
5 could. I took the least of the evils, whatever. This
6 one would cost me less than this one would. And that's
7 how I acted and I was in a panic.

8 I don't know if I made the best choice or not,
9 I regret it some days and some days I think -- you guys
10 were horrible. I don't know, it's definitely wrecked my
11 life, it definitely has had an impact. I don't think
12 it's solely due to the Bank of Commerce either, I think
13 the market itself, the downturn in the market. Bank
14 policy on spec construction and lending. Our own
15 construction practices. A million things have played
16 into it.

17 But as it pertains to my life, yes, you guys
18 affected my life in an astronomically huge way by taking
19 my working capital away when I needed it the most. And
20 I think you guys solely provided those two options for
21 me to choose from. I didn't want those as choices, I
22 didn't ask for those as choices. You guys provided
23 those as my choices, and you did it 48 hours before I
24 was going to lose this project that I had everything
25 invested in. And you did it ugly, it was ugly.

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1 And I think if you ask the board of directors,
2 they would all probably tell you Tom was not in favor of
3 this project from the start. They would also probably
4 tell you that we voted unanimously in favor of the
5 project.

6 Q. Was Tom one of the voting members --

7 A. I don't think he was, I don't know that. But
8 I don't think at the time he was. Do you know?

9 Q. Those are again your suspicions.

10 A. Do you know if Tom was at the time?

11 Q. I do, but we are here for your deposition, not
12 mine.

13 A. But your clarification of that point may help.

14 Q. During your discussions with Steve Worton, did
15 you understand that Steve Worton didn't have authority
16 by himself to approve this loan?

17 A. I felt that he did.

18 Q. What was it that led you to believe that he --

19 A. I'm sorry, strike that, that's not right. I
20 felt he had the authority to represent the bank. In
21 fact I somewhat knew that. Whether that was right or
22 wrong, I don't know, but I knew at that point that Steve
23 had the authority to represent the bank.

24 Q. But you knew he had to go get approval from
25 the board of directors on a loan of this size.

1 A. Yes.

2 Q. And, to your knowledge, does the bank's
3 insistence that it have a first lien on the 80 Acres, is
4 that somehow a violation of any statute that you are
5 aware of?

6 A. No.

7 Q. Is it a violation of any regulation or rule
8 that you are aware of?

9 A. I think like you said, they can ask for
10 whatever they want. They can ask for my first born, I
11 guess, if they want.

12 Q. Would you agree that by requiring a first
13 position on the 80 Acres property, that that would
14 minimize the exposure to the Bank of Commerce?

15 A. No, no. In fact I think it created exposure
16 to the bank.

17 MR. LARSON: Can I break right here for a
18 minute.

19 (Discussion off the record.)

20 Q. (By Mr. Tucker.) So you don't know why the
21 bank wanted the 80 Acres parcel as first lien
22 collateral, do you?

23 A. I think that they felt like -- I think that
24 Tom felt like it would strengthen his position and
25 decrease his exposure. I think in this situation,

1 the bank would take a second position on the 80 Acres,
2 is that right, the 80 Acres, Inc., property?

3 A. I believe that I explained that to Steve
4 perfectly clear, I believe that that was spelled out in
5 my application, I believe that Steve understood that was
6 the way the loan was proposed, and I believe that's how
7 Steve presented it. And I believe that when Steve gave
8 me his representation of the bank's preliminary
9 approval, I believe that it was not a change to my
10 application stipulated anywhere, as the other changes
11 were stipulated. I believe that it was a surprise to
12 Steve that Tom expressed some sense that it was supposed
13 to be or intended or represented to offer that first
14 position.

15 Q. You have heard Steve say that --

16 A. I did, I heard it loud and clear.

17 Q. -- that he thought it was going to be
18 subordinated.

19 A. I did.

20 Q. Do you think he is just mistaken?

21 A. I don't know. I know that that was not his
22 understanding when we were across the table from each
23 other for endless hours in 2006, the spring of 2006. I
24 believe that it was represented that the balance of
25 value, whether that be second position or whatever, be

1 though, there was 15 things he could have done to gain
2 that same advantage without costing me that, what he
3 did.

4 Q. In part of your counterclaim is that the bank
5 interfered with your prospective economic advantage.

6 A. Yes.

7 Q. Is that the prospective economic advantage of
8 Jefferson Enterprises moving forward on this project?

9 A. In every way, yes. It affected my ability to
10 earn, my ability to borrow, my ability to borrow at more
11 appealing terms, more competitive terms, from my
12 production, construction. It affected my appeal to
13 other investors, my ability to court investors, what I
14 have to offer investors, my financial strength.

15 Q. Again, it affected Jefferson Enterprises, not
16 all the details but --

17 A. But all of those details affected the success
18 of Southern Hills, which was an asset of Jefferson
19 Enterprises, yes.

20 Q. So that's what you are referring to when you
21 are referring to interfered with the prospective
22 economic advantage.

23 A. Sure; disabled.

24 Q. As I understand it, it's your position that
25 Steve Worton -- you believe Steve Worton told you that

1 subordinated to the bank from me.

2 Q. Say that again.

3 A. The balance of value or the balance of equity,
4 whether that be a second position or not, whatever that
5 value was, could be a guarantee, it could be whatever,
6 would be subordinated by me, from me to the Bank of
7 Commerce. But nothing would ever be subordinated by 80
8 Acres, Inc., never represented, never implied. In fact
9 quite the opposite on this (indicating), that he said
10 was the first page of my loan request.

11 Q. But you understand his loan presentation
12 indicated that it be a first deed of trust on 385 acres?

13 A. I never saw it so I have no idea.

14 Q. But you understand that now after looking at
15 the documents that's what he --

16 A. Not necessarily.

17 MR. LARSON: Objection, it does call for
18 speculation. And I move to strike the answer.

19 Q. Your complaint or counterclaim talks about the
20 bank changed its position. Did you think it changed its
21 position -- when they made these representations that
22 you believe they made to you, that they would be in a
23 second position, do you believe that they intended to
24 change them later on at that time or is that something
25 that happened after the fact?

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1 A. After what fact?

2 Q. After these supposed representations, again

3 you go back to that March 25 date --

4 A. April 25.

5 Q. Excuse me, April 25 date --

6 A. You keep going back to that date.

7 Q. That's the date you gave so that's why I go

8 back to it.

9 A. No, I didn't give you that date.

10 Q. I understand that you don't know for sure but

11 that was just a date that you picked. You said you

12 picked it out of the air so it's just a date I use to

13 bring us back to this precommitment that you talked

14 about.

15 A. But understand that that date is just sometime

16 before.

17 Q. I do, I apologize if I haven't acknowledged

18 that before. But is it your belief that when they

19 supposedly gave you this precommitment that they knew at

20 that time that they were later going to change their

21 position?

22 A. No, I don't think. And you keep saying

23 "they," understand the only contact was Steve until the

24 day before the loan and then that was Steve and Tom. So

25 "they" being Steve, no, I don't think that he had any

Page 111

1 intention of changing the game at the last minute.

2 Q. What was Sonya Morrison's involvement with the

3 loan with the Bank of Commerce?

4 A. None.

5 Q. Did she have any communications to your

6 knowledge with anyone from the Bank of Commerce

7 regarding the loan?

8 A. She might have with Steve that day before but

9 it would have been in conference type setting with me.

10 And she did go to closing with me with a bag full of

11 money and checks on the day of closing and signed the

12 closing docs. She did help me round up that money that

13 day. She was extremely involved with those two days.

14 She was sitting next to me during my conversations with

15 Steve. So, yes, she was sitting next to me at 6:30 in

16 the morning when I was talking to Steve, and she was

17 sitting next to me at 7:30 that night talking to Steve.

18 Q. So she was present when you spoke with Steve.

19 A. Yes.

20 Q. Other than that, to your knowledge, did she

21 have any involvement with the loan?

22 A. No.

23 Q. Were you the one primarily responsible for the

24 loan with the Bank of Commerce?

25 A. Yes.

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1 Q. Do you have a copy of your divorce settlement

2 that details the division of these entities that we have

3 talked about?

4 A. Somewhere. It's simply this: An assignment

5 of all rights, to all assets and liabilities, in

6 interests of all the entities; it's an assignment of all

7 of that, there is deed in lieu, whatever, quitclaim

8 deeds on everything.

9 MR. LARSON: The settlement agreement is a

10 matter of public record. We can supply you with a copy

11 of it.

12 Q. I don't want to spend a lot of time on this,

13 but I want to go through a few of these documents that

14 are attached to our complaint, and I won't make this an

15 exhibit, I don't think, but I am going to walk through

16 these.

17 Exhibit A to our complaint filed in this

18 matter is a promissory note for the \$2,223,805, Exhibit

19 A to the complaint. Do you remember signing that

20 document?

21 A. Yes.

22 Q. And is that your signature on that document?

23 A. Yes.

24 Q. And you would acknowledge that you received

25 those loan proceeds, the 2 million, the amount that's

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1 set forth there?

2 A. Yes, or something close to it, yes.

3 Q. Let's look at Exhibit B --

4 MR. LARSON: Did we deny any of those things

5 in our answers?

6 MR. TUCKER: I don't remember if you did.

7 MR. LARSON: I don't believe we did. Go

8 ahead.

9 Q. (By Mr. Tucker.) The same thing with Exhibit

10 B. This is a note for the 400,000 a year later. The

11 second page of that -- the third page of that is a

12 signature of Dustin Morrison. Do you recall signing

13 that document?

14 A. I don't recall it but I don't doubt it. Can

15 that be okay? I don't doubt that I signed it for sure

16 and that this was capitalization of interest for the

17 past year in order to extend the loan for another I

18 think six months or something like that.

19 Q. Let's look at Exhibit C. That's a mortgage on

20 this property. Again, Page 7 of that has your signature

21 on it. Do you recall signing the mortgage for the

22 Southern Hills property?

23 A. I probably don't but I have no doubt and I

24 will totally just stipulate that I did, I am fine with

25 that.

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1 Q. Exhibit D, the same thing, it's another
 2 mortgage at the time of the \$400,000 loan. Any reason
 3 to doubt that you signed that?
 4 A. None whatsoever.
 5 Q. Exhibit E is an extension agreement or a
 6 modification to the deed of trust terms, looks like
 7 another \$20,000 --
 8 MR. LARSON: Deed of trust?
 9 MR. LARSON: Mortgage or deed of trust.
 10 Q. Again, does that have your signature on it?
 11 A. Yes.
 12 Q. And the same thing with F, is a personal
 13 guaranty that you signed, do you recall signing that?
 14 A. I don't.
 15 Q. At least do you acknowledge that you did sign
 16 a personal guaranty?
 17 A. I am good with stipulating that.
 18 Q. The same thing with -- there is actually two
 19 guarantees there, one for the two million plus loan and
 20 and one for the 400,000 loan.
 21 A. Yes.
 22 Q. You agree or are aware that you personally
 23 guaranteed --
 24 A. Don't doubt that at all.
 25 Q. If you would turn to Page 4 of the complaint,

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1 there is a summary of at least what is alleged to be
 2 owing and that was as of sometime in 2008, so there is
 3 interest that's accrued since. Is there any reason to
 4 dispute the amount that is listed there as owing?
 5 MR. LARSON: I object on the basis of what's
 6 owing --
 7 Q. As far as the loan proceeds that you would
 8 have received from the Bank of Commerce.
 9 A. Do I stipulate that this is a sum of the 2.2
 10 plus million dollar initial loan plus \$400,000
 11 capitalization of interest loan plus a per diem interest
 12 after that point, I have no doubt.
 13 Q. You would acknowledge that you haven't repaid
 14 those sums; correct?
 15 A. Yes, that's correct.
 16 Q. Any other claims that you have against the
 17 Bank of Commerce other than those that we have discussed
 18 today?
 19 A. What ones did we discuss today?
 20 Q. The ones we have been talking about for a long
 21 time.
 22 A. The claims of what I felt like they did wrong,
 23 is that what you are saying?
 24 Q. Yes.
 25 A. I don't know if those are formal claims or

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1 what. Is that what you are talking about?
 2 Q. Yes.
 3 A. I don't know. I think we have claimed a few
 4 things.
 5 Q. But other than what we have talked about what
 6 those claims are, correct, are there other claims we
 7 haven't talked about, other things that you think the
 8 bank did wrong?
 9 A. I am sure there are. I can't think of them
 10 right offhand, though.
 11 Q. Anything other than that that's set forth in
 12 your amended counterclaim?
 13 A. No.
 14 MR. TUCKER: Let's go off the record.
 15 (Discussion off the record.)
 16 MR. TUCKER: Back on the record.
 17 Q. (By Mr. Tucker.) Just a couple of quick
 18 things. I am going to show you a letter from D.L. Evans
 19 Bank dated April 24, 2006. Does that letter provide
 20 some context as to when your dealings with D.L. Evans
 21 may have come to a conclusion?
 22 A. Now, say that one more time. Here we go. Say
 23 that one more time.
 24 (Record read.)
 25 A. I think that the dealings with D.L. Evans came

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1 to a conclusion when I felt like I had some sort of
 2 perspective on where we were going with the Bank of
 3 Commerce. So then I went to the D.L. Evans Bank to get
 4 pay-offs to get all of that kind of stuff to actually
 5 fill in hard number lines with the Bank of Commerce.
 6 Q. This letter talks about a letter dated April
 7 13 that detailed their areas of concern that they had
 8 with the project.
 9 A. Sure.
 10 Q. So as of April 13, 2006, they had at least
 11 told you that they were not going to approve the request
 12 as you had requested?
 13 A. No, that's not true. That was a supplemental
 14 request on April 13.
 15 Q. What was the supplemental request?
 16 A. Request for supplement of information on the
 17 concerns that they had.
 18 Q. And it talks about they were impressed with
 19 the meeting they had with you in February, so you had
 20 been working with D.L. Evans at least from February to
 21 April of 2006.
 22 A. No. I told you all of this, Brian, it's like
 23 we were in a different room. I was working with D.L.
 24 Evans since August.
 25 Q. August of 2005.

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1 A. Yes, and I got a loan from D.L. Evans --

2 Q. But weren't you working with them specifically

3 on the Wood project?

4 A. All of it, from day one.

5 Q. So clear back then.

6 A. Yes.

7 Q. So that whole period of time --

8 A. And they were in, you know, contingent on

9 things checking out, maintaining the five C's, you know,

10 all of that, contingent on that, everything. When final

11 numbers, when final approvals were in, then they could

12 be finally valued based on final entitlements and costs

13 and obligations.

14 Q. And I guess what I was trying to give context

15 to is at the very beginning I think of the deposition

16 you said you weren't sure when, you knew what Steve and

17 Pam had talked about as far as when you met with them,

18 and I thought you said it was sometime after the D.L.

19 Evans had told you that they weren't --

20 A. No, I think I told you exactly that sometime

21 after the January final approval, we submitted a formal

22 request for \$2.8 million which was the package that you

23 received as the Bank of Commerce. That same package was

24 submitted shortly after the January 2006 meeting.

25 That's what I told you.

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1 And shortly after that there was a denial of

2 2.8 and a preliminary approval of \$2.2 million. And the

3 difference was verbally we don't want to pay you

4 anything back. Which essentially became Bank of

5 Commerce's exact same comment and policy and it was

6 acceptable. But when it was D.L. Evans, then -- so in

7 February we have a meeting and they say we love the

8 project, we want to be involved with this project. We

9 really don't want to give you cash back, we want to keep

10 the skin in the game, that was their term.

11 So I didn't say, no, that's unacceptable to

12 me. I didn't say anything. I said thank you, and I

13 left. And I contacted Pam, who had been courting me for

14 three months at that time, maybe two months, maybe two

15 months. And I said what do you have that's better, and

16 she set up a meeting with Steve and I. And I believe it

17 was before the 21st of April but I'm not sure, and it's

18 okay if it was the 21st, I am okay with that, too.

19 But we met and Steve said I think we can get

20 you what you want, after maybe a two and a half hour

21 meeting of going through it and going through it and

22 going through it and going through it. And then after

23 that we had several meetings continuing to go through it

24 and go through it before Steve felt like he had his

25 presentation.

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1 Q. Had enough to present.

2 A. So that's the order that it went in. There

3 was no fill in the blanks. That's an absolute complete

4 picture. There is not a denial in there I am leaving

5 out --

6 Q. I am not suggesting there was. I was

7 wondering whether this gave you any context as to when

8 those time frames were. That you --

9 A. I feel like I had a good context. I feel like

10 I have a good context. It would surprise me more that

11 April 21 was our first meeting than it would March 30

12 our first meeting. But both are possible.

13 MR. TUCKER: That's all I have.

14 MR. LARSON: We have no questions.

15 (Witness excused at 3:40 p.m.)

16 (Signature requested.)

17

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1 CERTIFICATE OF DUSTIN REED MORRISON

2

3 I, DUSTIN REED MORRISON, being first duly sworn,

4 depose and say: That I am the witness named in the

5 foregoing deposition; that I have read said deposition

6 and know the contents thereof; that the questions

7 contained therein were propounded to me; and that the

8 answers therein contained are true and correct, except

9 for any changes that I may have listed on the Change

10 Sheet attached hereto.

11 DATED this ___ day of _____, ____.

12 CHANGES ON ERRATA SHEET YES ___ NO ___

13

14 _____

15 DUSTIN REED MORRISON

16 SUBSCRIBED AND SWORN to before me this ___ day

17 of _____, ____.

18

19 _____

20 NAME OF NOTARY PUBLIC

21 NOTARY PUBLIC FOR _____

22 RESIDING AT _____

23 MY COMMISSION EXPIRES _____

24

25

1 CHANGE SHEET FOR DUSTIN REED MORRISON

2 PAGE__LINE__REASON FOR CHANGE _____

3 READS _____

4 SHOULD READ _____

5 PAGE__LINE__REASON FOR CHANGE _____

6 READS _____

7 SHOULD READ _____

8 PAGE__LINE__REASON FOR CHANGE _____

9 READS _____

10 SHOULD READ _____

11 PAGE__LINE__REASON FOR CHANGE _____

12 READS _____

13 SHOULD READ _____

14 PAGE__LINE__REASON FOR CHANGE _____

15 READS _____

16 SHOULD READ _____

17 PAGE__LINE__REASON FOR CHANGE _____

18 READS _____

19 SHOULD READ _____

20 PAGE__LINE__REASON FOR CHANGE _____

21 READS _____

22 SHOULD READ _____

23

24 DEPONENT SIGNATURE: _____

25

1 REPORTER'S CERTIFICATE

2 I, PAUL D. BUCHANAN, CSR NO. 7, Certified

3 Shorthand Reporter for the State of Idaho, certify:

4 That the foregoing proceedings were taken before

5 me at the time and place therein set forth, at which

6 time the witness was put under oath by me;

7 That the testimony and all objections made were

8 recorded stenographically by me and were thereafter

9 transcribed by me, or under my direction;

10 That the foregoing is true and correct record of

11 all testimony given, to the best of my ability;

12 I further certify that I am not a relative or

13 employee of any attorney or party, nor am I financially

14 interested in the action.

15 IN WITNESS WHEREOF, I set my hand and seal this

16 7th day of November, 2011.

17

18

19 *Paul D. Buchanan*

20

21 PAUL D. BUCHANAN, CSR, RPR, RMR

22 Notary Public

23 P.O. Box 2636

24 Boise, Idaho 83701-2636

25 My Commission expires: June 20, 2016