

509231

NO.

AT THE REQUEST OF:

FIRST AMERICAN

DATE &amp; HOUR:

10.17.06 12:03

SUSAN PETERSEN

LATAH COUNTY RECORDER

FEE \$ 18.00BY [Signature]Account Number: 34300007018601968CAP Number: 062541946170Date Printed: 09/25/06Reconveyance Fee: \$ 0.00

When recorded mail to:

First American Title Insurance Co.

Lenders Advantage

1100 Superior Avenue, Suite 200

Cleveland, Ohio 44114

ATTN: NATIONAL RECORDINGS

ier Collateral Tracking

RESERVED FOR OFFICIAL USE ONLY.

**DEED OF TRUST**

THIS DEED OF TRUST is granted this 26th day of SEPTEMBER, 2006, by  
DANIEL E. HELBLING AND GINA G. HELBLING, HUSBAND AND WIFE

("Grantor") to Chicago Title Insurance Company, ("Trustee") for Bank of America, N.A. ("Beneficiary"). "Grantor" herein shall mean each of them jointly and severally. Grantor agrees as follows:

1. CONVEYANCE. Grantor hereby bargains, sells and conveys to Trustee in trust, with power of sale, all of Grantor's right, title and interest in the following described real property ("Property"), whether now owned or later acquired, located at 1157 CHANEY ROAD

(NUMBER)

(STREET)

VIOLA, ID 83872

(CITY)

(ZIP CODE)

in

Latah

County, Idaho and

legally described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF:

together with all equipment and fixtures, now or later attached to the Property; all easements, tenements, hereditaments and appurtenances, now or later in any way appertaining to the Property; all royalties, mineral, oil and gas rights and profits derived from or in any way connected with the Property; all water and ditch rights, however evidenced, used in or appurtenant to the Property; and all leasehold interests, rents, payments, issues and profits derived from or in any way connected with the Property.

Either the Property is not more than twenty acres or the Property is located within an incorporated city or village.

**2. ASSIGNMENT OF RENTS.**

2.1 ASSIGNMENT. Grantor further assigns to Beneficiary all of Grantor's interest in all existing and future leases, licenses and other agreements for the use or occupancy of the Property ("Contracts"), including the immediate and continuing right to collect, in either Grantor's or Beneficiary's name, all rents, receipts, income and other payments due or to become due under the Contracts ("Payments"). As long as there is no default under this Deed of Trust, Grantor is granted a license to collect the Payments, but such license shall not constitute Beneficiary's consent to Grantor's use of the payments in any bankruptcy proceeding.

2.2 DISCLAIMER. Nothing contained in this Deed of Trust shall be construed as obligating Beneficiary or any receiver to take any action to enforce any provision of the Contracts, expend any money, incur any expense or perform any obligation under the Contracts. Beneficiary's duties are expressly limited to giving of proper credit for all Payments received by it.

3. SECURED OBLIGATIONS. This Deed of Trust secures performance of each agreement made by Grantor contained in this Deed of Trust and the payment of the sum of Fifty Thousand and 00/100'S (\$ 50,000.00 ) with interest thereon as evidenced by a promissory note(s) signed on \_\_\_\_\_, with a Maturity Date September 22, 2013, payable to Beneficiary or order and made by Grantor, and includes all renewals, modifications and extensions thereof, together with any payments made pursuant to paragraph 10.3 hereof ("Secured Obligations"). Nothing contained in this Deed of Trust shall be construed as obligating Beneficiary to make any renewal, modification, extension, or future advance. Grantor hereby consents to the filing for record by Beneficiary of an extension of this Deed of Trust if prior to the Maturity Date the Secured Obligations remain outstanding.

4. AFFIRMATIVE COVENANTS. Grantor shall:

4.1 MAINTENANCE OF PROPERTY. Maintain and preserve the Property in good condition and repair, ordinary wear and tear excepted; complete any improvement which may be constructed on the Property; and restore any improvement which may be damaged or destroyed.

4.2 COMPLIANCE WITH LAWS. Comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property;

4.3 REAL ESTATE INTERESTS. Perform all obligations to be performed by Grantor under the Contracts;

4.4 PAYMENT OF DEBTS AND TAXES. Pay promptly all obligations secured by the Property; all taxes, assessments and governmental liens or charges levied against the Property; and all claims for labor, materials, supplies or otherwise which, if unpaid, might become a lien or charge upon the Property;

4.5 INSURANCE. Insure continuously, with financially sound and reputable insurers acceptable to Beneficiary, all improvements on the Property against all risks, casualties and losses through standard fire and extended coverage insurance or otherwise, including, without limitation, insurance against fire, flood, theft, casualty, vandalism and any other risk Beneficiary may reasonably request. The insurance policies shall be in an aggregate amount of not less than the full replacement cost of all improvement on the Property, including the cost of demolition and removal of debris, and shall name Beneficiary as loss payee, as its interest may appear. The amounts collected under the insurance policies may be applied to the Secured Obligations in any manner as Beneficiary determines, and such application shall not cause discontinuance of any proceeding to foreclose upon this Deed of Trust. In the event of foreclosure, all of Grantor's rights in the insurance policies shall pass to purchaser at the foreclosure sale;

4.6 HAZARDOUS WASTE. Notify Beneficiary within twenty-four (24) hours of any release of a reportable quantity of any hazardous or regulated substance, or of the receipt by Grantor of any notice, order or communication from any governmental authority which relates to the existence of or potential for environmental pollution of any kind existing on the Property, or results from the use of the Property or any surrounding property; and

4.7 COSTS AND EXPENSES. Pay, reimburse and indemnify Beneficiary for all of Beneficiary's reasonable costs and expenses incurred in connection with foreclosing upon this Deed of Trust, defending any action or proceeding purporting to affect the rights or duties of Beneficiary or Trustee under this Deed of Trust, or managing the Property and collecting the Payments, including, without limitation, all attorneys' fees and value of the services of staff counsel, legal expenses, collection costs, costs of title search, and trustee's and receiver's fees to the maximum extent allowable by law.

5. NEGATIVE COVENANTS. Grantor shall not without Beneficiary's prior written consent:

5.1 PAYMENTS. Accept or collect Payments more than one (1) month in advance of the due date;

5.2 MODIFY CONTRACTS. Terminate, modify or amend any provision of the Contracts; or

5.3 RESTRICTIONS ON CONVEYANCES. Transfer or convey any interest in the Property, except by will or intestacy.

6. EMINENT DOMAIN. In the event any portion of the Property is taken through eminent domain, the amount of the award to which Grantor is entitled shall be applied to the Secured Obligations.

7. RECONVEYANCE. Trustee shall reconvey such portion of the Property to the person entitled thereto upon written request of Beneficiary, or upon satisfaction of the Secured Obligations and written request for reconveyance made by Beneficiary.

8. SUCCESSOR TRUSTEE. In the event of death, dissolution, incapacity, disability or resignation of the Trustee, Beneficiary may appoint a successor trustee and, upon the recording of such appointment in the records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original Trustee.

9. **EVENTS OF DEFAULT.** The occurrence of any of the following events shall, at Beneficiary's option, and at any time without regard to any previous knowledge on Beneficiary's part, constitute a default under the terms of this Deed of Trust, the Secured Obligations and all related loan documents:

9.1 **NON-PAYMENT OF PRINCIPAL OR INTEREST.** Any payment of principal or interest on the Secured Obligations is not made when due; or

9.2 **FAILURE TO PERFORM.** The prospect of payment, performance, or realization of collateral is significantly impaired.

10. **REMEDIES UPON DEFAULT.** If any default occurs and is continuing, Beneficiary may, at its option:

10.1 **TERMINATE COMMITMENT.** Terminate any outstanding and unfulfilled commitment to Grantor;

10.2 **ACCELERATE.** Declare any or all of the Secured Obligations, together with all accrued interest, to be immediately due and payable without presentment, demand, protest or notice of any kind, all of which are expressly waived by Grantor;

10.3 **PAYMENTS.** Pay such sums as may be necessary to pay any tax, assessment, insurance premium, lien, encumbrance or other charge against the Property, without prejudice to Beneficiary's right to accelerate the Secured Obligations and foreclose upon this Deed of Trust. Grantor shall reimburse Beneficiary, upon demand, for all such amounts paid by Beneficiary, with interest thereon from the date of such payment at the highest rate that is, from time to time, applicable on any of the Secured Obligations. All unreimbursed amounts shall be added to and become a part of the Secured Obligations;

10.4 **COLLECTION OF PAYMENTS.** Terminate the license granted to Grantor to collect the Payments; take possession of, manage and operate the Property under the terms of the Contracts; and demand and collect all Payments, including endorsing any check, draft or other instrument given as payment, either by itself or through an agent or judicially-appointed receiver. The Payments shall be applied first to payment of the costs of managing the Property and collecting the Payments, and then to the Secured Obligations;

10.5 **TRUSTEE'S SALE.** Direct the Trustee, upon written request, to sell the Property and apply the sale proceeds in accordance with Idaho's Trust Deeds Act (Section 45-1502 Idaho Code, et seq.). Any person may bid at the Trustee's sale; and

10.6 **OTHER REMEDIES.** Pursue all other available legal and equitable remedies, including, without limitation, foreclosing upon this Deed of Trust as a mortgage.

Grantor expressly waives any defense or right, in any action or proceeding in connection with the Secured Obligations, that Beneficiary must first resort to any other security or person.

11. **WAIVER.** No waiver by Beneficiary of any deviation by Grantor from full performance of this Deed of Trust or the Secured Obligations, as the case may be, shall constitute a waiver of Beneficiary's right to require prompt payment or to assert any other right or remedy provided for in this Deed of Trust or the Secured Obligations on the basis of the same or similar failure to perform.

12. **SUCCESSORS AND ASSIGNS.** This Deed of Trust insures to the benefit of and is binding upon the respective heirs, devisees, legatees, administrators, executors, successors and assigns of the parties hereto.

13. **APPLICABLE LAW.** This deed of Trust has been delivered to beneficiary in the State of Idaho. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of Idaho.

  
DANIEL E. HELBLING  
014

  
GINA G. HELBLING

ACKNOWLEDGMENT BY INDIVIDUAL

STATE OF IDAHO Washington )  
County of LATAH Whitman ) ss.



I certify that I know or have satisfactory evidence that DANIEL E. HELBLING and GINA G.

HELBLING

\_\_\_\_\_ is/are the individual(s) who signed this instrument in my presence and acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 9-27-06 Ben Gecas  
(NOTARY PUBLIC FOR THE STATE OF IDAHO)  
Washington

My appointment expires 04-23-07

REQUEST FOR RECONVEYANCE

To Trustee:  
The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. You are hereby requested, upon payment of all sums owing to you, to reconvey without warranty, to the persons entitled thereto, the right, title and interest now held by you under the Deed of Trust.

Dated: \_\_\_\_\_

## ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

STATE OF IDAHO )  
 County of Latah ) : SS.

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
 and \_\_\_\_\_  
 \_\_\_\_\_ is/are the individual(s) who  
 signed this instrument in my presence, on oath stated that (he/she/they) was/were authorized to execute the instrument  
 and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_  
 (TITLE) (ENTITY)  
 to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_ (NOTARY PUBLIC FOR THE STATE OF IDAHO)

My appointment expires \_\_\_\_\_

HELBLING  
10409963

FIRST AMERICAN LENDERS ADVANTAGE  
DEED OF TRUST

## EXHIBIT "A"

SITUATED IN THE COUNTY OF LATAH AND STATE OF IDAHO: ALL THAT CERTAIN REAL PROPERTY SITUATE WITHIN THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 41 NORTH, RANGE 5 WEST BOISE MERIDIAN, LATAH COUNTY, IDAHO DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4, WITH THE CENTERLINE OF THE COUNTY ROAD KNOWN AS "CHANEY ROAD" (50 FEET IN WIDTH); THENCE FROM SAID POINT OF BEGINNING ALONG SAID SOUTH LINE, NORTH 89 DEGREES 58 MINUTES 01 SECOND WEST, 605.92 FEET; THENCE NORTH 34 DEGREES 42 MINUTES 00 SECONDS EAST, 494.08 FEET; THENCE SOUTH 54 DEGREES 54 MINUTES 28 SECONDS EAST, 266.86 FEET TO A POINT IN THE AFORESAID CENTERLINE OF CHANEY ROAD; THENCE SOUTHERLY ALONG SAID CENTERLINE THE FOLLOWING 4 COURSES: (1) SOUTH 02 DEGREES 04 MINUTES 47 SECONDS WEST, 13.56 FEET; (2) SOUTH 29 DEGREES 56 MINUTES 36 SECONDS EAST 100.52 FEET; (3) SOUTH 33 DEGREES 53 MINUTES 19 SECONDS EAST 85.74 FEET; (4) SOUTH 06 DEGREES 11 MINUTES 24 SECONDS EAST, 81.76 FEET TO THE ABOVE DESCRIBED POINT OF BEGINNING. TOGETHER WITH A NONEXCLUSIVE EASEMENT FOR INGRESS (FOR ANY PURPOSE), EGRESS (FOR ANY PURPOSE), AND UTILITIES (INCLUDING THE RIGHT TO MAINTAIN AND IMPROVE THE EXISTING ROADWAY) TO THE ABOVE-DESCRIBED PARCEL FROM CHANEY ROAD OVER STRIP OF LAND 40 FEET IN WIDTH, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 41 NORTH, RANGE 5 WEST BOISE MERIDIAN, LATAH COUNTY, IDAHO WITH THE CENTERLINE OF THE COUNTY ROAD KNOWN AS "CHANEY ROAD" (50 FEET IN WIDTH); THENCE ALONG SAID SOUTH LINE, NORTH 89 DEGREES 58 MINUTES 01 SECOND WEST, 605.92 FEET; THENCE NORTH 34 DEGREES 42 MINUTES 00 SECONDS EAST, 494.08 FEET TO THE TRUE POINT OF BEGINNING OF THIS EASEMENT; THENCE NORTH 34 DEGREES 42 MINUTES 00 SECONDS EAST, AN ADDITIONAL 40 FEET; THENCE SOUTH 54 DEGREES 54 MINUTES 28 SECONDS EAST TO A POINT IN THE AFORESAID CENTERLINE OF CHANEY ROAD; THENCE SOUTHERLY ALONG SAID CENTERLINE TO ITS INTERSECTION WITH THE BOUNDARY OF THE ABOVE-DESCRIBED PARCEL; THENCE NORTH 54 DEGREES 54 MINUTES 28 SECONDS WEST, 266.86 FEET TO THE TRUE POINT OF BEGINNING OF THIS EASEMENT. SUBJECT TO A NONEXCLUSIVE EASEMENT RETAINED BY THE GRANTORS FOR INGRESS (FOR ANY PURPOSE), EGRESS (FOR ANY PURPOSE), AND UTILITIES (INCLUDING THE RIGHT TO MAINTAIN AND IMPROVE THE EXISTING ROADWAY) TO OTHER PARCELS FROM CHANEY ROAD OVER THE SAME STRIP OF LAND 40 FEET IN WIDTH DESCRIBED ABOVE. TOGETHER WITH GRANTEE'S EXCLUSIVE OWNERSHIP OF AN EXISTING WATER WELL LOCATED WITHIN THE ABOVE-DESCRIBED EASEMENT AREA, AND ALL EXISTING WATER RIGHTS APPURTENANT TO SAID WELL. TOGETHER WITH AN EASEMENT IN FAVOR OF GRANTEE'S FOR WELL USAGE, MAINTENANCE AND REPAIR, AS FOLLOWS: THE GRANTEE'S MAY ENTER THE ABOVE-DESCRIBED EASEMENT AREA TO IMPROVE, INCREASE DEPTH, PROTECT, MAINTAIN, AND REPAIR THE EXISTING WELL AND ITS ASSOCIATED PIPES, ELECTRICAL WIRING, AND SERVICE LINES. GRANTEE'S SHALL HAVE SOLE RESPONSIBILITY FOR SUCH MAINTENANCE AND REPAIR.

Initial *RLH*

Initial *ELH*