

10206402
 8/28/2007 3:26:00 PM \$97.00
 Book - 9508 Pg - 9182-9192
 Gary W. Ott
 Recorder, Salt Lake County, UT
 MERIDIAN TITLE
 BY: eCASH, DEPUTY - EF 11 P.

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

Name Guaranty Bank
 Attn: Homebuilder Finance Group
 Address 8333 Douglas Avenue – 2nd Floor
 City & State: Dallas, TX 75225

 Title Order Nos. 122121
 133630

Holmes Homes, LLC
 Holmes Homes, Inc.
 Emperor Estates, LLC
 Loan No. 143-0100 (Salt Lake County)

MEMORANDUM OF THIRD MODIFICATION OF DEEDS OF TRUST AND OTHER LOAN DOCUMENTS

This Memorandum of Third Modification of Deeds of Trust and Other Loan Documents ("Third Memorandum") is made as of August 8, 2007 by and between HOLMES HOMES, LLC, an Arizona limited liability company, HOLMES HOMES, INC., a Utah corporation and Emperor Estates, LLC, an Arizona limited liability company (jointly and severally, "Borrower"), on the one hand, and GUARANTY BANK, a federal savings bank organized and existing under the laws of the United States ("Lender"), with reference to the following facts:

A. Existing Borrower and Lender have entered into a Master Loan Agreement dated February 14, 2006, as modified by (i) an Agreement for First Modification of Deeds of Trust and Other Loan Documents dated May 10, 2006 and executed by Borrower and Lender (the "First Modification"); (ii) a Letter Amendment dated May 10, 2006 ("Letter Amendment") and executed by Borrower and Lender; and (iii) a Second Modification of Deeds of Trust and Other Loan Documents dated March 15, 2007 and executed by Borrower, as then constituted, and Lender ("Second Modification") (as modified, collectively, the "Loan Agreement") which Loan Agreement provides for a loan of TWENTY MILLION DOLLARS (\$20,000,000.00) (the "Loan") on the terms and conditions specified therein. The Loan described therein is evidenced and secured by a revolving promissory note and other loan documents (collectively, the "Loan Documents"). The Loan Documents, each executed by Lender and Borrower, were modified by a certain Agreement for Third Modification of Deeds of Trust and Other Loan Documents, executed by Lender and Borrower dated of even date herewith ("Third Modification"). Upon full execution, this Third Memorandum shall constitute one of the Loan Documents. All defined terms used in this Third Modification shall have the meanings ascribed to them in the Loan Agreement unless the context requires otherwise.

B. Borrower's obligations under the Loan Documents are secured by certain Deeds of Trust. As used in this Third Memorandum and, with respect to the real property described in said Deeds of Trust as set forth in Exhibit "A" attached hereto, the term "Deeds of Trust" refers to that certain Deed of Trust (With Security Agreement, Fixture Filing and Assignment of Rents and Leases), each executed by Borrower for the benefit of Lender:

- (1) (Loan No. 143-1002 and 143-2001) a certain Deed of Trust dated May 10, 2006, and recorded in the Official Records of Salt Lake County, Utah on May 16, 2006, as Entry No. 9725752; and
- (2) (Loan No. 143-1003) a certain Deed of trust dated May 9, 2007, and recorded in the Official Records of Salt Lake County, Utah on May 15, 2007, as Entry No. 10101165.

C. At Borrower's request, Lender has agreed to modify one or more of the Loan Documents, as herein provided, pursuant to the Third Modification.

NOW, THEREFORE, in consideration of the premises and the parties' mutual agreement herein, the parties agree:

1. Modifications. The Loan Documents are hereby modified as provided in the Third Modification. The complete terms of the modifications are set forth in the Third Modification, the terms of which shall control such modification.

2. Other Provisions Unmodified. Except as expressly modified by the Third Modification, the rights and obligations of the parties under the Loan Documents shall remain unmodified and in full force and effect.

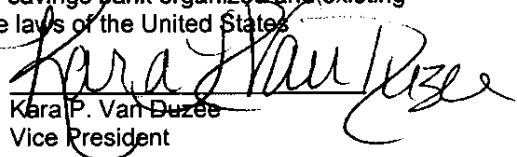
3. Counterparts. This document may be signed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same binding original.

[Signature page(s) to follow, next page]

IN WITNESS WHEREOF, this Memorandum of Third Modification of Deeds of Trust and Other Loan Documents is executed as of the date first hereinabove written.

LENDER:

GUARANTY BANK,
a federal savings bank organized and existing
under the laws of the United States

By: 
Name: Kara P. Van Duzee
Title: Vice President

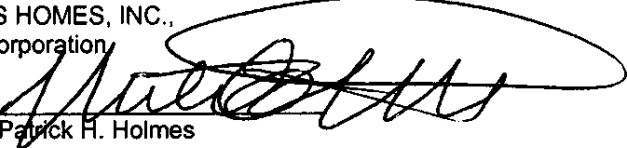
BORROWER:

HOLMES HOMES, LLC,
an Arizona limited liability company

By: HOLMES HOMES, INC.,
a Utah corporation
Its: Managing Member

By: 
Name: Patrick H. Holmes
Title: President

HOLMES HOMES, INC.,
a Utah corporation

By: 
Name: Patrick H. Holmes
Title: President

JOINING BORROWER:

EMPEROR ESTATES, LLC
an Arizona limited liability company

By: 
Name: Patrick H. Holmes
Title: Manager

Holmes Homes, LLC
Holmes Homes, Inc.
Emperor Estates, LLC
Loan No. 143-0100 (Maricopa County)

CONSENT OF GUARANTOR(S)
TO MEMORANDUM OF THIRD MODIFICATION OF DEEDS OF TRUST AND OTHER LOAN DOCUMENTS

The undersigned Guarantor(s) confirm its guaranties of Borrower's obligations to, and indemnities in favor of, Lender under the Loan Agreement and the other Loan Documents referenced in, and as modified by the foregoing Third Memorandum and Third Modification described therein, and consents to and accepts the foregoing modifications as the same affect, or relate to, all obligations of the undersigned owed to Lender under each such guaranty or indemnity.

ADDRESS OF GUARANTORS:

45 West 10000 South, Suite 206
Sandy, UT 84070

607 E. Rocky Knoll
Draper, UT 84020

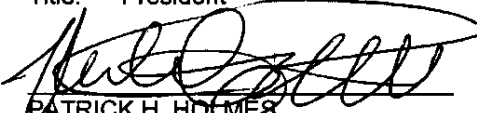
938 E. Rocky Mouth
Draper, UT 84020

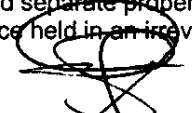
14047 Pine Mesa Drive
Draper, UT 84020

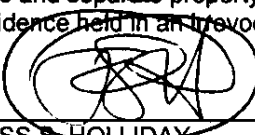
GUARANTORS:

HOLMES HOMES, INC.,
a Utah corporation

By: 
Name: Patrick H. Holmes
Title: President


PATRICK H. HOLMES
Sole and separate property, and excludes primary residence held in an irrevocable trust.


SPENCER M. HOLMES
Sole and separate property, and excludes primary residence held in an irrevocable trust.


ROSS S. HOLLIDAY
Sole and separate property.

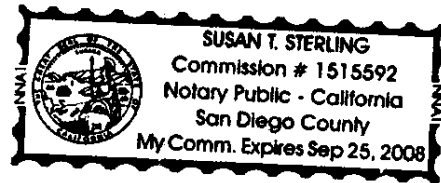
State of California
County of San Diego

On August 23, 2007 before me, Susan T. Sterling, Notary Public
(here insert name and title of the officer)
personally appeared KARA P. VAN DUZEE

~~_____~~, personally known to me ~~(or~~
~~proved to me on the basis of satisfactory evidence)~~ to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the
within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized
capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of
which the person~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

Signature *Susan T. Sterling*



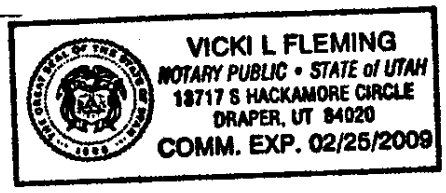
(Seal)

STATE OF Utah)
COUNTY OF Salt Lake) ss.

The foregoing instrument was acknowledged before me this 20th day of August,
2007 by Patrick H. Holmes the President of
Holmes Homes, Inc., a Utah Corporation.

V Fleming
NOTARY PUBLIC

My commission expires: 2/25/09
Residing at: Draper, UT



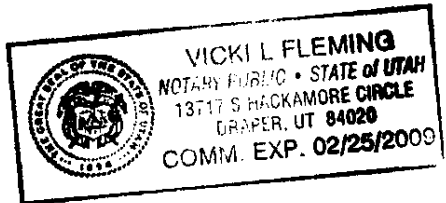
RETURN TO: GUARANTY BANK
ATTN: HOMEBUILDER FINANCE GROUP
8333 DOUGLAS AVENUE, THIRD FLOOR
DALLAS, TEXAS 75225

STATE OF Utah)
COUNTY OF Salt Lake) ss.

The foregoing instrument was acknowledged before me this 20th day of August, 2007 by Patrice H. Holmes the Manager of Emperor Estates, LLC an Arizona limited liability co.

H. Fleming
NOTARY PUBLIC

My commission expires: 2/25/09
Residing at: Draper, UT



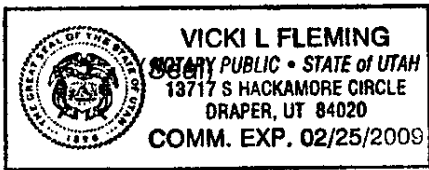
RETURN TO: GUARANTY BANK
ATTN: HOMEBUILDER FINANCE GROUP
8333 DOUGLAS AVENUE, SECOND FLOOR
DALLAS, TEXAS 75225

State of Utah
County of Salt Lake

On 8/20/07 before me, Vicki L. Fleming
(here insert name and title of the officer)
personally appeared Patrick H. Holmes

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
Signature Fleming



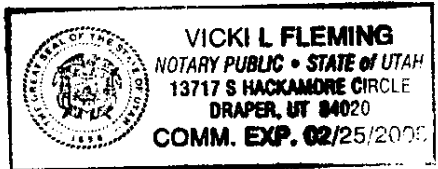
State of Utah
County of Salt Lake

On 8/20/07 before me, Vicki L Fleming
(here insert name and title of the officer)
personally appeared Spencer M. Holmes

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature V Fleming



(Seal)

State of Utah
County of Salt Lake

On 8/20/07 before me, Vicki L. Fleming
(here insert name and title of the officer)
personally appeared Ross S. Holladay

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature V Fleming

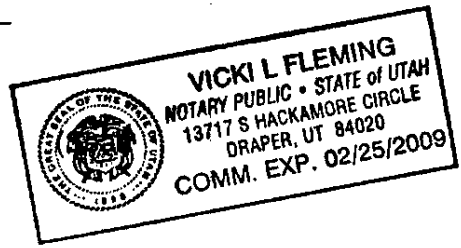


EXHIBIT "A"

ORDER NUMBER: 122121

Lot 235 through 261, KENNECOTT DAYBREAK Plat 4, according to the plat thereof as recorded in the office of the Salt Lake County Recorder.

Tax ID#: 26-24-451-013

ORDER NUMBER: 133630

LOTS 145, 146, 147, 148, 149, 257, 258 AND 259, KENNECOTT DAYBREAK SUBDIVISION, PLAT 6, ACCORDING TO THE PLAT THEREOF AS RECORDED IN THE OFFICE OF THE COUNTY RECORDER.

LOTS 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 352, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422 AND 423, KENNECOTT DAYBREAK SUBDIVISION, PLAT 7, ACCORDING TO THE PLAT THEREOF AS RECORDED IN THE OFFICE OF THE COUNTY RECORDER.