

MT92270-KR

2012-001078

Klamath County, Oregon



00113316201200010780060065

01/31/2012 03:46:51 PM

Fee: \$62.00

RECORDING COVER SHEET

ORS 205.234

This cover sheet has been prepared by the person presenting the attached instrument for recording. Any error in this cover sheet DOES NOT affect the transaction(s) contained in the instrument itself.

Reference - Escrow No. MT92270-KR
Title Order No. 0092270

Please print or type information.

1. AFTER RECORDING RETURN TO -

Required by ORS 205.180(4) & 205.238:

Name: **Sterling Savings Bank**

Address: **SBA Loan Servicing**

3558 Round Barn Blvd, Ste 300

City, ST Zip: **Santa Rosa, CA 95403**

2. TITLE(S) OF THE TRANSACTION(S) - Required by ORS 205.234(1)(a)

Note: "Transaction" means any action required or permitted by law to be recorded, including, but not limited to, any transfer, encumbrance or release affecting title to or an interest in real property. Enter descriptive title for the lien instrument:

Document Title(s): Subordination Agreement

3. DIRECT PARTY / GRANTOR Names and Addresses - Required by ORS 205.234(1)(b)

for Mortgages/Liens list Borrower/Debtor

Lessor Name & Address: **Timothy Southwell, 7705 Lost River Road, Klamath Falls, OR 97603**

Lessor Name & Address: **Kendi Southwell, 7705 Lost River Road, Klamath Falls, OR 97603,**

Lessee Name & Address: **American Marine & RV, LLC an Oregon limited liability company**

7705 Lost River Road

Klamath Falls, OR 97603

4. INDIRECT PARTY / GRANTEE Names and Addresses - Required by ORS 205.234(1)(b)

for Mortgages/Liens list Beneficiary/Lender/Creditor

Lender Name & Address: **Sterling Savings Bank**

SBA Loan Servicing

3558 Round Barn Blvd., Ste 300

Santa Rosa, CA 95403

5. For an instrument conveying or contracting to convey fee title, the information required by ORS 93.260:

UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO

Name: **Timothy Southwell**

Address: **7705 Lost River Road**

City, ST Zip: **Klamath Falls, OR 97603**

6. True and Actual Consideration:

624000

RECORDING REQUESTED BY

378865029-1
50404050-01
Sterling Savings Bank
3558 Round Barn Blvd, Ste 300
Santa Rosa, CA 95403

AND WHEN RECORDED MAIL TO:

Sterling Savings Bank
3558 Round Barn Blvd, Ste 300
Santa Rosa, CA 95403

Space Above This Line for Recorder's Use

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN THE LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT, made this 25TH day of JANUARY 2012, by TIMOTHY SOUTHWELL & KENDI SOUTHWELL, owner of the land hereinafter described and hereinafter referred to as "Owner", and AMERICAN MARINE & RV, LLC, AN OREGON LIMITED LIABILITY COMPANY present owner and holder of the leasehold estate created by the lease hereinafter described and hereinafter referred to as "Lessee";

WITNESSETH

THAT WHEREAS, TIMOTHY SOUTHWELL & KENDI SOUTHWELL, as Lessor, executed a lease dated JANUARY 25, 2012 covering that certain premises described as: SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF; in favor of AMERICAN MARINE & RV, LLC, AN OREGON LIMITED LIABILITY COMPANY, as Lessee;

WHEREAS, Owner has executed, or is about to execute, a deed of trust and note in the sum of \$610,000.00 dated JANUARY 25, 2012, in favor of Sterling Savings Bank hereinafter referred to as "Lender", payable with interest and upon the terms and conditions described therein, which deed of trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said deed of trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lease above described and to the leasehold estate created thereby; and

WHEREAS, Lender is willing to make said loan provided the deed of trust securing the same is a lien or charge upon said land prior and superior to the lease above described and to the leasehold estate created thereby and provided that Lessee will specifically and unconditionally subordinate and subject the lease above described the leasehold estate created thereby together with all rights and privileges of Lessee thereunder, to the lien or charge of the deed of trust in favor of Lender; and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and lessee is willing that the deed of trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lease above described and to the leasehold estate created thereby.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed

57Amf

as follows:

1. That said deed of trust securing said note in favor of Lender, any renewals and extensions thereof, shall unconditionally be and remain at all times a lien or charge on the land described therein, prior and superior to the lease above described, to the leasehold estate created thereby and to all rights and privileges of Lessee thereunder, and said lease, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder is hereby subject, and made subordinate, to the lien or charge of the deed of trust in favor of Lender.
2. That Lender would not make its loan above described without this subordination agreement.
3. That this agreement shall be the whole and only agreement with regard to the subjection and subordination of the lease above described and the leasehold estate created thereby together with all rights and privileges of Lessee thereunder to the lien or charge of the deed of trust in favor of Lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the lease and the deed of trust hereinbefore specifically described, any prior agreements as to such subjection or subordination, including, but not limited to, those provisions, if any, contained in the lease above described, which provide for the subjection or subordination of said lease and the leasehold estate created thereby to a deed or deeds of trust or to a mortgage or mortgages.

Lessee declares, agrees and acknowledges that:

- a. He consents to and approves (i) all provisions of the note and deed of trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's Loan;
- b. Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part; and
- c. He intentionally and unconditionally waives, relinquishes, subjects and subordinates the lease above described, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder in favor of the lien or charge upon said land of the deed of trust in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection and subordination specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment, subjection and subordination.

4. JURY WAIVER. Borrower hereby waives any right to trial by jury of any claim arising out of this agreement or any other related document, whether now or hereafter arising and whether sounding in contract, tort or otherwise, and hereby consents and agrees that any such claim may, at Lender's election, be decided by trial without a jury and that Lender may file an original counterpart or copy of this section with any court as written evidence of the waiver and agreement contained herein.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR LEASE TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

LESSEE: AMERICAN MARINE & RV, LLC,
AN OREGON LIMITED LIABILITY COMPANY

OWNER: TIMOTHY SOUTHWELL & KENDI
SOUTHWELL

BY: 
TIMOTHY SOUTHWELL, MEMBER

BY: 
TIMOTHY SOUTHWELL

BY: 
KENDI SOUTHWELL, MEMBER

BY: 
KENDI SOUTHWELL

State of ~~California~~ Oregon (K)

County of Klamath

On January 26, 2012 before me Kristi L. Redd

Notary Public, personally appeared Timothy Southwell and Kendi Southwell, Members of American Marine & RV, LLC, an Oregon limited liability company, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ Oregon (K) that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Kristi L. Redd (Seal)

State of ~~California~~ Oregon (K)

County of Klamath

On January 26, 2012 before me Kristi L. Redd

Notary Public, personally appeared Timothy Southwell and Kendi Southwell, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ Oregon (K) that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Kristi L. Redd (Seal)

Rev. 01/08

LEGAL DESCRIPTION

"EXHIBIT A"

PARCEL 1:

A tract of land described as follows: Beginning at an iron pin which marks the Northeast corner of Tract 63 of ROLAND PARK and which iron pin lies North 0°51' West along the 40 line a distance of 542.3 feet and the North 89°09' East a distance of 287.2 feet from the iron axle which marks the Southwest corner of the NE1/4 SW1/4 of Section 1, Township 39 South, Range 9 East of the Willamette Meridian, and running thence North 45°09' East a distance of 299.6 feet to an iron pin which lies on the Southwesterly right of way line of the State Highway 40 feet at right angles from the brass plug in the center line of the highway; thence in a Northwesterly direction following a 3°11' curve to the left along the Southwesterly right of way line of the State Highway a distance of 150 feet (the long chord of this curve bears North 48°32' West a distance of 149.96 feet) to an iron pin; thence South 45°09' West a distance of 221.6 feet to an iron pin; thence South 20°18' East a distance of 164.5 feet, more or less, to the point of beginning, said tract being a portion of the NE1/4 SW1/4 of Section 1, Township 39 South, Range 9 East of the Willamette Meridian and Beginning at an iron pin which marks the Southeast corner of Tract 63, ROLAND PARK, and which iron pin lies North 0°51' West along the 40 line a distance of 462.3 feet and North 89°09' East a distance of 262.2 feet from the iron axle which marks the Southwest corner of the NE1/4 SW1/4 of Section 1, Township 39 South, Range 9 East of the Willamette Meridian, and running thence North 16°33' East along the Easterly line of the above mentioned TRACT 63, a distance of 83.8 feet to an iron pin; thence North 45°09' East a distance of 299.6 feet to an iron pin on the Southerly right of way line of the Klamath Falls-Lakeview Highway; thence following the Southerly right of way line of the highway the following bearings and distances: South 46°09' East a distance of 13.5 feet to an iron pin; thence North 43°51' East a distance of 10 feet to an iron pin; and South 46°09' East a distance of 216.5 feet to an iron pin; thence South 43°51' West a distance of 384 feet to an iron pin; thence North 46°09' West a distance of 198.4 feet more or less to the point of beginning, said tract in the NE1/4 SW1/4 of Section 1, Township 39 South, Range 9 East of the Willamette Meridian.

EXCEPTING THEREFROM that tract conveyed to the State of Oregon in Deed recorded January 11, 1972 in Volume M72, page 342, Deed Records of Klamath County, Oregon.

PARCEL 2:

A tract of land situated in the NE1/4 SW1/4 of Section 1, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point situated North 00°51' West 462.3 feet, North 89°06' East 262.2 feet and South 46°09' East 198.4 feet from the Southwest corner of the said NE1/4 SW1/4 of Section 1; thence continuing South 46°09' East 106.00 feet; thence North 43°51' East 150.00 feet; thence North 46°09' West 106.00 feet; thence South 43°51' West 150.00 feet to the point of beginning with bearings based on recorded Survey No. 625 as recorded in the office of the Klamath County, Surveyor.
