

1st 1973436

2013-011881  
Klamath County, Oregon  
10/21/2013 11:14:44 AM  
Fee: \$47.00

After recording return to: )  
)  
David B. Paradis )  
Attorney at Law )  
P.O. Box 128 )  
Medford, OR 97501 )  
)  
Until a change is requested, )  
all tax statements shall be )  
sent to the following address: )  
)  
Rogue Federal Credit Union )  
Attn: Business Services Director )  
1370 Center Drive )  
Medford, OR 97501 )

### NON-MERGER DEED IN LIEU OF FORECLOSURE

This Non-Merger Deed in Lieu of Foreclosure is made, executed and entered into effective this 9 day of OCTOBER, 2013, by and between SUMMERFIELD RESIDENTIAL COMMUNITY LLC (hereinafter referred to as "Grantor") and ROGUE FEDERAL CREDIT UNION (hereinafter referred to as "Grantee").

Grantor is the owner of the real property and improvements located in Klamath County, Oregon described as follows:

LOTS 53 AND 54, TRACT 1456, SUMMERFIELD RESIDENTIAL COMMUNITY,  
ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE  
COUNTY CLERK OF KLAMATH, COUNTY, OREGON

("the Subject Property").

To evidence and secure certain loans made by Grantee to Grantor, Grantor made, executed and delivered to Grantee the following loan documents:

- (a) a Commercial Promissory Note dated August 23, 2011, in the principal amount of \$120,000.00 ("the Note"); and
- (b) a Commercial Construction Real Estate Deed of Trust dated August 23, 2011 and recorded on August 25, 2011 in the Official Records of Klamath County, Oregon, as Document No. 2011-009742 ("the Trust Deed"), which Trust Deed covers the Subject Property and secures the Note.

Grantor and Grantee agree that the Note and Trust Deed are in default, that Grantee is entitled to foreclose the Trust Deed, and that Grantor has no legal or equitable defenses or counterclaims to a foreclosure action. The parties desire to resolve the defaults under the Note and Trust Deed by providing for the conveyance of the Subject Property to Grantee;

WHEREFORE, IN CONSIDERATION OF Grantee's agreement to release the real property in Klamath County, Oregon described as Lot 350, RUNNING Y RESORT - PHASE 4 - SECOND ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, from a judgment lien it holds by reason of the judgment entered in Klamath County, Oregon, Circuit Court Case No. 1204015CV, and the mutual promises set forth herein, Grantor hereby grants, conveys, transfers, and warrants to Grantee and Grantee's successors and assigns all of Grantor's right, title and interest in and to the Subject Property, and all of the improvements on the Subject Property, together with all of the tenements, hereditaments, interests, easements, permits, zoning entitlements,

F.  
52.00

licenses, rights, privileges, fixtures, and appurtenances now or hereafter belonging to, located on or used in connection with the Subject Property.

Grantor, for itself, its successors and assigns, covenants to and with Grantee and Grantee's successors and assigns that Grantor is lawfully seized in fee simple of the Subject Property free and clear of all encumbrances, including any liens which may be filed hereafter and arising out of material, supplies or labor supplied to the Subject Property prior hereto, excepting the Trust Deed and such other encumbrances of record as of the date hereof; and that Grantor will forever warrant and defend the Subject Property and every part and parcel thereof against all lawful claims and demands of all persons whomsoever, other than the liens expressly excepted above.

Grantor acknowledges and agrees that the conveyance of the Subject Property to Grantee according to the terms of this Non-Merger Deed in Lieu of Foreclosure is an absolute conveyance of all of Grantor's right, title, and interest in and to the Subject Property, in fact as well as in form, and is not now intended as a mortgage, trust conveyance, deed of trust, or other security instrument of any kind, that the consideration for such conveyance is as recited herein; that Grantor has no further interest (including rights of redemption) or claims in and to the Subject Property, or to the proceeds and profits that may be derived therefrom, of any kind whatsoever; that possession of the Subject Property hereby is surrendered and delivered to Grantee; that in executing this Deed, Grantor is not acting under any misapprehension as to the effect thereof or any duress, undue influence, or misrepresentation by Grantee, or Grantee's representatives, agents or attorneys; and that at this time, there is no person, partnership, LLC or corporation other than Grantee interested in the Subject Property, directly or indirectly, in any manner whatsoever, except for encumbrances of record. It is the express intent of Grantee and Grantor that the interest of Grantee, as owner, shall not merge with the interest of Grantee, as beneficiary, under the Trust Deed described above, and any other Trust Deeds held by Grantee that cover all or a portion of the Subject Property, so as to forfeit or in any way prejudice the rights of Grantee with respect to its liens on the Subject Property and its rights and ability to foreclose, but shall be and remain at all times separate and distinct, notwithstanding any union of said interests in Grantee at any time by purchase, termination, or otherwise; and that the liens of Grantee in the Subject Property evidenced by said Trust Deed shall be and remain at all times valid and continuous liens upon the Subject Property and may be foreclosed by Grantee.

Upon the recording of this document, Grantor waives, surrenders, conveys and relinquishes any equity or redemption and statutory rights of redemption Grantor may now have or may have in the future concerning the Subject Property and the Trust Deed.

Grantor acknowledges and agrees that nothing herein will affect the rights and remedies of Grantee under any Trust Deeds held by Grantee and understands that Grantee is proceeding to foreclose on any or all of said Trust Deeds even after this document is recorded and is proceeding to seek a judgment against Grantor and the guarantors of Grantor for any deficiency that may be owing after such foreclosure sale.

Grantor further acknowledges and agrees that nothing herein will affect the rights and remedies of Grantee to pursue any guarantors of Grantor, including but not limited to Homedale JV LLC, Gibson Trust, John E. Batzer, and Randall D. Simonson, for liability on the Note and personal guarantees.

The person signing this Deed on behalf of Grantor represents and warrants that he is the managing member of Homedale JV, LLC, which is the manager of Grantor, that he is duly authorized and has legal capacity to execute and deliver this Deed on behalf of Grantor, that the execution and delivery of this Deed has been duly authorized by Grantor, and that this Deed is a valid and legal agreement, binding on Grantor and enforceable in accordance with its terms.

**ORS 93.040 Disclosure.** The following disclaimer is made pursuant to ORS 93.040:

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON  
TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS,

IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

WHEREFORE, the parties have caused this Agreement to be executed effective as of the date first set forth above.

**"GRANTOR"**

SUMMERFIELD RESIDENTIAL COMMUNITY LLC



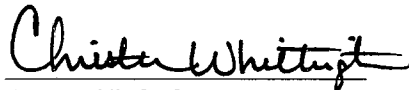
Randall D. Simonson, Managing Member, Homedale JV LLC,  
the Manager of Summerfield Residential Community LLC

STATE OF OREGON                    )  
  ) ss.  
County of Jackson                    )

This instrument was acknowledged before me on this 9<sup>th</sup> day of October, 2013, by  
Randall D. Simonson.

Before me:





Notary Public for Oregon

My commission expires: Aug. 6, 2017

**"GRANTEE"**

ROGUE FEDERAL CREDIT UNION



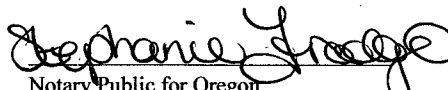
By: \_\_\_\_\_, Its \_\_\_\_\_

STATE OF OREGON                    )  
  ) ss.  
County of Jackson                    )

This instrument was acknowledged before me on this 16<sup>th</sup> day of October, 2013, by  
Hester Chariton

Before me:





Notary Public for Oregon

My commission expires: Sept. 23, 2016

Lieu of Foreclosure