

AMERITITLE

101177-CT

2014-006863

Klamath County, Oregon

06/27/2014 03:24:08 PM

Fee: \$157.00

Recording Requested and
When Recorded Return to:

Kyle Jackson
Assistant General Counsel
Oldcastle, Inc.
2401 SE Tones Drive, Suite 13
Ankeny, IA 50021

The tax account numbers of the property subject to the lien or in which the interest is created are _____, R881068 _____, and _____. In the event of any discrepancy between the real property covered by said Tax Account numbers and the legal description, the legal description for the property shall control.

DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (this "Deed of Trust") is made this 27th day of June, 2014, between Rocky Mountain Construction, LLC, an Oregon limited liability company organized under the laws of the State of Oregon, whose address is 4815 Tingley Lane #A, Klamath Falls, OR 97603 ("Grantor"); AmeriTitle, Inc. ("Trustee"), whose address is 300 Klamath Avenue, Klamath Falls, OR 97601; and CPM Development Corporation, a Washington corporation, its successors and/or assigns ("Beneficiary"), whose address is East 5111 Broadway, Spokane, WA 99212.

Beneficiary is making a loan (the "Loan") to Grantor in the principal amount of Two Million Three Hundred Fifty Thousand and No/100 Dollars (\$2,350,000) to be secured in part by that certain real property (the "Realty") described in the attached Exhibit A. The Loan is due and payable in full on [December 31, 2017]. The interest rate, payment terms, and balance due with respect to the Loan may be indexed, adjusted, renewed, or renegotiated in accordance with the terms of the Note (hereinafter defined) and/or on account of any extensions or renewals of the Note.

In consideration of the Loan, Grantor hereby irrevocably GRANTS, TRANSFERS, CONVEYS, and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, all of Grantor's present and future estate, rights, title, claim, interest, and demand, either in law or in equity, of, in, and to the following property (the "Property"):

- (a) The Realty and all land lying in alleys, streets, and roads adjoining or abutting the Realty;
- (b) All buildings, improvements, and tenements now or hereafter located on the

Realty;

(c) All fixtures and articles of property now or hereafter attached to, or used or adapted for use in the operation of, the Realty (whether such items are leased, owned absolutely or subject to any title retaining or security instrument, or otherwise used or possessed), including, without limitation, all heating, cooling, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric, and communication fixtures, equipment, and apparatus, all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters, and furnaces, all ranges, stoves, disposers, refrigerators, and other appliances, all escalators and elevators, all cabinets, partitions, mantels, built-in mirrors, window shades, blinds, screens, awnings, storm doors, windows, and sash, all carpeting, underpadding, and draperies, all furnishings of public spaces, halls, and lobbies, and all shrubbery and plants; all of which items shall be deemed part of the real property and not severable wholly or in part without material injury to the freehold;

(d) All easements, all access, air, and development rights, all minerals and oil, gas, and other hydrocarbon substances, all royalties, all water, water rights, and water stock, and all other rights, hereditaments, privileges, permits, licenses, franchises, and appurtenances now or hereafter belonging or in any way appertaining to the Realty; and

(e) All of the rents, revenues, issues, profits, and income of the Property, and all right, title, and interest of Grantor in and to all present and future leases and other agreements for the occupancy or use of all or any part of the Realty, and all right, title, and interest of Grantor thereunder, including rentals and deposits or payments of similar nature; SUBJECT, HOWEVER, to the assignment of rents and other property to Beneficiary herein contained;

(f) All books, records, tax refunds, and general intangibles concerning or related to any or all of the foregoing;

(g) All insurance policies, together with all proceeds thereof, rights thereto, and all unearned premiums returnable upon cancellation; and

(h) All products and proceeds of any of the foregoing.

TO SECURE THE FOLLOWING (collectively the "Secured Obligations"):

(1) Payment of the Loan, with interest thereon, according to the terms and provisions of a Promissory Note of even date herewith, payable to Beneficiary or order, and made by Grantor, and all modifications, extensions, renewals, and replacements thereof (the "Note").

(2) Payment of all sums advanced to protect the security of this Deed of Trust, together with interest thereon as herein provided;

(3) Payment of all other sums which are or which may become owing under the Loan Documents (hereinafter defined);

(4) Performance of all of Grantor's other obligations under the Loan Documents

(hereinafter defined); and

(5) Payment of the principal of and interest on all other future loans or advances made by Beneficiary to Grantor when the promissory note evidencing the loan or advance specifically states that it is secured by this Deed of Trust, including all modifications, extensions, renewals, and replacements of any such future loan or advance.

As used herein, the term "Loan Documents" means the Note, this Deed of Trust, the Security Agreement executed by Grantor (the "Security Agreement"), any Uniform Commercial Code Financing Statement filed in connection herewith, any guaranty, and any other instrument or document evidencing or securing the Loan or otherwise executed in connection therewith, together with all modifications, extensions, renewals and replacements thereof.

GRANTOR HEREBY REPRESENTS, WARRANTS, COVENANTS, AND AGREES AS FOLLOWS:

ARTICLE I TITLE AND USE

1.1 Warranty of Title. Grantor represents and warrants to Beneficiary that: (a) Grantor has good and marketable title in fee simple to the Realty and is the sole and absolute owner of the Property; (b) the Property is free from liens, encumbrances, exceptions, or other charges of any kind whatsoever other than those Permitted Encumbrances (as defined in the Security Agreement), and any other liens, encumbrances, exceptions, or charges expressly permitted by the terms of this Deed of Trust, and no others, whether superior or inferior to this Deed of Trust, will be created or suffered to be created by Grantor during the life of this Deed of Trust without the prior written consent of Beneficiary; (c) that no default on the part of Grantor or any other person exists under any of the Permitted Exceptions and, as applicable, all are in full force and effect and in good standing, without modification; and (d) that Grantor has the right to grant, transfer, convey, and assign the Property as herein provided and will forever warrant and defend the Property unto Beneficiary against all claims and demands of any other person whomsoever, subject only to non-delinquent installments of taxes and assessments and Permitted Exceptions.

1.2 Commercial Trust Deed. Grantor represents and warrants to Beneficiary that this Deed of Trust and the Loan are and at all times will be for business and commercial purposes and that no portion of the Loan will be used by Grantor for personal, family or household purposes.

ARTICLE II GRANTOR'S COVENANTS

2.1 Payment and Performance of Secured Obligations. Grantor shall pay when due all sums which are now or which may become owing on the Note, and shall pay and perform all other Secured Obligations, in accordance with their terms.

2.2 Payment of Taxes, Utilities, Liens, and Charges.

(a) Taxes and Assessments. Grantor shall pay when due directly to the payee thereof all taxes and assessments (including, without limitation, non-governmental levies or

assessments such as maintenance charges, owner association dues or charges, or fees, levies, or charges resulting from covenants, conditions, or restrictions) levied, assessed, or charged against or with respect to the Property or this Deed of Trust. Grantor shall promptly furnish to Beneficiary all notices of amounts due under this Section 2.2(a) and all receipts evidencing such payments. Without in any way limiting the generality of the foregoing provisions of this Section 2.2(a), if, during the term of the Loan, there is any change in applicable law which results in Beneficiary being subjected to (i) any tax measured by or based on, in whole or in part, the indebtedness secured hereby or (ii) any portion of any tax payable with respect to the Property, Grantor shall, on demand, pay to Beneficiary the amount of any such tax paid by Beneficiary or shall promptly prepay the Secured Obligations.

(b) Utilities. Grantor shall pay when due all utility charges and assessments for services furnished the Property.

(c) Liens and Charges. Grantor shall pay when due the claims of all persons supplying labor or materials to or in connection with the Property. Without waiving the restrictions of Article III, Grantor shall promptly discharge any lien or other charge, whether superior or inferior to this Deed of Trust, which may be claimed against the Property. Notwithstanding the foregoing provisions of this Section 2.2(c), Grantor shall not be deemed to be in default under this Section 2.2(c) if and so long as (i) Grantor contests in good faith the validity or amount of any asserted lien or other charge and diligently prosecutes or defends an action appropriate to obtain a binding determination of the disputed matter, (ii) nonpayment of such lien or charge does not result in the loss or forfeiture of any of the Property or any interest therein, and (iii) Grantor furnishes cash, a surety bond, or other security in form and content and issued by a company satisfactory to Beneficiary, as security for any payment which may ultimately be required to discharge the lien or charge, in an amount equal to 150 percent of the amount of the asserted lien or charge. Beneficiary agrees that a surety bond in the amount required hereunder and otherwise satisfying the requirements of any applicable law relating to bonding around such a lien or charge shall be satisfactory to Beneficiary under clause (iii) above.

2.3 Insurance.

(a) Coverages Required: Grantor shall keep the following insurance coverages in effect with respect to the Property:

(i) Insurance against loss by fire and the hazards now or hereafter embraced by the standard "extended coverage" form of insurance, in an amount equal at all times to the full insurable value of the improvements then located on the Property. All such insurance coverage shall contain a "replacement cost endorsement" satisfactory to Beneficiary.

(ii) Flood risk insurance in the maximum amount of insurance coverage available or the full replacement cost of the buildings on the Property, whichever is less, if the Property is now or hereafter designated as being located within the

100-year flood plain under the federal flood insurance program and if flood insurance is available.

(iii) Comprehensive public liability insurance against claims for bodily injury, death, or property damage occurring on, in, or about the Property (including coverage for elevators and escalators, if any, on the Property), with the coverage being in an amount of not less than \$1,000,000 for bodily injury or death to any one person, \$2,000,000 for any one occurrence, and \$1,000,000 for property damage, or in such commercially reasonable greater amount(s) as Beneficiary may require.

(iv) Business interruption insurance in an amount not less than one year's revenues from the Property.

(v) Insurance against such similar or other hazards, casualties, liabilities, and contingencies, in such forms and amounts, as Beneficiary may from time to time require.

(b) Policies. Each insurance policy shall be issued by a company reasonably acceptable to Beneficiary and licensed to do business in the state in which the Property is located and shall be in a form reasonably acceptable to Beneficiary. Each hazard insurance policy shall include a Form 438BFU or equivalent mortgagee endorsement in favor of and in form reasonably acceptable to Beneficiary, and all insurance policies shall name Beneficiary as an additional insured. All required policies will provide for at least thirty (30) days' written notice to Beneficiary prior to the effective date of any cancellation or material amendment, which term shall include any reduction in the scope or limits of coverage. Grantor shall furnish to Beneficiary the original of each required insurance policy, or a certified copy thereof together with a certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number, and the expiration date. As additional security for the Secured Obligations, Grantor hereby assigns to Beneficiary all insurance policies, together with all proceeds thereof, rights thereto, and all unearned premiums returnable upon cancellation.

(c) Payment; Renewals. Grantor shall promptly furnish to Beneficiary all renewal notices relating to insurance policies. Grantor shall pay all premiums on insurance policies directly to the carrier. At least thirty (30) days prior to the expiration date of each such policy, Grantor shall furnish to Beneficiary a renewal policy in a form reasonably acceptable to Beneficiary, together with evidence that the renewal premium has been paid.

(d) Insurance Proceeds.

(i) In the event of any loss, Grantor shall give prompt written notice thereof to the insurance carrier and Beneficiary. Grantor hereby authorizes Beneficiary, as Grantor's attorney-in-fact, to make proof of loss, to adjust and compromise any claim, to commence, appear in, and prosecute, in Beneficiary's or Grantor's names, any action relating to any claim and to collect and receive insurance proceeds; provided, however, that Beneficiary shall have no obligation to do so.

Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing at the time, Grantor shall have the right to adjust, compromise and settle any claim of \$50,000 or less without the consent of Beneficiary.

(ii) Except with respect to proceeds for damage or loss of \$50,000 or less, all sums paid under any insurance policy required in Section 2.3(a) shall be paid to the Beneficiary. Except with respect to proceeds for damage or loss of \$50,000 or less, provided no Event of Default then exists and Grantor certifies as to same, the net insurance proceeds (after deduction of Beneficiary's costs and expenses, if any, in collecting the same) shall be made available for the restoration or repair of the Property if, in Beneficiary's commercially reasonable judgment: (a) insurance proceeds and additional funds deposited by the Grantor with Beneficiary prior to the commencement of any repair or reconstruction are adequate to complete repair and reconstruction of the Property pursuant to plans and specifications approved by Beneficiary; (b) disbursement procedures acceptable to Beneficiary are in place, which procedures shall include provisions for the deposit of construction shortfalls, collection of lien waivers, issuance of title policies by a title insurance company, payment of Beneficiary's fees and expenses in disbursing, and coordination of work, and Grantor shall have reimbursed Beneficiary for all of its reasonable out-of-pocket expenses in connection with such reconstruction and disbursement, including, without limitation, title insurance fees, inspection fees, attorney's fees, and architect's fees; (c) Beneficiary shall have received such consents and assurances from municipal authorities, and others, as Beneficiary may request; and (d) Beneficiary shall have received such assurances as Beneficiary may request that the repairs or reconstruction will be completed by the then current Maturity Date. If the above conditions are not satisfied as to application of insurance proceeds, and in any event as to condemnation awards, Beneficiary shall apply the same (after first deducting therefrom Beneficiary's reasonable expenses incurred in collecting the same, including but not limited to actual attorney fees) to the reduction of the outstanding principal balance of the Loan or to payment of the restoration, repair, replacement or rebuilding of the property that is damaged or destroyed in such manner as Beneficiary may determine.

(e) Transfer of Title. If the Property is sold pursuant to Article VII or if Beneficiary otherwise acquires title to the Property, Beneficiary shall have all of the right, title, and interest of Grantor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

WARNING

Unless Grantor provides Beneficiary with evidence of the insurance coverage as required by this Section 2.3, Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantor's interest. If the Property becomes damaged, the coverage Beneficiary purchases may not pay any claim

Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.

Grantor is responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to Grantor's debt. If the cost is added to Grantor's debt, the interest rate on the Note will apply to this additional debt. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage.

The coverage Beneficiary purchases may be considerably more expensive than insurance Grantor can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

2.4 Preservation and Maintenance of Property; Right of Entry.

(a) Preservation and Maintenance. Grantor (i) shall not commit or suffer any waste or permit any impairment or deterioration of the Property, (ii) shall not abandon the Property, (iii) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Beneficiary may approve in writing, in the event of any damage, injury, or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (iv) shall keep the Property, including improvements, fixtures, equipment, machinery, and appliances thereon, in good condition and repair and shall replace fixtures, equipment, machinery, and appliances of the Property when necessary to keep such items in good condition and repair, and (v) shall generally operate and maintain the Property in a manner to ensure maximum revenue.

(b) Alterations. No building or other improvement on the Realty shall be structurally altered, removed, or demolished, in whole or in part, without Beneficiary's prior written consent, nor shall any fixture or chattel covered by this Deed of Trust and adapted to the use and enjoyment of the Property be removed at any time without such consent, unless actually replaced by an article of equal suitability, owned by Grantor, free and clear of any lien or security interest except such as may be approved in writing by Beneficiary.

(c) Right of Entry. Beneficiary is hereby authorized to enter the Property, including the interior of any structures, at reasonable times and after reasonable notice, for the purpose of inspecting the Property and for the purpose of performing any of the acts Beneficiary is authorized to perform hereunder.

2.5 Use of Property. Grantor shall comply with all laws, ordinances, regulations, and requirements, of any governmental body and all other covenants, conditions, and restrictions applicable to the Property, and pay all fees and charges in connection therewith. Unless required by applicable law or unless Beneficiary has otherwise agreed in writing, Grantor shall not allow changes in the use for which all or any part of the Property was intended at the time this Deed of Trust was executed. Grantor shall not initiate or acquiesce in a change in the land use or zoning classification of the Property without Beneficiary's prior written consent.

2.6 Condemnation.

(a) Proceedings. Grantor shall promptly notify Beneficiary of any action or proceeding relating to any condemnation or other taking (including, without limitation, change of grade), whether direct or indirect, of the Property or any part thereof or interest therein, and Grantor shall appear in and prosecute any such action or proceeding unless otherwise directed by Beneficiary in writing. Grantor authorizes Beneficiary, at Beneficiary's option, as attorney-in-fact for Grantor, to commence, appear in, and prosecute, in Beneficiary's or Grantor's names, any action or proceeding relating to any such condemnation or other taking, and to settle or compromise any claim in connection with such condemnation or other taking; provided, however, that Beneficiary shall have no obligation to do so. All awards, payments, damages, direct, consequential, and otherwise, claims, and proceeds thereof, in connection with any such condemnation or other taking, or for conveyances in lieu of condemnation, are hereby assigned to Beneficiary, and all proceeds of any such awards, payments, damages, or claims shall be paid to Beneficiary subject to the rights of the lessor under any ground lease.

(b) Application of Proceeds. Beneficiary shall apply any such proceeds in the manner and upon the terms and conditions set forth in Section 2.3(d)(ii) relating to the application of insurance proceeds.

2.7 Protection of Beneficiary's Security. Grantor shall give notice to Beneficiary of and shall, at its expense, appear in and defend any action or proceeding that might affect the Property or title thereto or the interests of Beneficiary or Trustee therein or the rights or remedies of Beneficiary or Trustee. If any such action or proceeding is commenced, or if Beneficiary or Trustee is made a party to any such action or proceeding by reason of this Deed of Trust, or if Grantor fails to perform any obligation on their part to be performed hereunder, then Beneficiary and/or Trustee, each in its own discretion, may make any appearances, disburse any sums, make any entries upon the Property, and take any actions as may be necessary or desirable to protect or enforce the security of this Deed of Trust, to remedy Grantor's failure to perform covenants (without, however, waiving any default by Grantor), or otherwise to protect Beneficiary's or Trustee's interests. Grantor agrees to pay all costs and expenses, including attorneys' fees, of Beneficiary and Trustee thus incurred. This Section 2.8 shall not be construed to require Beneficiary or Trustee to incur any expenses, make any appearances, or take any actions.

2.8 Reimbursement of Beneficiary's and Trustee's Expenses. All amounts disbursed by Beneficiary and Trustee pursuant to Section 2.8 or any other provision of this Deed of Trust, with interest thereon, shall be additional indebtedness of Grantor secured by this Deed of Trust. All such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate of eighteen percent (18%) per annum or the maximum rate, if any, which may be collected from Grantor on such amounts by the payee thereof under applicable law, if less.

2.9 Books and Records; Financial Statements. Grantor shall keep and maintain at Grantor's address stated above, or such other place as Beneficiary may approve in writing, books of account and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases, and other instruments which affect the Property. Such books, records, contracts, leases, and other instruments shall be subject to examination, inspection, and copying at any reasonable time by Beneficiary. Grantor shall furnish to

Beneficiary within ninety (90) days after the end of each calendar year, and at other times upon Beneficiary's request, a balance sheet and a statement of changes in financial position, each in form reasonably acceptable to beneficiary and in reasonable detail and certified as correct by Grantor. Grantor shall furnish, together with the foregoing financial statement and at other times upon Beneficiary's request, a rent schedule for the Property, certified by Grantor, showing the name of each tenant and, for each tenant, the space occupied, the lease expiration date, the rent payable, and the rent paid.

ARTICLE III RESTRICTIONS ON TRANSFER, ENCUMBRANCE OR CHANGES

3.1 Restrictions on Transfers of the Property. Neither the Property nor any part thereof or interest therein shall be encumbered, sold (by contract or otherwise), conveyed, or otherwise transferred by Grantor without Beneficiary's prior written consent.

3.2 Restrictions on Transfers of Interests in Grantor. Without Beneficiary's prior written consent, there shall not be any direct or indirect change in excess of 25% cumulative in the ownership of any stock in a corporate Grantor, in the ownership of any general partnership interest in any general or limited partnership Grantor, in the ownership of any membership interest in any limited liability company Grantor, or in the ownership of any beneficial interest in any other Grantor which is not a natural person or persons. Notwithstanding the foregoing, if (a) Jamie Jackson continues to control, directly or indirectly, the Grantor, and (b) Grantor provides Beneficiary not less than thirty (30) days' prior written notice describing the proposed transfers, then direct or indirect transfers for bona fide estate planning purposes of up to 51% of the beneficial ownership interest in Grantor shall be permitted to one or more immediate family members of the transferor, trusts for the benefit of transferor, immediate family members of the transferor, or partnerships or limited liability companies comprised solely of the transferor, immediate family members of the transferor or such trusts without the consent of Lender. For purposes of this Section 3.2, the term "control," "controlled," or "controlling" with respect to a specified person or entity shall include, without limitation (i) the ownership, control or power to vote ten percent (10%) or more of (x) the outstanding shares of any class of voting securities or (y) beneficial interests, of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over the general partner(s) or manager(s) or managing member(s) or the election of more than one director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity.

3.3 Restrictions on Changes to Grantor. Grantor will not, without the prior written consent of Beneficiary, change its name, convert from one type of legal entity into another type of legal entity, merge or consolidate into another entity or change its state of organization.

3.4 Permitted Transfers to a Guarantor. Beneficiary's prior consent will not be required for sales or transfers of direct or indirect interests in Grantor into one or more trusts or other entity which are guarantors of the Loan. However, within 10 days after any such transfer, Grantor will notify Beneficiary in writing and provide copies of all relevant transfer documents.

3.5 Violations of this Article. Any actions under this Article III taken without Beneficiary's prior written consent where such consent is required, shall constitute an Event of Default hereunder and shall be deemed to increase the risk of Beneficiary, and Beneficiary may declare all sums secured hereby immediately due and payable.

3.6 Grantor Remains Liable. Notwithstanding any permitted transfer, Grantor shall remain fully liable to Beneficiary for payment of the Loan.

3.7 Payment of Beneficiary's Costs. As a condition to obtaining Beneficiary's consent under this Article III, Borrower will pay all of Beneficiary's costs, including, but not limited to, Lender's attorney fees and Lender's internal expenses, to compensate Beneficiary for reviewing and consenting to any such action.

ARTICLE IV UNIFORM COMMERCIAL CODE FIXTURE AGREEMENT

4.1 Beneficiary's Rights and Remedies. With respect to the Article 9, Property subject to the foregoing security interest, Beneficiary has all of the rights and remedies (i) of a secured party under the Oregon Uniform Commercial Code (the "UCC"), (ii) provided herein, including, without limitation, the right to cause such Property to be sold by Trustee under the power of sale granted by this Deed of Trust, and (iii) provided by law. In exercising its remedies, Beneficiary may proceed against the items of real property and any items of personal property separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies. Upon demand by Beneficiary following an Event of Default hereunder, Grantor shall assemble any items of personal property and make it available to Beneficiary at the Property, a place which is hereby deemed to be reasonably convenient to both parties. Beneficiary shall give Grantor at least five (5) days' prior written notice of the time and place of any public sale or other disposition of such Property or of the time of or after which any private sale or any other intended disposition is to be made, and such notice shall constitute reasonable notice to Grantor. Any person permitted by law to purchase at any such sale may do so. Such Property may be sold at any one or more public or private sales as permitted by applicable law. All expenses incurred in realizing on such Property shall be borne by Grantor.

4.2 Fixture Filing. This Deed of Trust shall also constitute a "fixture filing" for the purposes of the UCC against all of the Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the addresses of Debtor (Grantor) and Secured Party (Beneficiary) as set forth in the first paragraph of this Deed of Trust.

ARTICLE V ASSIGNMENT OF RENTS AND LEASES

5.1 Assignment. As part of the consideration for the indebtedness evidenced by the Note, and not as additional security therefor, Grantor hereby assigns and transfers to Beneficiary (a) all right, title, and interest of Grantor in and to any and all present and future leases and other agreements for the occupancy or use of all or any part of the Property, and any and all extensions, renewals, and replacements thereof (collectively, "Leases"), and all right, title, and interest of Grantor thereunder, including, without limitation, all cash or security deposits,

advance rentals and deposits, or payments of a similar nature, (b) any and all guaranties of tenants' or occupants' performances under any and all Leases, and (c) all rents, issues, profits, and revenues (collectively, "Rents") which are now due, which may become due, or to which Grantor is now or may hereafter become entitled or may demand or claim (including Rents coming due during any redemption period), arising or issuing from or out of any and all Leases, including, without limitation, minimum, additional, percentage, and deficiency rents and liquidated damages, including Grantor's right, power and authority to modify the terms of any such Leases, or extend or terminate any such Leases. It is the intention of Grantor to establish a present, absolute and irrevocable transfer and assignment to Beneficiary of all of Grantor's right, title and interest in, to and under the Leases. Grantor and Beneficiary intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of the Leases, and for no other purpose, the Leases shall not be deemed to be a part of the Property. However, if this present, absolute and unconditional assignment of the Leases is not enforceable by its terms under the laws of the state in which the Property is located, then the Leases shall be included as a part of the Property and it is the intention of the Grantor that in this circumstance this Deed of Trust create and perfect a lien on the Leases in favor of Beneficiary, which lien shall be effective as of the date of this Deed of Trust.

5.2 Grantor's Rights to Collect Rent. Notwithstanding the foregoing, Grantor shall have the right to collect, but not prior to accrual, all of the Rents and to retain, use and enjoy the same unless and until a default shall occur in the payment when due of any interest or principal under the Note or if an Event of Default shall occur hereunder or under any other instrument now or hereafter securing the Note. Grantor shall not receive or accept Rent under any Lease for more than one month in advance.

5.3 Grantor's Rights Under Leases Prior to Default. Until Beneficiary gives notice to Grantor of Beneficiary's exercise of its rights under this Article, Grantor shall have all rights, power and authority granted to Grantor under any Lease (except as otherwise limited by this Article), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Notwithstanding the foregoing, Grantor will not modify the terms of any lease in a way which has the effect of reducing the tenant's Rent without Beneficiary's prior written consent, which will not be unreasonably withheld or delayed. Upon the occurrence of an Event of Default, the permission given to Grantor pursuant to this section to exercise all rights, power and authority under Leases shall automatically terminate. Grantor shall comply with and observe Grantor's obligations under all Leases, including Grantor's obligations pertaining to the maintenance and disposition of tenant security deposits.

5.4 Beneficiary's Obligations Prior to Entry. Grantor acknowledges and agrees that the exercise by Beneficiary, either directly or by a receiver, of any of the rights conferred under this Article shall not be construed to make Beneficiary a mortgagee-in-possession of the Property so long as Beneficiary has not itself entered into actual possession of the Property. The acceptance by Beneficiary of the assignment of the Leases pursuant to this Article shall not at any time or in any event obligate Beneficiary to take any action under this Deed of Trust or to expend any money or to incur any expenses. Beneficiary shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Property. Prior to Beneficiary's actual entry into and taking possession of the Property,

Beneficiary shall not (i) be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease); (ii) be obligated to appear in or defend any action or proceeding relating to the Lease or the Property; or (iii) be responsible for the operation, control, care, management or repair of the Property or any portion of the Property. The execution of this Deed of Trust by Grantor shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Property is and shall be that of Grantor, prior to such actual entry and taking of possession.

5.5 Beneficiary's Rights After Default. Upon delivery of notice by Beneficiary to Grantor of Beneficiary's exercise of Beneficiary's rights under this Article at any time after the occurrence of an Event of Default, and without the necessity of Beneficiary entering upon and taking and maintaining control of the Property directly, by a receiver, or by any other manner or proceeding permitted by law, Beneficiary immediately shall have all rights, powers and authority granted to Grantor under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.

ARTICLE VI EVENTS OF DEFAULT

6.1 Events of Default. The occurrence of any one or more of the following shall constitute an event of default hereunder:

- (a) Failure to make any payment under the Note, this Deed of Trust, or any of the other Loan Documents within ten (10) days of the date on which it is due.
- (b) Failure to perform any other covenant, agreement, or obligation under the Note, this Deed of Trust, or any of the other Loan Documents, and the failure to cure such non-performance within twenty (20) days after written notice thereof given to Grantor by Beneficiary or, if such cure cannot be completed within such 20-day period through the exercise of diligence, the failure by Grantor to commence the required cure within such 20-day period and thereafter to continue and complete the cure with diligence.
- (c) A violation of Article III.
- (d) Grantor, or any Guarantor files a petition in bankruptcy or for an arrangement, reorganization, or any other form of debtor relief; or such a petition is filed against Grantor or any Guarantor and is not dismissed within forty-five (45) days after the date of filing.
- (e) A decree or order is entered for the appointment of a trustee, receiver, or liquidator for Grantor, Grantor's property, or any Guarantor, and such decree or order is not vacated within forty-five (45) days after the date of entry.
- (f) Grantor or any entity Guarantor commences any proceeding for dissolution or liquidation; or any such proceeding is commenced against Grantor and is not dismissed within forty-five (45) days after the date of commencement.

(g) Grantor makes an assignment of all or substantially all of its assets for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due.

(h) There is an attachment, execution, or other judicial seizure of any portion of Grantor's assets and such seizure is not discharged within ten (10) days.

(i) Any representation or disclosure made to Beneficiary by Grantor or any Guarantor proves to be materially false or misleading when made, whether or not that representation or disclosure is contained herein.

6.2 Form of Notice. At Beneficiary's option, any written notice of default required to be given to Grantor under Section 7.1 may be given in the form of a statutory notice of default under the laws of the State of Oregon relating to non-judicial foreclosures of trust deeds.

ARTICLE VII REMEDIES

7.1 Acceleration Upon Default; Additional Remedies. Upon the occurrence of an Event of Default hereunder, Beneficiary may, at its option and without notice to or demand upon Grantor:

(a) Declare any or all indebtedness secured by this Deed of Trust to be due and payable immediately.

(b) Bring a court action to enforce the provisions of, or any of the indebtedness or obligations secured by, this Deed of Trust.

(c) Bring a court action for appointment of a receiver.

(d) Foreclose this Deed of Trust as a mortgage.

(e) Cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law.

(f) Exercise any or all of the rights and remedies provided for herein in the Event of Default hereunder.

(g) Exercise any other right or remedy available under law or in equity.

7.2 Appointment of Receiver. If Beneficiary applies to a court for appointment of a receiver, Beneficiary's right to appointment will be without regard to the adequacy of Beneficiary's security or Grantor's solvency. Any receiver will have the right and power to take any or all actions necessary or desirable to manage, maintain and operate the Property. If Beneficiary elects to seek the appointment of a receiver for the Property, Grantor, by its execution of this Deed of Trust, expressly consents to the appointment of such receiver, including the appointment of a receiver ex parte if permitted by applicable law. The receiver shall be entitled to receive a reasonable fee for managing the Property. Immediately upon appointment of a receiver, Grantor shall surrender possession of the Property to the receiver and shall deliver to the receiver all

documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Property and all security deposits and prepaid Rents. Grantor will be responsible for all costs and expenses related to the receiver.

7.3 Exercise of Power of Sale. For any sale under the power of sale granted by this Deed of Trust, Beneficiary or Trustee shall record and give all notices required by law and then, upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Beneficiary and permitted by applicable law. Trustee may postpone any sale by public announcement at the time and place noticed for the sale. If the Property includes several lots or parcels, Beneficiary in its discretion may designate their order of sale or may elect to sell all of them as an entirety. The Property, real, personal, and mixed, may be sold in one parcel. Any person permitted by law to do so may purchase at any sale. Upon any sale, Trustee will execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property sold, but without any covenant or warranty, express or implied, and the recitals in the Trustee's deed showing that the sale was conducted in compliance with all the requirements of law shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

7.4 Application of Sale Proceeds. The proceeds of any sale under this Deed of Trust will be applied in the following manner:

FIRST: To payment of the costs and expenses of the sale, including, without limitation, Trustee's fees, attorneys' fees and disbursements, title charges, and transfer taxes, and payment of all expenses, liabilities, and advances of Trustee, together with interest on all advances made by Trustee from date of disbursement at the applicable interest rate under the Note from time to time or at the maximum rate permitted to be charged by Trustee under the applicable law, if less.

SECOND: To payment of all sums expended by Beneficiary under the terms of this Deed of Trust and not yet repaid, together with interest on such sums from date of disbursement at the rate of eighteen percent (18%) per annum or the maximum rate permitted by applicable law, if less.

THIRD: To payment of all other indebtedness secured by this Deed of Trust (including, without limitation, any applicable prepayment penalty or fee) in any order that the Beneficiary chooses.

FOURTH: The remainder, if any, to the person or persons legally entitled to it.

7.5 Waiver of Order of Sale and Marshalling. Grantor waives all rights to direct the order in which any of the Property will be sold in the event of any sale under this Deed of Trust, and also any right to have any of the Property marshaled upon any sale.

7.6 Non-Waiver of Defaults. The entering upon and taking possession of the Property, the collection of any partial payment, Rents, the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the Property, and the application or release thereof as herein provided, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

7.7 Expenses During Redemption Period. If this Deed of Trust is foreclosed as a mortgage and the Property is sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection, and insuring thereof. Any sums so paid, together with interest thereon from the time of such expenditure at the rate of twelve percent (12%) per annum or the highest rate permitted by applicable law, if less, shall be added to and become a part of the amount required to be paid for redemption from such sale.

7.8 Remedies Cumulative. To the extent permitted by law, every right and remedy provided in this Deed of Trust is distinct and cumulative to all other rights or remedies under this Deed of Trust or afforded by law or equity or any other agreement between Beneficiary and Grantor, and may be exercised concurrently, independently, or successively, in any order whatsoever. Beneficiary may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

7.9 Beneficiary's and Trustee's Expenses. Grantor shall pay all of Beneficiary's and Trustee's expenses incurred in any effort to enforce any terms of this Deed of Trust, whether or not any suit is filed, including, without limitation, attorneys' fees and disbursements, foreclosure costs, and title charges. All such sums, with interest thereon, shall be additional indebtedness of Grantor secured by this Deed of Trust. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the rate of twelve percent (12%) per annum, or the maximum rate which may be collected from Grantor under applicable law, if less.

7.10 Late Charges. If any payment required hereunder to be made by Grantor is not paid within fifteen (15) days after the date such payment was due, Grantor shall pay to Beneficiary on demand a late charge in an amount equal to five percent (5%) of the overdue payment. Grantor acknowledges and agrees that the late charge is intended as a reasonable approximation of actual damages incurred by Beneficiary as a result of such late payment, which damages are difficult to estimate. The imposition or collection of a late charge is in addition to and not in lieu of any other rights or remedies Beneficiary may have as a result of the late payment.

ARTICLE VIII GENERAL

8.1 Application of Payments. Except as applicable law or this Deed of Trust may otherwise provide, all payments received by Beneficiary under the Note or this Deed of Trust shall be applied by Beneficiary in the following order of priority: (a) interest and late charges payable on the Note; (b) interest payable on advances made to protect the security of this Deed of Trust; (c) principal of the Note; (d) principal of advances made to protect the security of this Deed of Trust; and (e) any other sums secured by this Deed of Trust in such order as Beneficiary, at its option, may determine.

8.2 Reconveyance. Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property and shall surrender to Trustee this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the

recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

8.3 Successor Trustee. In accordance with applicable law, Beneficiary may from time to time appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power, and duties conferred upon the Trustee herein and by applicable law.

8.4 Beneficiary's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations, Beneficiary, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of the indebtedness, release the lien of this Deed of Trust on any part of the Property, take or release other or additional security, release or reconvey or cause to be released or reconveyed all or any part of the Property, consent or cause Trustee to consent to the making of any map or plat of the Property, consent or cause Trustee to consent to the granting of any easement or the creating of any restriction on the Property, or join or cause Trustee to join in any subordination or other agreement affecting this Deed of Trust or the lien or charge hereof. Grantor shall pay Beneficiary a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Beneficiary's option, for any such action if taken at Grantor's request.

8.5 Subrogation. Beneficiary shall be subrogated for further security to the lien, although released of record, of any and all encumbrances discharged, in whole or in part, by the proceeds of the Loan or any other indebtedness secured hereby.

8.6 No Violation of Usury Laws. Interest, fees, and charges collected or to be collected in connection with the indebtedness secured hereby shall not exceed the maximum, if any, permitted by any applicable law. If any such law is interpreted so that said interest, fees, or charges would exceed any such maximum and Grantor is entitled to the benefit of such law, then (a) such interest, fees, or charges shall be reduced to the permitted maximum; and (b) any sums already paid to Beneficiary which exceeded the permitted maximum shall be refunded. Beneficiary may choose to make the refund either by treating the payments, to the extent of the excess, as prepayments of principal or by making a direct payment to the person(s) entitled thereto. The provisions of this Section 9.6 shall control over any inconsistent provision of this Deed of Trust, the Note, or any other Loan Documents.

8.7 Additional Documents; Power of Attorney. From time to time, upon request of Beneficiary, Grantor shall execute, acknowledge, and deliver to Beneficiary, and hereby irrevocably appoints Beneficiary its attorney-in-fact to execute, acknowledge, deliver, and, if appropriate, file and record, such security agreements, assignments for security purposes, assignments absolute, financing statements, affidavits, certificates, and other documents, in form and substance satisfactory to Beneficiary, as Beneficiary may reasonably request in order to perfect, preserve, continue, extend, or maintain the assignments herein contained, the lien and security interest under this Deed of Trust, and the priority thereof. Grantor shall pay to Beneficiary upon request therefor all reasonable costs and expenses incurred in connection with the preparation, execution, recording, and filing of any such document.

8.8 Forbearance by Beneficiary Not a Waiver. Any forbearance by Beneficiary in exercising any right or remedy hereunder or otherwise afforded by applicable law shall not be a waiver of or preclude the exercise of any other right or remedy, and no waiver by Beneficiary of any particular default by Grantor shall constitute a waiver of any other default or of any similar default in the future. Without limiting the generality of the foregoing, the acceptance by Beneficiary of payment of any sum secured by this Deed of Trust after the due date thereof shall not be a waiver of Beneficiary's right either to require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the indebtedness secured by this Deed of Trust, nor shall Beneficiary's receipt of any awards, proceeds, or damages under Sections 2.3 or 2.7 operate to cure or waive Grantor's default in payment of sums secured by this Deed of Trust.

8.9 Modifications. This Deed of Trust cannot be waived, changed, discharged, or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge, or termination is sought.

8.10 Notice. Except as applicable law may otherwise require, all notices and other communications shall be in writing and shall be deemed to have been duly received three days after it is posted in the mail, if mailed by certified mail, return receipt requested, postage prepaid to the appropriate addresses. The addresses for notices are those set forth on the first page of this document.

8.11 Governing Law; Severability. This Deed of Trust shall be governed by the laws of the State of Oregon. If any provision of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions or clauses hereof which can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable.

8.12 Captions; Exhibits. The captions and headings of the sections and articles of this Deed of Trust are for convenience only and shall not be used to interpret or define the provisions hereof. All exhibits referred to in and attached to this Deed of Trust are incorporated herein by reference.

8.13 Definitions. As used herein, the term "Grantor" means the Grantor herein named, together with any subsequent owner of the Property or any part thereof or interest therein; the term "Trustee" means the Trustee herein named, together with any successor Trustee; and the term "Beneficiary" means the beneficiary herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledgees, assignees, and participants.

8.14 Successors and Assigns Bound; Joint and Several Liability; Agents. This Deed of Trust shall bind and inure to the benefit of the parties hereto and their respective heirs, devisees, legatees, administrators, executors, successors, and assigns, subject to the provisions of Article III. All obligations of Grantor hereunder are joint and several. In exercising any rights hereunder or taking actions provided for herein, Beneficiary and Trustee may act through their respective employees, agents, or independent contractors as authorized by Beneficiary and Trustee.

8.15 Number; Gender. This Deed of Trust shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

8.16 Time. Time is of the essence in connection with all obligations of Grantor under this Deed of Trust, the Note, and the Loan Documents.

8.17 Attorneys' Fees. In the event suit or action is instituted to enforce or interpret any provision of this Deed of Trust, Grantor agrees to pay Beneficiary's expenses in connection therewith, including, without limitation, such amount as the court may adjudge reasonable as attorneys' fees at trial or on appeal. Any such expenses shall be additional indebtedness of Grantor secured by this Deed of Trust, shall be immediately due and payable, and shall bear interest from the date of disbursement at the interest rate in effect on the Note from time to time or at the maximum rate, if any, permitted under applicable law, if less.

8.18 Waiver of Jury Trial. **GRANTOR AND BENEFICIARY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY EACH WAIVE ANY RIGHT TO TRIAL BY JURY THEY MAY HAVE IN ANY ACTION OR PROCEEDING, IN LAW OR IN EQUITY, IN CONNECTION WITH THIS DEED OF TRUST OR THE TRANSACTIONS RELATED THERETO. THE GRANTOR REPRESENTS AND WARRANTS THAT NO REPRESENTATIVE OR AGENT OF BENEFICIARY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BENEFICIARY WILL NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS RIGHT TO JURY TRIAL WAIVER.**

GRANTOR ACKNOWLEDGES THAT BENEFICIARY HAS BEEN INDUCED TO ACCEPT THIS GRANT BY, AMONG OTHER THINGS, THE PROVISIONS OF THIS SECTION.

8.19 No Oral Commitments Notice. **UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY A LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY LENDER TO BE ENFORCEABLE.**

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor has executed this instrument as of the day and year first written above.

Rocky Mountain Construction, LLC,
an Oregon limited liability company

By: [Signature]
Name: James Jackson
Title: GM

STATE OF ore)
County of Klamath) ss.

On this 27th day of June, 2014, before me, the undersigned Notary Public in and for said State, personally appeared James Jackson, who said he is an GM of Rocky Mountain Construction, LLC, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.



[Signature]
NOTARY PUBLIC FOR Oregon
My Commission Expires: 12/20/14

**EXHIBIT A
LEGAL DESCRIPTION**

Ditch Rider Parcel

Parcel 3 of Land Partition 59-96 situated in the North $\frac{1}{2}$ Southwest $\frac{1}{4}$ of Section 16, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon.

Tax Account No. 3909-01600-00604-000

Unofficial
Copy

**EXHIBIT B
FIXTURE FILING**

This instrument constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the County in which the Real Property is located with respect to any and all fixtures included in the term Property as used herein and with respect to any goods or other personal property that may now be or hereafter becomes fixtures.

Name and address of Beneficiary (Secured Party) from whom information may be obtained:

CPM Development Corporation
East 5111 Broadway
Spokane, WA 99212
Attn: President

Mailing address of Grantor (Debtor):

Rocky Mountain Construction, LLC
4815 Tingley Lane #A
Klamath Falls, OR 97603
Attn: President

Information for entity Grantor:

Entity	State of Organization	Type of Organization	Organization Number
Rocky Mountain Construction, LLC	OR	LLC	586003-89