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Vol. **41** IN THE **85**

**SUPREME COURT
OF THE
STATE OF IDAHO**

ISC #44583, 44584, 44585
Bonner #CV2009-1810

Valiant Idaho, LLC
Cross-Claimant/Respondent

vs.

**North Idaho Resorts
JV, LLC
VP Incorporated**
Cross-Defendants/Appellants

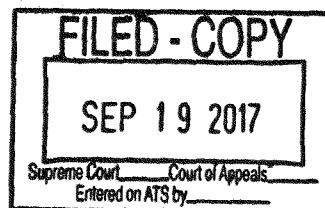
CLERK'S RECORD ON APPEAL

*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Bonner*

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44583

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Writ of Execution Against VP, Incorporated – filed 10/06/2016	Vol. LVI - 6822
Writ of Execution Against VP, Incorporated for Boundary County – filed 10/13/2016	Vol. LIX - 7265
Writ of Execution Against VP, Incorporated for Boundary County – filed 11/18/2016	Vol. LX - 7426
Writ of Execution Against VP, Incorporated for Boundary County (268811) – filed 10/31/2016	Vol. LIX - 7285

EXHIBIT B TO DECREE OF FORECLOSURE

PROPERTY SECURED BY THE PENSCO MORTGAGE

Parcel 2

Tract 1

Lot 10, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Tract 2

Lot 1, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Tract 3

Lot 7, Block 5 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 5

Tract 1

A tract of land in the East half of the Northeast quarter of the Southwest quarter and the Northwest quarter of the Southeast quarter of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

Beginning at the Southeast corner of the East half of the Northeast quarter of the Southwest quarter of said Section 36;

Thence along the South line of the East half of the Northeast quarter of the Southwest quarter, North 89° 36' 27" West, 661.51 feet (record = North 89° 37' 10" West, 661.57 feet to the Southwest corner of the East half of the Northeast quarter of the Southwest quarter;

Thence along the West line of the East half of the Northeast quarter of the Southwest quarter, North 00° 10' 22" East 856.45 feet (record = North 00° 09' 25" East, 856.45 feet); Thence North 89° 10' 53" East, 30.21 feet (record = East, 29.58 feet) to the Westerly right of way of Berry Drive (shown as Olympic Drive on the Second Addition Plat to Hidden Lakes);

Thence Southeasterly along said right of way the following six (6) courses:

1. On a non-tangential curve to the left (radial bearing = North 87° 39' 13" East) having a central angle of 36° 44' 06" and a radius of 131.00 feet for an arc distance of 83.99 feet (record = 84.54 feet) (chord = South 20° 42' 50" East, 82.56 feet - record = South 20° 37' 27" East, 83.08 feet);
2. Thence South 39° 04' 53" East, 419.67 feet (record = South 39° 06' 45" East, 419.68 feet);
3. Thence on a curve to the left having a central angle of 11° 42' 45" and a radius of 530.00 feet for an arc distance of 108.34 feet (chord = South 44° 56' 16" East, 108.15 feet - record = South 44° 58' 08" East, 108.16 feet);
4. Thence South 50° 47' 39" East, 69.68 feet (record = South 50° 49' 31" East, 69.68 feet);
5. Thence on a curve to the right having a central angle of 23° 42' 51" and a radius of 970.00 feet, for an arc distance of 401.47 feet (chord = South 38° 56' 14" East, 398.61 feet - record = South 38° 58' 05" East 398.61 feet);
6. Thence South 27° 04' 48" East, 31.65 feet to the South line of the Northwest quarter of the Southeast quarter (record = South 27° 06' 40" East, 30.77 feet)

Thence leaving said right of way North 89° 35' 03" West, 60.37 feet (record = North 89° 37' 09" West, 59.55 feet) to the point of beginning.

Tract 2

That part of the Southeast quarter of the Northeast quarter lying North and West of Fairway View Drive of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho.

Tract 3

A tract of land located in a portion of the Southwest quarter of the Southeast quarter of Section 36, Township 58 North, Range 1 West, Boise Meridian, Bonner County, Idaho, more particularly described as follows:

Beginning at the Northwest corner of said Southwest quarter of the Southeast quarter of Section 36; Thence South 89° 36' 03" East 60.37 feet (record = South 89° 37' 09" East, 59.55 feet) to the Westerly right of way of Berry Drive (shown as Olympic Drive on the Plat of the Second Addition to Hidden Lakes); thence along said right of way for the following four (4) courses;

1. South 27° 04' 48" East, 299.95 feet (record = South 27° 06' 40" East, 300.83 feet);
2. North 62° 55' 12" East, 60.00 feet (record = North 62° 53' 20" East, 60.00 feet);
3. North 27° 04' 48" West, 125.34 feet (record = North 27° 06' 40" West, 125.34 feet);
4. Thence on a curve to the right having a central angle of 79° 01' 27" and a radius of 25.00 feet, for an arc distance of 34.48 feet (chord = North 12° 25' 55" East, 31.81 feet - record = North 12° 24' 03" East, 31.81 feet) to a point on the Southerly right of way of Fairway View Drive, as shown on the Plat of First Addition to Hidden Lakes;

Thence along said right of way for the following eight (8) courses:

1. North 51° 56' 39" East, 74.67 feet (record = North 51° 54' 47" East, 74.67 feet);
2. Thence on a curve to the right having a central angle of 99° 26' 33" and a radius of 70.00 feet, for an arc distance of 121.49 feet (chord = South 78° 20' 05" East, 106.81 feet - record = South 78° 21' 57" East, 106.81 feet);
3. Thence South 28° 36' 48" East, 154.03 feet (record = South 28° 38' 40" East, 154.03 feet);
4. Thence on a curve to the right having a central angle of 55° 41' 27" and a radius of 90.00 feet for an arc distance of 87.48 feet (chord = South 00° 46' 05" East, 84.08 feet - record = South 00° 47' 56" East, 84.08 feet);
5. Thence South 27° 04' 39" West, 170.14 feet;
6. Thence on a curve to the right having a central angle of 71° 37' 11" and a radius of 60.0 feet, for an arc distance of 75.00 feet (chord = South 08° 43' 57" East, 70.21 feet);
7. Thence South 44° 32' 32" East, 50.94 feet;
8. Thence on a curve to the right having a central angle of 69° 10' 16" and a radius of 25.00 feet, for an arc distance of 30.18 feet (chord = South 09° 57' 24" East, 28.38 feet - record = South 11° 23' 51" East, 30.18 feet) to a point on the West right of way of Lower Pack River Road;

Thence Southerly along said right of way for the following four (4) courses:

1. on a non-tangential curve to the right having a central angle of 04° 15' 19" and a radius of 1180.00 feet for an arc distance of 87.69 feet (chord = South 22° 30' 38" West, 87.67 feet);
2. Thence South 20° 22' 44" West, 114.57 feet;
3. Thence on a curve to the left having a central angle of 22° 29' 50" and a radius of 502.65 feet, for an arc distance of 197.36 feet (chord = South 09° 07' 49" West, 196.10 feet);
4. Thence South 02° 07' 06" East, 157.81 feet to the Northerly right of way of State Highway No. 200;

Thence along the highway right of way, South 77° 42' 28" West, 72.14 feet (record = South 78° 15' 06" West, 71.11 feet);
Thence continuing along the Highway right of way, South 69° 44' 57" West, 262.22 feet (record = South 69° 43' 16" West, 261.65 feet) to the West line of the Southwest quarter of the Southeast quarter of said Section 36;
Thence along the West line of the Southwest quarter of the Southeast quarter, North 00° 08' 19" East, 1223.36 feet (record = North 00° 07' 13" East, 1223.17 feet) to the point of beginning.

Tract 4

A tract of land located in Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

That portion of said Section 36 lying East of Pack River Road, a county road, Idaho, North of State Highway No. 200, East of Hidden Lakes Subdivision as recorded in Book 4 of Plats, page 64, records of Bonner County, Idaho, West and South of Replat of Blocks 15 and 16 of the Replat of Golden Tee Estates and Golden Tee Estates 1st Addition and unplatted land, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho, Southwest of Golden Tee Estates 8th Addition, recorded in Book 9 of Plats, page 7, records of Bonner County, and West of the land described as a tract of land in the Southeast Quarter of the Southeast quarter (SE1/4 SE1/4) of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

Commencing at a point on the East line of said Section 36, which is N 00° 08' 06" E, 563.94 feet from the Southeast corner of the Section; thence, perpendicular to the East line of the Section, N 89° 51' 54" W, 1103.43 feet to the Southwest corner of Instrument Number 457973 on the Northerly right of way of Highway 200 and the True Point of Beginning; thence, along the Western boundary of Instrument No. 457973, N 01° 25' 02" E, 99.41 feet, to a 5/8 inch rebar and plastic cap stamped PLS 3628; thence S 32° 20' 51" W, 132.00 feet, to a 5/8 inch rebar and plastic cap stamped PLS 3628 on the Northerly right of way of Highway 200; thence, along said right of way, N 79° 54' 11" E, 69.24 feet, to the True Point of Beginning.

Parcel 8

Lot 2, Block 3 in GOLDEN TEE ESTATES PLANNED UNIT DEVELOPMENT (PHASE ONE), according to the plat thereof, recorded in Book 6 of Plats, page 108, records of Bonner County, Idaho.

Parcel 9

Lot 1, Block 1 of the FIRST ADDITION TO HIDDEN LAKES, according to the plat thereof, recorded in Book 4 of Plats, page 161, records of Bonner County, Idaho.

Parcel 10

Lot 2, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 11

Lot 3, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 12

Lot 4, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 13

Lot 5, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 14

Lot 14, Block 2 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 15

Lot 15, Block 2 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 16

Lot 4, Block 7 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 17

Lot 5, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 19

A tract of land located in Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

That portion of said Section 36 lying East of Golden Tee Estates 8th Addition, recorded in Book 9 of Plats, page 7, records of Bonner County, North of Lot 1A, Block 15, Replat of Blocks 15 and 16 of the Replat of Golden Tee Estates and Golden Tee Estates 1st Addition and unplatted land, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho, and South and West of Lot 1A, Block 10, all of Block 20 and the road between said Lot 1A, Block 10 and Lot 1, Block 20, REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 20

Lot 1, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 21

Lot 2, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 22

Lot 3, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 23

Lot 11, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 24

Lot 12, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 25

Lot 13, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 26

Lot 14, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 27

Lot 16, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 28

Lot 20A, Block 20, A REPLAT OF LOTS 5 & 6, BLOCK 22 AND LOT 20, BLOCK 20, REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 6, records of Bonner County, Idaho.

Parcel 29

Lot 6A, Block 22, A REPLAT OF LOTS 5 & 6, BLOCK 22 AND LOT 20, BLOCK 20, REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 6, records of Bonner County, Idaho.

Parcel 30

Lots 5A, Block 22, A REPLAT OF LOTS 5 & 6, BLOCK 22 AND LOT 20, BLOCK 20, REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 6, records of Bonner County, Idaho.

Parcel 31

Lot 4, Block 22; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 34

Lots 1A, Block 1, REPLAT OF LOTS 1 THROUGH 4, BLOCK 1 AND BLOCK 16A, REPLAT OF BLOCKS 15 & 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 82, records of Bonner County, Idaho.

Parcel 35

Lots 2A, Block 1, REPLAT OF LOTS 1 THROUGH 4, BLOCK 1 AND BLOCK 16A, REPLAT OF BLOCKS 15 & 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 82, records of Bonner County, Idaho.

Parcel 36

Lots 4A, Block 1, REPLAT OF LOTS 1 THROUGH 4, BLOCK 1 AND BLOCK 16A, REPLAT OF BLOCKS 15 & 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 82, records of Bonner County, Idaho.

Parcel 41

Lot 12, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 42

Lot 11, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 43

Lot 9, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 44

Lot 8, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 45

Lot 7, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 46

Lot 6, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 47

Lot 5, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 48

Lot 4, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 49

Lot 3, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 50

Lot 2, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 51

Lot 1, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 52

Lot 14, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 53

Lot 13, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 54

Lot 12, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 55

Lot 11, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 56

Lot 10, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 57

Lot 9, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 58

Lot 8, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 60

Lot 8, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 61

Lot 7, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 63

Lot 5, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 64

Lot 4, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 65

Lot 3, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 66

Lot 2, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 68

All that portion of Government Lots 2, 3, 4, 5, 6, 7 8 and 9; the Southwest Quarter of the Northeast Quarter; and the South half of the Northwest quarter of Section 2, Township 57 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, lying South of State Highway No. 200 and lying North and East of the Northern Pacific Railroad (now Montana Rail Link) right of way.

LESS that portion of Section 2, Township 57 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, being that property described in Instrument No. 592059 and more particularly described as follows: Beginning at a right of way monument on the South right of way of State Highway No. 200, from which the Northwest corner of said Section 2 bears North 25° 54' 43" West, 798.00 feet (record = North 26° 28' 08" West, 798.11 feet; Thence along the South right of way of the Highway, North 68° 35' 39" East, 266.10 feet; Thence continuing along the Highway right of way, on a curve to the left (radial bearing = North 14° 03' 28" West) having a central angle of 00° 08' 55" and a radius of 5799.58 feet for an arc distance of 15.03 feet (chord = North 75° 52' 05" East, 15.03 feet - total distance along right of way from point of beginning 281.13 feet - record = 281.13 feet); Thence leaving said right of way South 00° 04' 10" West, 725.53 feet; Thence North 89° 14' 40" West, 330.00 feet; Thence North 00° 03' 26" West 607.20 feet, to the Southerly right of way of State Highway No. 200; Thence along said right of way North 79° 11' 55" East, 70.38 feet to the true point of beginning.

EXCEPTING therefrom all of the above described properties, any portion lying within the bounds of the following plats:

Replat of Golden Tee Estates and Golden Tee Estates 1st Addition and Unplatted land, recorded in Book 8 of Plats, Page 77,

Golden Tee Estates 2nd Addition, recorded in Book 8 of Plats, Page 79,

Golden Tee Estates 3rd Addition, recorded in Book 8 of Plats, Page 78,

Golden Tee Estates 4th Addition, recorded in Book 8 of Plats, Page 80,

Golden Tee Estates 5th Addition, recorded in Book 8 of Plats, Page 81, a n d

Golden Tee Estates 7th Addition, recorded in Book 9 of Plats, Page 13, all in the records of Bonner County, Idaho.

Parcel 69

All that portion of Government Lot 4 in Section 31, Township 58 North, Range 1 East, Boise Meridian, Bonner County, Idaho, lying South of State Highway 200.

Parcel 70

That portion of Government Lots 5, 6, 9, and 10; the Southeast quarter of the Northwest quarter; and the East half of the Southwest quarter; all in Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho lying East GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho, East of GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho, North of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho and North of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

LESS that property described in Instrument No. 22533, records of Bonner County, Idaho, and described as follows: Beginning at the North quarter corner of said Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho; Thence South 1669.70 feet to Pack River and the True Point of Beginning; Thence South 66° 47' West, 203 feet; Thence South 69° 54' West 165.3 feet; Thence South 79° 56' West, 242.5 feet; Thence South 01° 11' East, 146 feet; Thence South 25° 18' East, 118.20 feet; Thence South 54° 29' East, 137.2 feet; Thence South 68° 10' East, 267.1 feet; Thence North 535.6 feet to a point 1669.7 feet South of the North quarter corner of Section 6.

LESS a tract of land in Government Lot 6 and the Southeast quarter of the Northwest quarter of Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho, being that property identified as Tract No. Q-1755-2 in Instrument No. 42975 and more particularly described as follows: Beginning at a point on the Southerly right of way of State Highway No. 200 which is South 55° 03' 21" East, 2460.29 feet from the Northwest corner of said Section 6 (record South 55° 14' East, 2451.3); Thence South 14° 53' 00" East, 223.22 feet (record); Thence South 04° 43' 00" East, 640.00 feet (record); Thence South 39° 48' 00" East, 430.00 feet (record); Thence South 30° 28' 00" East, 387.49 feet (record = 500 feet plus or minus) to the East line of the Southeast quarter of the Northwest quarter of said Section 6.

TOGETHER WITH any portion of the Old Highway right of way abandonment described in that certain Quitclaim Deed, executed by the State of Idaho. As Instrument No.696025 and recorded on January 11, 2006, lying within the bounds of the above described property.

Parcel 71

That portion of Government Lots 10 and 11; and the East half of the Southwest quarter; all in Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho lying South of GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho, South of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho and South of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 72

Lot 2, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 73

Lot 3, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 74

Lot 5, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 75

Lot 8, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 76

Lot 8, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 77

Lot 7, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 78

Lot 6, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 79

Lot 5, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 80

Lot 4, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 81

Lot 2, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 82

Lot 1, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 83

Lot 9, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 84

Lot 9, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 85

Lot 1, Block 2 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 86

Lot 5, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 87

Lot 10, Block 7 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 88

Lot 1, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 89

Lot 4, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 90

Lot 2, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 92

Lot 6, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 93

Lot 6, Block 7 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 94

Lot 2, Block 5 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 95

Lot 1, Block 5 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 96

Lot 10, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 97

Lot 17, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 98

Lot 16, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 99

Lot 4, Block 6 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 100

Lot 3, Block 6 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 101

Lot 15, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 102

Lot 6, Block 10 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 103

Lot 10, Block 10 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 104

Lot 2, Block 11 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 105

Lot 3, Block 9 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 106

Lot 8, Block 5 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 107

Lot 6, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 108

Lot 5, Block 9 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 109

Lot 10, Block 9 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 110

Lot 6, Block 1 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 111

Lot 1, Block 5 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 114

Lot 3, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 115

Lot 6, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 116

Lot 8, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 117

Lot 9, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 118

Lot 2, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 119

Lot 1, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 120

Lot 1, Block 3 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 122

Lot 1, Block 1 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 123

Lot 1, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 124

Lot 5, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 125

Lot 7, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 126

Lot 9, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 127

Lot 11, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 128

Lot 9, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 129

Lot 8, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 130

Lot 5, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 131

Lot 1, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 132

Lot 6, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 133

Lot 3, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 134

Lot 4, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 135

Lot 3, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 136

Lot 2, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 137

Lot 1, Block 3 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 138

Lot 4, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 139

Lot 3, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 140

Lot 2, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 141

Lot 5, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 142

Lot 1, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 143

Lot 5, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 144

Lot 8, Block 1 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 145

Lot 2, Block 1 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 146

Lot 1, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 147

Lot 2, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 148

Lot 1, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 149

Lot 2, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 150

Lot 4, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 151

Lot 6, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 152

Lot 5, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 153

Lot 8, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 154

Lot 9, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 155

Lot 7, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 156

Lot 5, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 157

Lot 6, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 158

Lot 3, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 159

Tract 1

Block 5A of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 2

Lot 3A, Block 12 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 3

Lot 1A, Block 15 of A REPLAT OF BLOCKS 15 AND 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho.

Tract 4

Block 16A of A REPLAT OF BLOCKS 15 AND 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho.

Tract 5

Lot 1A, Block 12 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 6

Lot 1A, Block 11 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 7

Lot 2A, Block 12 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 8

Lot 2A, Block 15 of A REPLAT OF BLOCKS 15 AND 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho.

Tract 9

Lot 1, Block 14A of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 10

Lot 1, Block 17 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 11

Block 18 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 12

All that portion of the Southeast Quarter in Section 36, Township 58 North, Range 1 West, Boise Meridian, Bonner County, Idaho, lying South of State Highway 200 and lying Easterly of Lot 1, Block 17 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

LESS the following described property:

A tract of land in the Southeast quarter of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, being that property described in Instrument No. 92981, records of Bonner County, Idaho and more particularly described as follows:

Commencing at the Southeast corner of said Section 36; Thence along the East line of Section 36, North 00° 08' 06" East, 460.00 feet; Thence perpendicular to the East line of the Section, North 89° 51' 54" West, 568.00 feet to the true point of beginning; Thence South 47° 08' 06" West, 250.00 feet; Thence South 42° 51' 54" East, 348.50 feet; Thence North 47° 48' 06" East, 250.00 feet; Thence North 42° 51' 54" West, 348.50 feet to the true point of beginning.

Parcel 177

Tract 1

Alpenrose Lane and that portion of North Idaho Club Drive as shown on the plat of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, lying within Section 36, Township 58 North Range 1 West of the Boise Meridian, Bonner County, Idaho and said North Idaho Club Drive as shown on GOLDEN TEE ESTATES 8TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Tract 2

Golden Tee Drive, now Gracie Lane, as shown on the plat of GOLDEN TEE ESTATES 1ST ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO), according to the plat thereof, recorded in Book 6 of Plats, Page 114, records of Bonner County, Idaho.

Tract 3

That portion of Jim Brown Way as shown on the plat of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, lying within Section 36, Township 58 North Range 1 West of the Boise Meridian, Bonner County, Idaho.

Tract 4

That portion of Jim Brown Way as shown on the plat of GOLDEN TEE ESTATES 1ST ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO), according to the plat thereof, recorded in Book 6 of Plats, Page 114, records of Bonner County, Idaho, excepting any portion lying with REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, being between the Easterly extensions of the North boundary of Lot 2, Block 6 and the South boundary of Lot 3, Block 7 of said GOLDEN TEE ESTATES 1ST ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO).

Tract 5

The parcel labelled Road Lot named South Idaho Club Drive lying between Lot 1, Block 17 and Block 18 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, lying South of State Highway 200.

Tract 6

The private roads named South Idaho Club Drive and Wildflower Way shown on GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Tract 7

The private roads named South Idaho Club Drive, Whitecloud Drive, Nighthawk Lane, Trappers Loop, Pickeroon Lane, Timber Grove Lane and Green Monarch Lane as shown on GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Tract 8

The private roads named Green Monarch Lane, Wildridge Way, Brightwater Lane and North Star Lane as shown on GOLDEN TEE ESTATES 4th ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho and Forest Highland Drive as shown on GOLDEN TEE ESTATES 7th ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Tract 9

The private roads named South Idaho Club Drive as shown on GOLDEN TEE ESTATES 5th ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Tract 10

The private roads named South Idaho Club Drive, Greatwater Circle and Lunch Peak Lane as shown on GOLDEN TEE ESTATES 6th ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Tract 11

The private roads named Hidden Lakes Drive, Waterdance Way, Oxbow Road and Clubhouse Way as shown and described on REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1st ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, and including those portions of Clubhouse Way, which is named Hidden Lakes Drive, above, and Clubhouse Lane, which is named Clubhouse Way, first above, on GOLDEN TEE ESTATES 1st ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO), according to the plat thereof, recorded in Book 6 of Plats, Page 114, records of Bonner County, Idaho, which may be or may not be described and included on REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1st ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

EXHIBIT C TO DECREE OF FORECLOSURE

PROPERTY SECURED BY THE MORTGAGE FUND '08 MORTGAGE

Parcel 2

Tract 1

Lot 10, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Tract 2

Lot 1, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Tract 3

Lot 7, Block 5 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 5

Tract 1

A tract of land in the East half of the Northeast quarter of the Southwest quarter and the Northwest quarter of the Southeast quarter of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

Beginning at the Southeast corner of the East half of the Northeast quarter of the Southwest quarter of said Section 36;

Thence along the South line of the East half of the Northeast quarter of the Southwest quarter, North 89° 36' 27" West, 661.51 feet (record = North 89° 37' 10" West, 661.57 feet to the Southwest corner of the East half of the Northeast quarter of the Southwest quarter;

Thence along the West line of the East half of the Northeast quarter of the Southwest quarter, North 00° 10' 22" East 856.45 feet (record = North 00° 09' 25" East, 856.45 feet); Thence North 89° 10' 53" East, 30.21 feet (record = East, 29.58 feet) to the Westerly right of way of Berry Drive (shown as Olympic Drive on the Second Addition Plat to Hidden Lakes);

Thence Southeasterly along said right of way the following six (6) courses:

1. On a non-tangential curve to the left (radial bearing = North 87° 39' 13" East) having a central angle of 36° 44' 06" and a radius of 131.00 feet for an arc distance of 83.99 feet (record = 84.54 feet) (chord = South 20° 42' 50" East, 82.56 feet - record = South 20° 37' 27" East, 83.08 feet);
2. Thence South 39° 04' 53" East, 419.67 feet (record = South 39° 06' 45" East, 419.68 feet);
3. Thence on a curve to the left having a central angle of 11° 42' 45" and a radius of 530.00 feet for an arc distance of 108.34 feet (chord = South 44° 56' 16" East, 108.15 feet - record = South 44° 58' 08" East, 108.16 feet);
4. Thence South 50° 47' 39" East, 69.68 feet (record = South 50° 49' 31" East, 69.68 feet);
5. Thence on a curve to the right having a central angle of 23° 42' 51" and a radius of 970.00 feet, for an arc distance of 401.47 feet (chord = South 38° 56' 14" East, 398.61 feet - record = South 38° 58' 05" East 398.61 feet);
6. Thence South 27° 04' 48" East, 31.65 feet to the South line of the Northwest quarter of the Southeast quarter (record = South 27° 06' 40" East, 30.77 feet);

Thence leaving said right of way North 89° 36' 03" West, 60.37 feet (record = North 89° 37' 09" West, 59.55 feet) to the point of beginning.

Tract 2

That part of the Southeast quarter of the Northeast quarter lying North and West of Fairway View Drive of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho.

Tract 3

A tract of land located in a portion of the Southwest quarter of the Southeast quarter of Section 36, Township 58 North, Range 1 West, Boise Meridian, Bonner County, Idaho, more particularly described as follows:

Beginning at the Northwest corner of said Southwest quarter of the Southeast quarter of Section 36; Thence South 89° 36' 03" East 60.37 feet (record = South 89° 37' 09" East, 59.55 feet) to the Westerly right of way of Berry Drive (shown as Olympic Drive on the Plat of the Second Addition to Hidden Lakes); thence along said right of way for the following four (4) courses;

1. South 27° 04' 48" East, 299.95 feet (record = South 27° 06' 40" East, 300.83 feet);
2. North 62° 55' 12" East, 60.00 feet (record = North 62° 53' 20" East, 60.00 feet);
3. North 27° 04' 48" West, 125.34 feet (record = North 27° 06' 40" West, 125.34 feet);
4. Thence on a curve to the right having a central angle of 79° 01' 27" and a radius of 25.00 feet, for an arc distance of 34.48 feet (chord = North 12° 25' 55" East, 31.81 feet - record = North 12° 24' 03" East, 31.81 feet) to a point on the Southerly right of way of Fairway View Drive, as shown on the Plat of First Addition to Hidden Lakes;

Thence along said right of way for the following eight (8) courses:

1. North 51° 56' 39" East, 74.67 feet (record = North 51° 54' 47" East, 74.67 feet);
2. Thence on a curve to the right having a central angle of 99° 26' 33" and a radius of 70.00 feet, for an arc distance of 121.49 feet (chord = South 78° 20' 05" East, 106.81 feet - record = South 78° 21' 57" East, 106.81 feet);
3. Thence South 28° 36' 48" East, 154.03 feet (record = South 28° 38' 40" East, 154.03 feet);
4. Thence on a curve to the right having a central angle of 55° 41' 27" and a radius of 90.00 feet for an arc distance of 87.48 feet (chord = South 00° 46' 05" East, 84.08 feet - record = South 00° 47' 56" East, 84.08 feet);
5. Thence South 27° 04' 39" West, 170.14 feet;
6. Thence on a curve to the right having a central angle of 71° 37' 11" and a radius of 60.0 feet, for an arc distance of 75.00 feet (chord = South 08° 43' 57" East, 70.21 feet);
7. Thence South 44° 32' 32" East, 50.94 feet;
8. Thence on a curve to the right having a central angle of 69° 10' 16" and a radius of 25.00 feet, for an arc distance of 30.18 feet (chord = South 09° 57' 24" East, 28.38 feet - record = South 11° 23' 51" East, 30.18 feet) to a point on the West right of way of Lower Pack River Road;

Thence Southerly along said right of way for the following four (4) courses:

1. on a non-tangential curve to the right having a central angle of 04° 15' 19" and a radius of 1180.00 feet for an arc distance of 87.69 feet (chord = South 22° 30' 38" West, 87.67 feet);
 2. Thence South 20° 22' 44" West, 114.57 feet;
 3. Thence on a curve to the left having a central angle of 22° 29' 50" and a radius of 502.65 feet, for an arc distance of 197.36 feet (chord = South 09° 07' 49" West, 196.10 feet);
 4. Thence South 02° 07' 06" East, 157.81 feet to the Northerly right of way of State Highway No. 200;
- Thence along the highway right of way, South 77° 42' 28" West, 72.14 feet (record = South 78° 15' 06" West, 71.11 feet);

Thence continuing along the Highway right of way, South 69° 44' 57" West, 262.22 feet (record = South 69° 43' 16" West, 261.65 feet) to the West line of the Southwest quarter of the Southeast quarter of said Section 36;

Thence along the West line of the Southwest quarter of the Southeast quarter, North 00° 08' 19" East, 1223.36 feet (record = North 00° 07' 13" East, 1223.17 feet) to the point of beginning.

Tract 4

A tract of land located in Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

That portion of said Section 36 lying East of Pack River Road, a county road, Idaho, North of State Highway No. 200, East of Hidden Lakes Subdivision as recorded in Book 4 of Plats, page 64, records of Bonner County, Idaho, West and South of Replat of Blocks 15 and 16 of the Replat of Golden Tee Estates and Golden Tee Estates 1st Addition and unplatted land, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho, Southwest of Golden Tee Estates 8th Addition, recorded in Book 9 of Plats, page 7, records of Bonner County, and West of the land described as a tract of land in the Southeast Quarter of the Southeast quarter (SE1/4 SE1/4) of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

Commencing at a point on the East line of said Section 36, which is N 00° 08' 06" E, 563.94 feet from the Southeast corner of the Section; thence, perpendicular to the East line of the Section, N 89° 51' 54" W, 1103.43 feet to the Southwest corner of Instrument Number 457973 on the Northerly right of way of Highway 200 and the True Point of Beginning; thence, along the Western boundary of Instrument No. 457973, N 01° 25' 02" E, 99.41 feet, to a 5/8 inch rebar and plastic cap stamped PLS 3628; thence S 32° 20' 51" W, 132.00 feet, to a 5/8 inch rebar and plastic cap stamped PLS 3628 on the Northerly right of way of Highway 200; thence, along said right of way, N 79° 54' 11" E, 69.24 feet, to the True Point of Beginning.

Parcel 8

Lot 2, Block 3 in GOLDEN TEE ESTATES PLANNED UNIT DEVELOPMENT (PHASE ONE), according to the plat thereof, recorded in Book 6 of Plats, page 108, records of Bonner County, Idaho.

Parcel 9

Lot 1, Block 1 of the FIRST ADDITION TO HIDDEN LAKES, according to the plat thereof, recorded in Book 4 of Plats, page 161, records of Bonner County, Idaho.

Parcel 10

Lot 2, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 11

Lot 3, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 12

Lot 4, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 13

Lot 5, Block 2 of the SECOND ADDITION TO HIDDEN LAKES SUBDIVISION, according to the plat thereof, recorded in Book 5 of Plats, page 58, records of Bonner County, Idaho.

Parcel 14

Lot 14, Block 2 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 15

Lot 15, Block 2 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 16

Lot 4, Block 7 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 17

Lot 5, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 19

A tract of land located in Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, more particularly described as follows:

That portion of said Section 36 lying East of Golden Tee Estates 8th Addition, recorded in Book 9 of Plats, page 7, records of Bonner County, North of Lot 1A, Block 15, Replat of Blocks 15 and 16 of the Replat of Golden Tee Estates and Golden Tee Estates 1st Addition and unplatted land, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho, and South and West of Lot 1A, Block 10, all of Block 20 and the road between said Lot 1A, Block 10 and Lot 1, Block 20, REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 20

Lot 1, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 21

Lot 2, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 22

Lot 3, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 23

Lot 11, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 24

Lot 12, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 25

Lot 13, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 26

Lot 14, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 27

Lot 16, Block 20; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 28

Lot 20A, Block 20, A REPLAT OF LOTS 5 & 6, BLOCK 22 AND LOT 20, BLOCK 20, REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 6, records of Bonner County, Idaho.

Parcel 29

Lot 6A, Block 22, A REPLAT OF LOTS 5 & 6, BLOCK 22 AND LOT 20, BLOCK 20, REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 6, records of Bonner County, Idaho.

Parcel 30

Lots 5A, Block 22, A REPLAT OF LOTS 5 & 6, BLOCK 22 AND LOT 20, BLOCK 20, REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 6, records of Bonner County, Idaho.

Parcel 31

Lot 4, Block 22; of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Parcel 32

Lot 1, Block 2, GOLDEN TEE ESTATES 8TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Parcel 33

Lot 2, Block 2, GOLDEN TEE ESTATES 8TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Parcel 34

Lots 1A, Block 1, REPLAT OF LOTS 1 THROUGH 4, BLOCK 1 AND BLOCK 16A, REPLAT OF BLOCKS 15 & 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 82, records of Bonner County, Idaho.

Parcel 35

Lots 2A, Block 1, REPLAT OF LOTS 1 THROUGH 4, BLOCK 1 AND BLOCK 16A, REPLAT OF BLOCKS 15 & 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 82, records of Bonner County, Idaho.

Parcel 36

Lots 4A, Block 1, REPLAT OF LOTS 1 THROUGH 4, BLOCK 1 AND BLOCK 16A, REPLAT OF BLOCKS 15 & 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 82, records of Bonner County, Idaho.

Parcel 37

Lot 5, Block 1, GOLDEN TEE ESTATES 8TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Parcel 38

Lot 6, Block 1, GOLDEN TEE ESTATES 8TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Parcel 39

Lot 7, Block 1, GOLDEN TEE ESTATES 8TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Parcel 40

Lot 8, Block 1, GOLDEN TEE ESTATES 8TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Parcel 41

Lot 12, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 42

Lot 11, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 43

Lot 9, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 44

Lot 8, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 45

Lot 7, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 46

Lot 6, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 47

Lot 5, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 48

Lot 4, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 49

Lot 3, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 50

Lot 2, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 51

Lot 1, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 52

Lot 14, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 53

Lot 13, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 54

Lot 12, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 55

Lot 11, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 56

Lot 10, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 57

Lot 9, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 58

Lot 8, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 60

Lot 8, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 61

Lot 7, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 63

Lot 5, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 64

Lot 4, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 65

Lot 3, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 66

Lot 2, Block 3 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 68

All that portion of Government Lots 2, 3, 4, 5, 6, 7 8 and 9; the Southwest Quarter of the Northeast Quarter; and the South half of the Northwest quarter of Section 2, Township 57 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, lying South of State Highway No. 200 and lying North and East of the Northern Pacific Railroad (now Montana Rail Link) right of way.

LESS that portion of Section 2, Township 57 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, being that property described in Instrument No. 592059 and more particularly described as follows:

Beginning at a right of way monument on the South right of way of State Highway No. 200, from which the Northwest corner of said Section 2 bears North 25° 54' 43" West, 798.00 feet (record = North 26° 28' 08" West, 798.11 feet; Thence along the South right of way of the Highway, North 68° 35' 39" East, 266.10 feet; Thence continuing along the Highway right of way, on a curve to the left (radial bearing = North 14° 03' 28" West) having a central angle of 00° 08' 55" and a radius of 5799.58 feet for an arc distance of 15.03 feet (chord = North 75° 52' 05" East, 15.03 feet - total distance along right of way from point of beginning 281.13 feet - record = 281.13 feet); Thence leaving said right of way South 00° 04' 10" West, 725.53 feet; Thence North 89° 14' 40" West, 330.00 feet; Thence North 00° 03' 26" West 607.20 feet, to the Southerly right of way of State Highway No. 200; Thence along said right of way North 79° 11' 55" East, 70.38 feet to the true point of beginning.

EXCEPTING therefrom all of the above described properties, any portion lying within the bounds of the following plats:

Replat of Golden Tee Estates and Golden Tee Estates 1st Addition and Unplatted land, recorded in Book 8 of Plats, Page 77,

Golden Tee Estates 2nd Addition, recorded in Book 8 of Plats, Page 79,

Golden Tee Estates 3rd Addition, recorded in Book 8 of Plats, Page 78,

Golden Tee Estates 4th Addition, recorded in Book 8 of Plats, Page 80,

Golden Tee Estates 5th Addition, recorded in Book 8 of Plats, Page 81, and

Golden Tee Estates 7th Addition, recorded in Book 9 of Plats, Page 13, all in the records of Bonner County, Idaho.

Parcel 69

All that portion of Government Lot 4 in Section 31, Township 58 North, Range 1 East, Boise Meridian, Bonner County, Idaho, lying South of State Highway 200.

Parcel 70

That portion of Government Lots 5, 6, 9, and 10; the Southeast quarter of the Northwest quarter; and the East half of the Southwest quarter; all in Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho lying East GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho, East of GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho, North of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho and North of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

LESS that property described in Instrument No. 22533, records of Bonner County, Idaho, and described as follows: Beginning at the North quarter corner of said Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho; Thence South 1669.70 feet to Pack River and the True Point of Beginning; Thence South 66° 47' West, 203 feet; Thence South 69° 54' West 165.3 feet; Thence South 79° 56' West, 242.5 feet; Thence South 01° 11' East, 146 feet; Thence South 25° 18' East, 118.20 feet; Thence South 54° 29' East, 137.2 feet; Thence South 68° 10' East, 267.1 feet; Thence North 535.6 feet to a point 1669.7 feet South of the North quarter corner of Section 6.

LESS a tract of land in Government Lot 6 and the Southeast quarter of the Northwest quarter of Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho, being that property identified as Tract No. Q-1755-2 in Instrument No. 42975 and more particularly described as follows:

Beginning at a point on the Southerly right of way of State Highway No. 200 which is South 55° 03' 21" East, 2460.29 feet from the Northwest corner of said Section 6 (record South 55° 14' East, 2451.3); Thence South 14° 53' 00" East, 223.22 feet (record); Thence South 04° 43' 00" East, 640.00 feet (record); Thence South 39° 48' 00" East, 430.00 feet (record); Thence South 30° 28' 00" East, 387.49 feet (record = 500 feet plus or minus) to the East line of the Southeast quarter of the Northwest quarter of said Section 6.

TOGETHER WITH any portion of the Old Highway right of way abandonment described in that certain Quitclaim Deed, executed by the State of Idaho. As Instrument No.696025 and recorded on January 11, 2006, lying within the bounds of the above described property.

Parcel 71

That portion of Government Lots 10 and 11; and the East half of the Southwest quarter; all in Section 6, Township 57 North, Range 1 East of the Boise Meridian, Bonner County, Idaho lying South of GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho, South of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho and South of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 72

Lot 2, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 73

Lot 3, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 74

Lot 5, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 75

Lot 8, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 76

Lot 8, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 77

Lot 7, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 78

Lot 6, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 79

Lot 5, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 80

Lot 4, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 81

Lot 2, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 82

Lot 1, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 83

Lot 9, Block 1 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 84

Lot 9, Block 2 of GOLDEN TEE ESTATES 2nd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Parcel 85

Lot 1, Block 2 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 86

Lot 5, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 87

Lot 10, Block 7 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 88

Lot 1, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 89

Lot 4, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 90

Lot 2, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 92

Lot 6, Block 8 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 93

Lot 6, Block 7 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 94

Lot 2, Block 5 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 95

Lot 1, Block 5 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 96

Lot 10, Block 4 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 97

Lot 17, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 98

Lot 16, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 99

Lot 4, Block 6 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 100

Lot 3, Block 6 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 101

Lot 15, Block 1 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 102

Lot 6, Block 10 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 103

Lot 10, Block 10 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 104

Lot 2, Block 11 of GOLDEN TEE ESTATES 3rd ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 105

Lot 3, Block 9 of **GOLDEN TEE ESTATES 3rd ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 106

Lot 8, Block 5 of **GOLDEN TEE ESTATES 3rd ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 107

Lot 6, Block 1 of **GOLDEN TEE ESTATES 3rd ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 108

Lot 5, Block 9 of **GOLDEN TEE ESTATES 3rd ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 109

Lot 10, Block 9 of **GOLDEN TEE ESTATES 3rd ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Parcel 110

Lot 6, Block 1 of **GOLDEN TEE ESTATES 4TH ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 111

Lot 1, Block 5 of **GOLDEN TEE ESTATES 4TH ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 114

Lot 3, Block 4 of **GOLDEN TEE ESTATES 4TH ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 115

Lot 6, Block 4 of **GOLDEN TEE ESTATES 4TH ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 116

Lot 8, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 117

Lot 9, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 118

Lot 2, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 119

Lot 1, Block 4 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 120

Lot 1, Block 3 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 122

Lot 1, Block 1 of GOLDEN TEE ESTATES 4TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho.

Parcel 123

Lot 1, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 124

Lot 5, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 125

Lot 7, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 126

Lot 9, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 127

Lot 11, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 128

Lot 9, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 129

Lot 8, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 130

Lot 5, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 131

Lot 1, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 132

Lot 6, Block 1, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 133

Lot 3, Block 2, GOLDEN TEE ESTATES 5TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Parcel 134

Lot 4, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 135

Lot 3, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 136

Lot 2, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 137

Lot 1, Block 3 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 138

Lot 4, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 139

Lot 3, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 140

Lot 2, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 141

Lot 5, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 142

Lot 1, Block 4 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 143

Lot 5, Block 2 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 144

Lot 8, Block 1 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 145

Lot 2, Block 1 of GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Parcel 146

Lot 1, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 147

Lot 2, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 148

Lot 1, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 149

Lot 2, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 150

Lot 4, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 151

Lot 6, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 152

Lot 5, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 153

Lot 8, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 154

Lot 9, Block 2 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 155

Lot 7, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 156

Lot 5, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 157

Lot 6, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 158

Lot 3, Block 1 of GOLDEN TEE ESTATES 7TH ADDITION, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Parcel 159

Tract 1

Block 5A of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 2

Lot 3A, Block 12 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 3

Lot 1A, Block 15 of A REPLAT OF BLOCKS 15 AND 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho.

Tract 4

Block 16A of A REPLAT OF BLOCKS 15 AND 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho.

Tract 5

Lot 1A, Block 12 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 6

Lot 1A, Block 11 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 7

Lot 2A, Block 12 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 8

Lot 2A, Block 15 of A REPLAT OF BLOCKS 15 AND 16 OF THE REPLAT OF GOLDEN TEE ESTATES & GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 9 of Plats, page 5, records of Bonner County, Idaho.

Tract 9

Lot 1, Block 14A of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 10

Lot 1, Block 17 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 11

Block 18 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

Tract 12

All that portion of the Southeast Quarter in Section 36, Township 58 North, Range 1 West, Boise Meridian, Bonner County, Idaho, lying South of State Highway 200 and lying Easterly of Lot 1, Block 17 of REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

LESS the following described property:

A tract of land in the Southeast quarter of Section 36, Township 58 North, Range 1 West of the Boise Meridian, Bonner County, Idaho, being that property described in Instrument No. 92981, records of Bonner County, Idaho and more particularly described as follows:

Commencing at the Southeast corner of said Section 36; Thence along the East line of Section 36, North 00° 08' 06" East, 460.00 feet; Thence perpendicular to the East line of the Section, North 89° 51' 54" West, 568.00 feet to the true point of beginning; Thence South 47° 08' 06" West, 250.00 feet; Thence South 42° 51' 54" East, 348.50 feet; Thence North 47° 48' 06" East, 250.00 feet; Thence North 42° 51' 54" West, 348.50 feet to the true point of beginning.

Parcel 177

Tract 1

Alpenrose Lane and that portion of North Idaho Club Drive as shown on the plat of **REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND**, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, lying within Section 36, Township 58 North Range 1 West of the Boise Meridian, Bonner County, Idaho and said North Idaho Club Drive as shown on **GOLDEN TEE ESTATES 8TH ADDITION**, according to the plat thereof, recorded in Book 9 of Plats, page 7, records of Bonner County, Idaho.

Tract 2

Golden Tee Drive, now Gracie Lane, as shown on the plat of **GOLDEN TEE ESTATES 1ST ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO)**, according to the plat thereof, recorded in Book 6 of Plats, Page 114, records of Bonner County, Idaho.

Tract 3

That portion of Jim Brown Way as shown on the plat of **REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND**, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, lying within Section 36, Township 58 North Range 1 West of the Boise Meridian, Bonner County, Idaho.

Tract 4

That portion of Jim Brown Way as shown on the plat of **GOLDEN TEE ESTATES 1ST ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO)**, according to the plat thereof, recorded in Book 6 of Plats, Page 114, records of Bonner County, Idaho, excepting any portion lying with **REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND**, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, being between the Easterly extensions of the North boundary of Lot 2, Block 6 and the South boundary of Lot 3, Block 7 of said **GOLDEN TEE ESTATES 1ST ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO)**.

Tract 5

The parcel labelled Road Lot named South Idaho Club Drive lying between Lot 1, Block 17 and Block 18 of **REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND**, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, lying South of State Highway 200.

Tract 6

The private roads named South Idaho Club Drive and Wildflower Way shown on **GOLDEN TEE ESTATES 2ND ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 79, records of Bonner County, Idaho.

Tract 7

The private roads named South Idaho Club Drive, Whitecloud Drive, Nighthawk Lane, Trappers Loop, Pickeroon Lane, Timber Grove Lane and Green Monarch Lane as shown on **GOLDEN TEE ESTATES 3RD ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 78, records of Bonner County, Idaho.

Tract 8

The private roads named Green Monarch Lane, Wildridge Way, Brightwater Lane and North Star Lane as shown on **GOLDEN TEE ESTATES 4TH ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 80, records of Bonner County, Idaho and Forest Highland Drive as shown on **GOLDEN TEE ESTATES 7TH ADDITION**, according to the plat thereof, recorded in Book 9 of Plats, page 13, records of Bonner County, Idaho.

Tract 9

The private roads named South Idaho Club Drive as shown on **GOLDEN TEE ESTATES 5TH ADDITION**, according to the plat thereof, recorded in Book 8 of Plats, page 81, records of Bonner County, Idaho.

Tract 10

The private roads named South Idaho Club Drive, Greatwater Circle and Lunch Peak Lane as shown on GOLDEN TEE ESTATES 6TH ADDITION, according to the plat thereof, recorded in Book 8 of Plats, page 82, records of Bonner County, Idaho.

Tract 11

The private roads named Hidden Lakes Drive, Waterdance Way, Oxbow Road and Clubhouse Way as shown and described on REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho, and including those portions of Clubhouse Way, which is named Hidden Lakes Drive, above, and Clubhouse Lane, which is named Clubhouse Way, first above, on GOLDEN TEE ESTATES 1ST ADDITION PLANNED UNIT DEVELOPMENT (PHASE TWO), according to the plat thereof, recorded in Book 6 of Plats, Page 114, records of Bonner County, Idaho, which may be or may not be described and included on REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, according to the plat thereof, recorded in Book 8 of Plats, page 77, records of Bonner County, Idaho.

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Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

**PEND OREILLE BONNER
DEVELOPMENT, LLC,**
a Nevada limited liability company; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**VALIANT IDAHO, LLC'S
MOTION FOR AN ORDER OF
SALE OF REAL PROPERTY**

Honorable Barbara A. Buchanan

Hearing:
July 6, 2016 – 1:30 p.m. PDST

COMES NOW, Valiant Idaho, LLC (“Valiant”), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and, pursuant to Rule 7(b)(1) of the Idaho Rules of Civil Procedure and Idaho Code § 11-304, moves this Court for an order of sale of that certain real property located in the County of Bonner, State of Idaho, and more particularly described and set forth in the Judgment and Decree of Foreclosure entered on or about June 22, 2016 by this Court.

This motion is made and based upon the records and files herein; the Memorandum in Support of Motion For An Order of Sale of Real Property filed concurrently herewith; the above-referenced Judgment and Decree of Foreclosure; the proposed *Order For Sale of The Idaho Club Properties* appended to this motion as Attachment 1; and any further evidence that may be presented at the hearing of this motion.

DATED this 22nd day of June 2016.

McCONNELL WAGNER SYKES & STACEY ^{PLLC}

BY:


Richard L. Stacey

Attorneys For Valiant Idaho, LLC

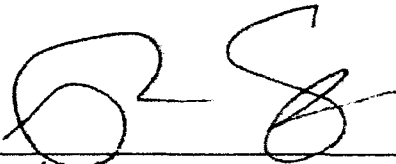
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of June 2016, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Electronic Mail garyfinney@finneylaw.net
Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Electronic Mail sweeks@jvwlaw.net

With two copies via United States Mail to:

Honorable Barbara A. Buchanan
Judge of the First Judicial District
Bonner County Courthouse
215 South First Avenue
Sandpoint, Idaho 83864



Richard L. Stacey

Richard L. Stacey, ISB #6800
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Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

**PEND OREILLE BONNER
DEVELOPMENT, LLC,**
a Nevada limited liability company; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**ORDER FOR SALE OF
THE IDAHO CLUB PROPERTIES**

Honorable Barbara A. Buchanan

ATTACHMENT A

Valiant Idaho, LLC's ("Valiant") Motion For An Order of Sale of Real Property ("Motion") having come regularly before this Court; and this Court having considered the evidence presented through the briefing filed both in support of and in opposition to said Motion; and having further considered the arguments presented at the time of hearing; and good cause appearing therefor,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Valiant has recovered a Judgment ("Judgment") and Decree of Foreclosure ("Decree"), both of which were entered by this Court on June 22, 2016.

2. Pursuant to the Judgment, Valiant was awarded damages against Pend Oreille Bonner Development, LLC ("POBD") in the total amount of **\$21,070,526.88**, including prejudgment interest accrued thereon thru June 22, 2016. This Judgment is comprised of:

a. A damage award to Valiant in the amount of **\$3,478,943.68**, which is secured by a mortgage recorded in the Bonner County Recorder's Office on March 15, 2007 as Instruments Nos. 724829 and 724834 ("RE Loans Mortgage");

b. A damage award in the amount of **\$9,892,712.13**, which is secured by a mortgage recorded in the Bonner County Recorder's Office on August 6, 2008 as Instrument Nos. 756394, 756395 and 756396 ("Pensco Mortgage"); and

c. A damage award in the amount of **\$7,702,871.07**, which is secured by a mortgage recorded in the Bonner County Recorder's Office on August 6, 2008 as Instrument Nos. 756397, 756398 and 756399 ("MF08 Mortgage").

The Judgment further orders the foreclosure and sale of the real property encumbered by the RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage in order to satisfy the damage amounts that Valiant was awarded.

3. The real property subject to the RE Loans Mortgage is legally described on a parcel by parcel basis on Exhibit A ("RE Loans Property") to the Judgment and the Decree. With respect to the RE Loans Property, Valiant has a first priority secured interest in and to said real property by virtue of the RE Loans Mortgage.

4. The real property subject to the Pensco Mortgage is legally described on a parcel by parcel basis on Exhibit B ("Pensco Property") to the Judgment and the Decree. With respect to the Pensco Property, Valiant has a secured first priority interest in and to Parcels 29-31, 34, 35 and 66 pursuant to the Pensco Mortgage. Valiant also has a secured second priority interest (second only to the priority of Valiant by virtue of the RE Loans Mortgage) in and to the remainder of the real property identified on Exhibit B to the Judgment and the Decree (*i.e.*, Parcels 2, 5, 8-17, 19-28, 36, 41-58, 60, 61, 63-65, 68-90, 92-111, 114-120, 122-159, and 177).

5. The real property subject to the MF08 Mortgage is legally described on a parcel by parcel basis on Exhibit C ("MF08 Collateral") to the Judgment and the Decree. With respect to the MF08 Property, Valiant has a secured first priority interest in and to Parcels 33 and 37-40 pursuant to the MF08 Mortgage. Valiant has a secured second priority interest (second only to the priority of Valiant by virtue of the RE Loans Mortgage) in and to Parcel 32 pursuant to the MF08 Mortgage. Valiant has a secured second priority interest (second only to the priority of Valiant by virtue of the Pensco Mortgage) in and to Parcels 29-31, 34, 35 and 66 pursuant to the

MF08 Mortgage. Valiant also has a secured third priority interest (third only to first priority of Valiant pursuant to the RE Loans Mortgage and the second priority of Valiant by virtue of the Pensco Mortgage) in and to the remainder of the real property identified on Exhibit C to the Judgment and Decree (*i.e.*, Parcels 2, 5, 8-17, 19-28, 36, 41-58, 60, 61, 63-65, 68-90, 92-111, 114-120, 122-159, and 177).

6. The RE Loans Property, Pensco Property and MF08 Property include all of the parcels separately identified by legal description on Exhibits A-C to the Judgment and the Decree. Each of these lots/parcels shall be sold separately in the following order:

- a. Parcels – 163, 1, 59, 62, 67, 91, 112, and 113 (“RE Loans Collateral”);
- b. Parcels – 33, 37, 38, 39, and 40 (“MF08 Collateral”);
- c. Parcel – 32 (“RE Loans/MF08 Collateral”);
- d. Parcels – 29, 30, 31, 34, 35 and 66 (“Pensco/MF08 Collateral”); and
- e. Parcels – 159, 2, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 36, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 61, 63, 64, 65, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 114, 115, 116, 117, 118, 119, 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, and 177 (“RE Loans/Pensco/MF08 Collateral”).

7. The sale shall be otherwise conducted as follows:

a. The RE Loans Property, Pensco Property and the MF08 Property shall be sold by the Sheriff of Bonner County, Idaho, by levy and execution according to the law and practice of this Court, subject to the statutory right of Defendants to redeem real property in accordance with the laws of the State of Idaho;

b. Post-judgment interest shall accrue on the Judgment amounts from the date of the entry of the Judgment thru the date of the Sheriff's sale in accordance with Idaho law, which is currently 5.375%;

c. With respect to the RE Loans Collateral, Valiant shall be entitled to credit bid up to the amount of the Judgment that is secured by the RE Loans Mortgage, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale;

d. With respect to the MF08 Collateral, Valiant shall be entitled to credit bid up to the amount of the Judgment that is secured by the MF08 Mortgage, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale;

e. With respect to the RE Loans/MF08 Collateral, Valiant shall be entitled to credit bid up to the remainder of the amount of the Judgment that is secured by the RE Loans Mortgage and, after the total amount secured by the RE Loans Mortgage has been credit bid, Valiant may then credit bid up to the remainder of the amount of the Judgment that is secured by the MF08 Mortgage, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale;

f. With respect to the Pensco/MF08 Collateral, Valiant shall be entitled to credit bid up to the amount of the Judgment that is secured by the Pensco Mortgage and, after the total amount secured by the Pensco Mortgage has been credit bid, Valiant may then credit bid up to the remainder of the amount of the Judgment that is secured by the MF08 Mortgage, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale;

g. With respect to the RE Loans/Pensco/MF08 Collateral, Valiant shall be entitled to credit bid up to the remainder of the amount of the Judgment that is secured by the RE Loans Mortgage and, after the total amount secured by the RE Loans Mortgage has been credit bid, Valiant may then credit bid up to the remainder of the amount of the Judgment that is secured by the Pensco Mortgage and, after the total amount secured by the Pensco Mortgage has been credit bid, Valiant may then credit bid up to the remainder of the amount that is secured by the MF08 Mortgage, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale;

h. The RE Loans Property, Pensco Property and MF08 Property shall be sold in accordance with the laws of the State of Idaho and as set forth in the Judgment, the Decree and this Order;

i. The Sheriff shall give notice of such sale in the manner provided by law;

j. At the time of the sale, any party to this action may purchase the real property being sold (including by credit bid but only as set forth herein) and, thereafter, the Sheriff will make, execute and deliver to the purchaser or purchasers a certificate of sale;

and, following the expiration of the period of redemption, a Sheriff's Deed of the premises so sold, and setting forth the real property, or portion thereof, sold and the sum paid therefor;

k. Valiant shall be allowed to credit bid against the sums found owing to it as set forth hereinabove. Any other person may become a purchaser for cash upon proof of sufficient funds;

l. Out of the monies arising from the sale, after deducting the Sheriff's fees and expenses of the sale, the Sheriff shall pay to Valiant or Valiant's attorney all monies up to the sum of **\$21,070,526.88**, together with prejudgment and post-judgment interest accrued thereon as set forth hereinabove. The Sheriff shall deposit with the Clerk of the Bonner County Court any surplus money arising from the sale of the RE Loans Property, Pensco Property and/or MF08 Property under the Judgment, subject to further order of this Court, and the Sheriff shall make a report of the sale and file the report with the Clerk of the Bonner County Court within the time required by law;

m. The Sheriff shall execute and deliver to the purchaser with the highest bid a certificate of sale for the real property, or portion thereof purchased;

n. After confirmation of the sale of the real property, the purchaser or purchasers, or their heirs or assigns, shall be let into possession of the real property on production of the certificate of sale or a duly authenticated copy thereof, and each and every other party to this action who may be in possession of any portion of the real property, and every other person who since the filing of notice of pendency of this action has come into possession thereof, or any part thereof, shall deliver to such grantee or grantees named in the certificate of sale possession of the real property as described under the certificate of sale;

o. Any interest held by North Idaho Resorts, LLC, JV, LLC and VP, Incorporated, and every other party to this case, is junior and subject to the interests of Valiant or have been released of record; and any party and all persons claiming under said parties are and shall be forever barred and foreclosed of all right, title and interest and equity of redemption to the RE Loans Property, Pensco Property and MF08 Property, except the right of redemption as provided by the statutes of the State of Idaho; and

p. All parties and all persons claiming under them shall be and hereby are enjoined from committing waste upon the RE Loans Property, Pensco Property or MF08 Property, and from doing any other action that may impair the value of said real property at any time between the date of this Judgment and the date of sale unless, meanwhile, the said real property shall have been redeemed as provided by law.

DATED this _____ day of _____ 2016.

Honorable Barbara A. Buchanan
Judge of the First Judicial District

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the _____ day of _____ 2016, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail garyfinney@finneylaw.net
Richard L. Stacey, Esq. Jeff R. Sykes, Esq. McConnell Wagner Sykes & Stacey PLLC 827 East Park Boulevard, Suite 201 Boise, Idaho 83712 Telephone: 208.489.0100 Facsimile: 208.489.0110 <i>Counsel For Valiant Idaho, LLC</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail stacey@mwsslawvers.com svkes@mwsslawvers.com
Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail sweeks@jvwlaw.net

Clerk of the Court

COMES NOW, Valiant Idaho, LLC (“Valiant”), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and submits this Memorandum in Support of Valiant Idaho, LLC’s Motion For Order of Sale of Real Property.

I.
INTRODUCTION

After several years of litigation and a bifurcated four (4) day bench trial, this Court issued its Memorandum Decision and Order re: Court trial held on January 28 and 29, and March 16 and 17, 2016 (“Post-Trial Decision”) on May 27, 2016. The Post-Trial Decision orders, *inter alia*, the foreclosure of certain real property (“Idaho Club Property”) located in Bonner County, Idaho, and awards Valiant damages against Pend Oreille Bonner Development, LLC (“POBD”) in the amount of \$21,074,526.88. The Post-Trial Decision also adjudicates that Valiant has:

- (1) a secured first priority mortgage against certain Idaho Club Property pursuant to a mortgage (“RE Loans Mortgage”) recorded by RE Loans, LLC (“RE Loans”) on March 15, 2007;
- (2) a secured first or second priority mortgage against certain Idaho Club Property pursuant to a mortgage (“Pensco Mortgage”) recorded by Pensco Trust Co. (“Pensco”) on August 6, 2008; and
- (3) a secured first, second or third priority mortgage against certain Idaho Club Property pursuant to a mortgage (“MF08 Mortgage”) recorded by Mortgage Fund '08 LLC (“MF08”) on August 6, 2008. See Judgment and Decree of Foreclosure, Exs. A-C. The RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage will be collectively referred to herein as the “Valiant Mortgages.” Valiant submitted the Judgment (“Judgment”) and Decree of Foreclosure (“Decree”) for entry on June 13, 2016. The Judgment and Decree were entered on or about June 22, 2016.

The Decree contemplates that the Court shall enter an order of sale identifying the order and manner in which the real property subject to the Valiant Mortgages shall be sold. The Court adjudicated the Idaho Club Property subject to the Valiant Mortgages on two occasions. First, in its Memorandum Decision and Order Re: 1) JV, LLC, North Idaho Resorts, LLC, and VP, Incorporated's Motions to Reconsider 2) Valiant's Request For Entry of Proposed Final Judgment and Decree of Foreclosure and Sale entered July 21, 2015, and a second time in its Memorandum Decision & Order Re: Motions Heard on October 23, 2015 entered October 30, 2015. The parcels comprising the Idaho Club Property and subject to the Judgment and Decree are set forth in Exhibit A, Exhibit B, and Exhibit C to the Judgment and to the Decree. Valiant asks this Court to order the sale of the foreclosed properties in accordance with the Judgment and Decree, and in the order and manner set forth hereinbelow and in the proposed Order For Sale of the Idaho Club Properties ("Proposed Order of Sale") filed herewith.

II. LEGAL STANDARD

Idaho Code §§ 11-301, *et seq.*, prescribes the manner in which property, including real property, subject to a judgment may be levied and sold to pay off a judgment. Section 11-304 identifies the manner in which said sales shall be conducted:

. . . [W]hen the sale is of real property, consisting of several known lots or parcels, they must be sold separately. . . The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, and the sheriff must follow such directions.

Although real property consisting of multiple lots or parcels must typically be sold separately, there are exceptions. "Parcels not adapted for separate use and distinct enjoyment should be sold as a unit." *Suchan v. Suchan*, 113 Idaho 102, 109 (1987). Where multiple lots or parcels are used together, they may also be sold together. *Gaskill v. Neal*, 77 Idaho 428, 432 (1956). The doctrine of marshalling of assets is long established and fully recognized in Idaho. *Woody v. Jameson*, 5 Idaho 466 (1897). However, marshalling principles do not apply to the extent that they would result in an order of foreclosure that would materially prejudice the foreclosing mortgagee. Restatement 3d of Property: Mortgages, § 8.6. The Court is authorized "to direct, through the foreclosure decree, the manner and order in which the property will be sold, either as a whole or in parcels." *Federal Land Bank of Spokane v. Curts*, 45 Idaho 414, 422 (1927). Lienholders and other interested parties may ask the court to order a particular manner of sale. *See Farm Credit Bank of Spokane v. Stevenson*, 125 Idaho 270, 274 (1994).

III. ARGUMENT

In July of 2015, Valiant originally identified 186 parcels comprising the Idaho Club Property. Declaration of C. Dean Shafer in Support of Valiant Idaho, LLC's Motion For An Order Of Sale Of Real Property ("Shafer Decl."), Exhibits 1-2. However, the Court subsequently ordered that certain of these parcels (*i.e.*, the 18 golf course parcels, the 3 sanitary water facility parcels, and the private roadway parcels) are not adapted for separate use and distinct enjoyment and should be sold together rather than separately. The sanitary water facility parcels have been combined into Parcel 2 on Exhibits A-C to the Judgment and Decree.

The golf course parcels have been combined into Parcels 159 and 163.^{1/} *Id.* The roadways have been combined together into Parcel 177. *Id.*

The tracts originally identified as Parcels 5, 6, 7 and 18 on Exhibits 1-2 to the Shafer Decl. have also been combined into one parcel (Parcel 2) on Exhibits A-C to the Judgment and the Decree.^{2/} *Id.*

Taking into account these new composite parcels, there are a total of 156 parcels subject to the Judgment and Decree. Valiant asks the Court to order the sale of these parcels in accordance with the Judgment and Decree, and in the order and manner set forth hereinbelow and the Proposed Order of Sale.

A. Parcels That Are Only Encumbered By One Of The Valiant Mortgages Should Be Sold First In Accordance With The Two Funds Rule.

The Judgment and Decree identify 156 different parcels comprising the Idaho Club Property. Certain of these parcels are only encumbered by one of the Valiant Mortgages. Other parcels are encumbered by two of the Valiant Mortgages. Still other parcels are encumbered by all three of the Valiant Mortgages. In accordance with the “two funds rule,” Valiant asks this Court to order the sale of the parcels encumbered by one of the Valiant Mortgages first; the parcels encumbered by two of the Valiant Mortgages second; and the parcels encumbered by all three of the Valiant Mortgages third.

^{1/} As set forth herein, the golf course parcels should be separated into two (2) distinct parcels pursuant to the “two fund” rule” because twelve (12) of these parcels are encumbered by all of the Valiant Mortgages and the other six (6) parcels are encumbered by the RE Loans Mortgage.

^{2/} These four (4) tracts have the same tax identification number and it would violate the Bonner County Subdivision Ordinances to sell them separately. As such, they should be sold as a single parcel.

1. **Legal Standard.**

“The doctrine of marshalling securities is well established and fully recognized” in the State of Idaho. *Woody*, 5 Idaho at 470. This equitable doctrine is comprised of two distinct yet complimentary rules commonly referred to as the “two funds rule” and the “inverse order of alienation rule.” See Restatement 3d of Property: Mortgages, § 8.6 – *Marshalling: Order of Foreclosure on Multiple Parcels* (1997). The “two funds rule” may be stated simply as follows: “where a mortgagee has two parcels securing its debt, and one of those parcels is also encumbered with a subordinate interest, the mortgagee should foreclose first on the parcel on which no subordinate interest exists.” *Id.* at comment (f)(3). This rule has been utilized by federal courts applying Idaho law. See *Fitzgerald v. Bair Auction Co. (In re Bair Auction Co.)*, 2006 Bankr. Lexis 2315 (2006).

The elements of the “two fund rule” and the “inverse order of condemnation rule” are set forth in the Restatement as follows:

- (a) Except as provided in Subsection (b), when foreclosing a mortgage covering more than one parcel of real estate, upon the motion or application of the holder of a subordinate interest protected by this section, the mortgagee must proceed against the parcels in the following order:
 - (1) parcels on which no subordinate interests exist are foreclosed upon before parcels on which subordinate interests exist; and
 - (2) as among parcels on which subordinate interests exist, those with subordinate interests created more recently are foreclosed upon before those with subordinate interests created at a more remote time.
- (b) The order of foreclosure specified in Subsection (a) does not apply to the extent that:

- (1) doing so would provide no benefit to a person protected by Subsection (a); or
- (2) a person whose interest would be protected by Subsection (a) has relinquished that protection by a term of the mortgage or other conveyance granted to that person, by a term of the mortgage being foreclosed, or by other agreement; or
- (3) that order of foreclosure would materially prejudice the foreclosing mortgagee.

Id. (emphasis added). Valiant only seeks the application of the “two funds rule” in this case.

The underlying premise of this rule is that:

[W]hile a mortgagee may ultimately resort to all of its security, the mortgagee should do so in an order that will preserve, to the extent possible, the interests of all parties junior to the mortgage. Because the aggregate value of all of the security may well exceed the amount of the obligation on which foreclosure is sought, it may be possible to satisfy the obligation through foreclosure upon fewer than all of the parcels or in a manner that will leave surplus proceeds for the subordinate parties. In this way unnecessary impairment of their interests may be avoided.

Id. at comment (a). However, “[m]arshalling merely affects the order of foreclosure, and does not prevent access by the mortgagee to any of the mortgaged parcels if all are needed to satisfy the obligation.” *Id.* Marshalling is never applied in a manner that will be detrimental to the foreclosing mortgagee. *Id.* All of the elements of the “two funds rule” are present in this case and dictate that the order of sale be entered in such a manner so as to ensure that the junior interests of Valiant, by virtue of the Pensco Mortgage and MF08 Mortgage, are protected and preserved at the foreclosure sale. For the same reasons marshalling will further serve to protect the junior interests of JV, LLC (“JV”).

2. RE Loans Collateral.

Several of the parcels comprising the Idaho Club Property are only encumbered by the RE Loans Mortgage. These are Parcels 1, 59, 62, 67, 91, 112, 113 and 163 ("RE Loans Collateral"). Judgment and Decree, Exs. A-C. As a junior creditor, by virtue of the Pensco Mortgage and MF08 Mortgage, Valiant asks the Court to order the sale of these eight (8) parcels first. This will help to preserve all interests junior to the RE Loans Mortgage by requiring Valiant to credit bid judgment amounts that are secured by the RE Loans Mortgage first. It will also increase the likelihood that the remaining collateral will be available to satisfy the obligations secured by the junior interests.

3. MF08 Collateral.

Certain other parcels comprising the Idaho Club Property are only encumbered by the MF08 Mortgage. These are Parcels 33, 37, 38, 39 and 40 ("MF08 Collateral"). Judgment and Decree, Exs. A-C. Valiant asks the Court to order the sale of these five (5) parcels immediately following the sale of the RE Collateral. This will help to preserve the interests of all other creditors by requiring Valiant to credit bid judgment amounts that are secured by the MF08 Mortgage toward the purchase of these parcels. It will also increase the likelihood that some of the remaining collateral will be available to satisfy the obligations secured by other creditors.

4. RE Loans/MF08 Collateral.

There is one parcel within the Idaho Club Property that is encumbered only by the RE Loans Mortgage and the MF08 Mortgage. This is Parcel 32 ("RE Loans/MF08 Collateral"). Judgment and Decree, Exs. A-C. As a junior creditor, by virtue of the Pensco Mortgage, Valiant asks the Court to order the sale of this parcel immediately after the sale of the RE Loans Collateral and the MF08 Collateral. This will help to preserve all interests junior to the RE Loans

Mortgage by requiring Valiant to credit bid judgment amounts that are secured by the RE Loans Mortgage first. It will also increase the likelihood that the remaining collateral will be available to satisfy the obligations secured by junior creditors.

5. Pensco/MF08 Collateral.

There are other parcels that are only encumbered by the Pensco Mortgage and the MF08 Mortgage. These are Parcels 29, 30, 31, 34, 35 and 66 (“Pensco/MF08 Collateral”). Judgment and Decree, Exs. A-C. As a junior creditor, by virtue of the MF08 Mortgage, Valiant asks the Court to order the sale of these parcels after the RE Loans Collateral, the MF08 Collateral, and the RE Loans/MF08 Collateral have been sold. This will help to preserve all interests junior to the Pensco Mortgage by requiring Valiant to credit bid judgment amounts that are secured by the Pensco Mortgage. It will also increase the likelihood that the remaining collateral will be available to satisfy the obligations secured by junior creditors.

6. RE Loans/Pensco/MF08 Collateral.

The remaining parcels of the Idaho Club Property are encumbered by all of the Valiant Mortgages. These are Parcels 2, 5, 8-17, 19-28, 36, 41-58, 60-61, 63-65, 68-90, 92-111, 114-120, 122-159 (“RE Loans/Pensco/MF08 Collateral”). Valiant asks the Court to order the sale of these parcels last.

B. Certain Parcels Comprising The Idaho Club Property Are Not Adapted For Separate Use And Distinct Enjoyment And Should Be Sold Together As One Parcel.

The Idaho Club Property is comprised of approximately 156 parcels. Judgment and Decree, Exs. A-C. As set forth hereinabove, when the real property subject to a foreclosure sale is comprised of multiple parcels, the parcels are typically sold separately. However, there are certain exceptions to this rule.

In August of 2015, this Court ruled that certain parcels (*i.e.*, the 18 golf course parcels, the 3 sanitary water facility parcels, and the 11 private roadway parcels) are not adapted for separate use and distinct enjoyment and should be sold together rather than separately. Although this ruling was vacated when the Court granted VP, Incorporated's ("VP") motion for reconsideration, these parcels are still not adapted for separate use and distinct enjoyment and should be sold together rather than separately. However, based upon the marshalling doctrine set forth above, the Court should modify its original order to marshal and sell the two (2) golf course parcels separately.

1. **Legal Standard.**

In *Suchan v. Suchan*, 113 Idaho at 110, the Idaho Supreme Court upheld the sale of several separate parcels as one unit, reasoning that the property had:

[A]t all times heretofore been used together as one lot or parcel and every part thereof is necessary for the best use and enjoyment of said mortgaged property, and the same cannot be sold in separate parcels without material injury to the parties hereto" and . . . the debtor presented the district court with no evidence to demonstrate . . . that any of those parcels have been adapted for separate use or distinct enjoyment. The record below discloses no reason the property should not be sold as one parcel. There is no basis upon which this court could conclude that selling the land as one parcel was not a reasonable means of selling the land profitably.

Suchan, 113 Idaho at 109. The Idaho Supreme Court has also upheld the sale of multiple parcels as one where the lots were used as one tract. *See Gaskill*, 77 Idaho at 432 (in validating the separate sale of two parcels, despite a common purchaser, where the garage and house were located partly on each parcel); *Federal Land Bank of Spokane v. Curts*, 262 P. at 877 (upholding sale as one parcel where land was owned and farmed as one lot and 40-acre parcels were indistinguishable from one another).

2. Golf Course.

The Idaho Club Property includes a championship 18-hole golf course designed by Jack Nicklaus. The course is constructed on eighteen (18) different parcels within the Idaho Club. Twelve of these parcels make up the tee boxes, fairways and greens (“Golf Course Parcels”). The other six (6) parcels are platted open spaces (“Open Space Parcels”) surrounding the Golf Course Parcels. The Golf Course Parcels are encumbered by all three of the Valiant Mortgages. The Golf Course Parcels have been combined into a single legal description identified as Parcel 159 on Exhibits A-C to the Judgment and Decree. The Open Space Parcels are encumbered only by the RE Loans Mortgage. The Open Space Parcels were combined into a single legal description identified as Parcel 163 on Exhibit A to the Judgment and Decree.

The Golf Course Parcels and the Open Space Parcels have been continuously used together as parts of the golf course since the outset of the Idaho Club development and continue to be used as parts of the golf course to this day. While it may initially appear preferable to sell the Golf Course Parcels and the Open Space Parcels together as a single parcel, it would be prejudicial to Valiant to do so. As explained hereinabove, the “two funds rule” dictates that parcels unencumbered by junior interests be sold first. As such, the Golf Course Parcels should be sold together as one parcel (*i.e.*, Parcel 159) and the Open Space Parcels should be sold together as another parcel (*i.e.*, Parcel 163). Equitable marshalling principles establish that Parcel 163 should be sold with the RE Loans Collateral and Parcel 159 should be sold with the RE Loans/Pensco/MF08 Collateral.

Since its inception, the Idaho Club has been developed, constructed, marketed and sold as a private golf course development project. It has continued to be leased and operated by Valiant throughout the course of this litigation. Many of the property owners within the Idaho Club development still have private golf memberships. These members continue to play golf on the golf course to this day.

The golf course is shown on the approved Idaho Club plats and/or re-plats that are recorded in the Bonner County Recorder's Office. The Idaho Club Property owners relied upon these plats when they purchased lots and constructed residences. These residents reasonably expect that the Golf Course Parcels will be sold together at the foreclosure sale. All of the Golf Course Parcels are necessary for the continued operation of the golf course. Moreover, selling the Golf Course Parcels separately could allow a rogue purchaser to purchase one of these parcels to try to shut down the golf course and hold the Idaho Club hostage to further development.

The Open Space Parcels surrounding the golf course are also shown and dedicated as such on the approved and recorded Idaho Club plats and re-plats. As such, the Open Space Parcels must continue to be used as open spaces unless and until a new plat showing otherwise is approved by Bonner County. The Open Space Parcels have no value or use other than as open spaces surrounding the golf course.

The parcels comprising the Golf Course Parcels were constructed and have been continuously used as the golf course since the outset of the development. *Gaskill*, 77 Idaho at 432; *Federal Land Bank of Spokane*, 262 P. at 877. These parcels are not adapted for separate use or distinct enjoyment because they are all necessary for the golf course to continue to operate as such.

Suchan, 113 Idaho at 109. As such, the Golf Course Parcels are being used and should be sold as one contiguous tract within the development.

The parcels comprising the Open Space Parcels were constructed and have been continuously used as open spaces surrounding the golf course since its development. *Gaskill*, 77 Idaho at 432; *Federal Land Bank of Spokane*, 262 P. at 877. These parcels are not adapted for separate use or distinct enjoyment because they are dedicated as open spaces on the Idaho Club plats and re-plats. *Suchan*, 113 Idaho at 109. As such, the Open Space Parcels are being used and should be sold as one contiguous tract within the development.

Based upon the foregoing and the “two funds rule,” Valiant asks the Court to order the sale of the Open Space Parcels (Parcel 163) together as one parcel and the Golf Course Parcels (Parcel 159) together as another parcel. In order to ensure that Valiant will have sufficient funds to credit bid for the purchase of Parcel 163 (so that Parcel 163 can continue to be used as open space surrounding the golf course), Valiant asks this Court to order that Parcel 163 be the first parcel of the RE Loans Collateral sold at the sheriff’s sale. Moreover, in order to ensure that Valiant will have sufficient funds available to credit bid for the purchase of Parcel 159 (so that Parcel 159 can continue to be used as the golf course), Valiant asks this Court to order that Parcel 159 be the first parcel of the RE Loans/Pensco/MF08 Collateral sold at the sheriff’s sale.

3. **Sanitary Water Facilities.**

Sanitary water facilities have been constructed on three (3) different parcels (“Water Facilities Parcels”) encumbered by the Valiant Mortgages. The Court has previously determined that the Water Facilities Parcels have been used continuously as a single tract for this purpose such that they should be sold together as one parcel. Nothing has changed since the Court

reached this determination. As such, the legal descriptions for these parcels were combined together as Parcel 2 on Exhibits A-C to the Judgment and Decree.

The Water Facilities Parcels are used as a single tract for purposes of providing sanitary water to the Idaho Club. These parcels have been continually used for this purpose from the outset of the development and continue to be used for this purpose to this day. The owners of the Idaho Club Property rely upon the Water Facilities Parcels to provide water to their lots and residences. This water is not just used for drinking. The Water Facilities Parcels also provide fire protection as they are source for the water to the fire hydrants positioned throughout the development. The Idaho Club Property could be severely impacted if these lots were sold separately. If the Water Facilities Parcels are each sold separately, a rogue purchaser could buy one parcel and attempt to shut down the fire hydrants throughout entire development or extort property owners (including current homeowners) by charging exorbitant fees.

Based upon the foregoing, the lots upon which the Water Facilities Parcels are constructed have been continuously used for the operation of providing sanitary water services. *Gaskill*, 77 Idaho at 432; *Federal Land Bank of Spokane*, 262 P. at 877. These parcels are not adapted for separate use or distinct enjoyment because they are all necessary to continue to provide water services to the development. *Suchan*, 113 Idaho at 109. As such, the Water Facilities Parcels are being used and should be sold as one contiguous tract within the development.

4. Roadways.

The Idaho Club Property includes several private roadways (“Roads”). The Roads are constructed on eleven (11) different tracts of land that have been combined into Parcel 177 on Exhibits A-C to the Judgment and Decree. These tracts have been used continuously as roads within the Idaho Club since the outset of its development and continue to be used as its Roads to

this day. The Court has previously ruled that the Roads are not adapted for separate use or distinct enjoyment, such that they should be sold as one contiguous Parcel at the sheriff's sale. Nothing has changed since the original ruling.

The Roads are the only means of legal access to the various lots, parcels, residences and other improvements within the Idaho Club (including, but not limited to, the water treatment facility and Golf Course). The Roads are also shown on plats recorded in the real property records of Bonner County, Idaho, and dedicated to private property owners within the development for that purpose. Persons and/or entities have purchased lots and constructed residences within the Idaho Club in reliance upon the existence of the Roads. These property owners depend upon the Roads for access to their properties. The Roads will have literally no value if the lots/parcels on which they are constructed are sold separately. Moreover, because the Roads have been dedicated for use as private roadways, they cannot be used for any other purpose.

The parcels upon which the Roads are constructed and operated have been used continuously as a single parcel for use as the Roads since the outset of the development. *Gaskill*, 77 Idaho at 432; *Federal Land Bank of Spokane*, 262 P. at 877. The Roads are not adapted for separate use or distinct enjoyment because they are all necessary for the continued use of the Idaho Club. *Suchan*, 113 Idaho at 109. As such, the Road parcels have been used and should be sold as one contiguous parcel within the development.

C. **Per The Bonner County Code, The Tracts Comprising Parcel 5 Must Be Sold As One Parcel.**

The Idaho Club Property includes certain real property legally described on Exhibits A-C to the Judgment and Decree as Parcel 5.

Valiant filed its original motion for order of sale in July of 2015. Pursuant to said motion, Valiant identified four (4) tracts of real property as Parcels 5, 6, 7 and 18. These tracts of land were separately identified even though they share the same tax identification number (*i.e.*, RP58N01W361810A). This was done in an abundance of caution in order to comply with Idaho Code § 11-304, which requires that all known lots or parcels be sold separately at a sheriff's sale. Since filing said motion, Valiant has learned that Bonner County Code Section 12-611 prohibits the subdivision of any land that is greater than twenty (20) acres into parcels that are less than twenty (20) acres in size without following the codified process for subdividing real property. *Id.* A sheriff's sale is not part of the codified process.

Valiant understands that the tracts comprising Parcel 5 collectively total more than twenty (20) acres, but each individual tract will be less than twenty (20) acres if sold separately. Moreover, Bonner County has taken the position that the sale of these four (4) tracts separately at a sheriff's sale will constitute a violation of the Bonner County Code since these tracts currently share the same tax identification number. As such, any person or entity who purchases one of these tracts will have to go thru the process of subdivision platting and approval before any construction or development could take place. Selling these tracts separately will adversely affect their value.

Based upon the foregoing, Valiant asks the Court to order the sale of these tracts as a single parcel. This will ensure compliance with Bonner County Code Section 12-611 and Idaho Code § 11-304. In anticipation that this request will be granted, these tracts have been combined into Parcel 5 on Exhibits A-C to the Judgment and Decree. Parcel 5 is encumbered by each of the Valiant Mortgages, such that it should be sold as part of the RE Loans/Pensco/MF08 Collateral.

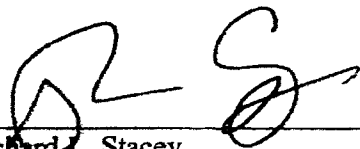
IV.
CONCLUSION

Based upon the foregoing law and argument and the Court's record herein, Valiant respectfully requests this Court to order the sale of the RE Loans Collateral first in the following order: **Parcels 163, 1, 59, 62, 67, 91, 112 and 113**; the MF08 Collateral next in the following order: **Parcels 33, 37, 38, 39 and 40**; the RE Loans/MF08 Collateral next: **Parcel 32**; the Pensco/MF08 Collateral next in the following order: **Parcels 29, 30, 31, 34 and 35**; and the RE Loans/Pensco/MF08 Collateral next in the following order: **Parcels 159, 2, 5, 8-17, 19-28, 36, 41-58, 60, 61, 63, 64, 65, 68-90, 92-111, 114-120 and 122-158**.

DATED this 22nd day of June 2016.

McCONNELL WAGNER SYKES & STACEY ^{PLLC}

BY:



Richard L. Stacey
Attorneys For Valiant Idaho, LLC

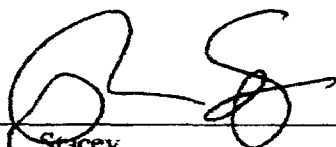
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of June 2016, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Electronic Mail garyfinney@finneylaw.net
Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Electronic Mail sweeks@jvwlaw.net

With two copies via United States Mail to:

Honorable Barbara A. Buchanan
Judge of the First Judicial District
Bonner County Courthouse
215 South First Avenue
Sandpoint, Idaho 83864



Richard L. Stacey

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STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT
JUN 29 10 33 37
CLERK DISTRICT COURT
DEPUTY

Attorneys for Defendants North Idaho Resorts, LLC and VP, Incorporated

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly
known as NATIONAL GOLF BUILDERS,
INC., a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada limited
liability company; et al.,

Defendants.

Case No. CV-2009-01810

OBJECTION TO VALLANT IDAHO'S
SECOND MOTION FOR AN ORDER OF
SALE OF REAL PROPERTY

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN

VP, Inc. (VP) by and through its counsel of record, Susan P. Weeks of the firm James,
Vernon & Weeks, P.A., hereby files its objection to Valiant Idaho's second Motion for Order of
Sale of Real Property filed June 22, 2016.

On June 22, 2016, the Court entered its Judgment and Decree of Foreclosure. On the same day, Valiant noticed for hearing its second Motion for an Order of Sale of Real Property.

As the Court is aware, VP, Inc. owns four of the lots that are subject to foreclosure. The remaining 182 lots were owned by Pend Oreille Bonner Development, LLC (POBD)

In its memorandum for order of sale, Valiant argues that the water lots have been used as a single tract for purposes of providing sanitary water to the Idaho Club. This statement is incorrect. First, POBD did not operate the sanitary water system. It was operated by VP. Second, there is no evidence that VP used these separate lots a single tract. Third, Valiant maintains these lots have been used for development and continue to be used for development to this day. There is no evidence of such use before the Court. The Court sustained Valiant's objection at trial and disallowed testimony by VP regarding the ownership and use of the lots upon which water infrastructure exists. However, the mere fact that they are a component of VP's water distribution system does not dictate they be sold as a package. To the extent they assist in the distribution system, each lot has its own unique contributing factors. VP's claim that a "rogue" purchaser could buy one parcel and attempt to shut down the system may have merit, but that risk exists regardless of the who buys the lots. The system is not owned by Valiant, nor does it transfer with the sale of these three lots. The same is true of the remaining lot upon which VP has a sewer lagoon. The lagoon represents one component of the sewer system, but it is not the entire sewer system. Similarly, the lots with domestic water infrastructure are a component of the water system, but they are not the water system.

VP proposes that Parcel 1 be the second Parcel sold in the Order of Sale. Parcel 1 is the lot upon which the sewer lagoon is situated. There is no reason that this lot to be sold second.

Valiant proposes Lot 2 (which are the three lots upon which water infrastructure exists, be sold 16th in order.

The lagoon lot has little or no independent value except for the value it contributes to the sewer system. The remaining three lots with water infrastructure have little or no value except for the value they have as part of the domestic water system.

Sale of these lots may very well hinder VP's operation of the sewer and water system. It is in the community's interest to have these lots sold last. Loss of control of components of the water and sewer system could jeopardize the permits that allows operation of the water and sewer systems. Therefore, these lots should be sold last.

Valiant argues that I.C. § 11-301 dictates in favor of the order of sale proposed by POBD. Valiant argues that the judgment debtor, POBD, desires to have VP's property sold first and the Court should honor that request. POBD is not the owner of the VP lots. VP is now the debtor in possession of the parcels. Therefore, VP should be allowed to direct the order of the sale of its lot, which would be to sell them last. Not only does this order of sale place the burden of the foreclosed debt on the borrower, it provides a measure of protection to the operation of the water and sewer systems. As this Court observed at the prior hearing on this subject, this approach is the equitable approach.

It is much more appropriate that Valiant be required to sale all other lots encumbered by the R.E. Loans loan. This method assures the best price is obtained on the real property owned by POBD before resort is made to property owned by others.

Further, as previously argued in the first motion, these lots currently are necessary for continued use of existing homes. Selling these four lots first would lead to uncertainty regarding continued operation of the water and sewer system, which is likely to impair the value

of individual lots. Selling the other lots and parcels first maximizes POBD paying its debt, and decreases the likelihood that these lots will need to be sold, or reduces the debt burden on these lots. Further, sale of these lots increases the likelihood of redemption of these lots by VP. Thus, the Court is requested to reject Valiant's requested order of sale.

Finally, the Court should also consider whether the proposed order of sale maximizes the value returned to the mortgagor, or whether it is proposed to maximize Valiant's return as a developer. VP would submit I does not.

DATED this 29th day of June, 2016.

JAMES, VERNON & WEEKS, P.A.

By: Susan P. Weeks
Susan P. Weeks

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 29th day of June, 2016:

- | | | |
|-------------------------------------|----------------------------|---------------------------------------|
| <input type="checkbox"/> | U.S. Mail, Postage Prepaid | Gary A. Finney |
| <input type="checkbox"/> | Hand Delivered | FINNEY FINEY & FINNEY, PA |
| <input type="checkbox"/> | Overnight Mail | 120 E Lake St., Ste. 317 |
| <input checked="" type="checkbox"/> | Facsimile: 208-263-8211 | Sandpoint, ID 83864 |
| <input type="checkbox"/> | U.S. Mail, Postage Prepaid | Richard Stacey |
| <input type="checkbox"/> | Hand Delivered | McConnell Wagner Sykes & Stacey, PLLC |
| <input type="checkbox"/> | Overnight Mail | 755 West Front St., Ste. 200 |
| <input checked="" type="checkbox"/> | Facsimile: 208-489-0110 | Boise, ID 83702 |

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Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

**PEND OREILLE BONNER
DEVELOPMENT, LLC,**
a Nevada limited liability company; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

CLERK DISTRICT COURT
DEPUTY

Case No. CV-09-1810

**VALIANT IDAHO, LLC'S
MEMORANDUM OF COSTS
AND ATTORNEYS' FEES**

Honorable Barbara A. Buchanan

ORIGINAL

COMES NOW, Valiant Idaho, LLC (“Valiant”), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and files with this Court the following Memorandum of Costs and Attorneys’ Fees.

I.
INTRODUCTION

Valiant, as prevailing party in this matter, seeks an award of costs and attorneys’ fees incurred to defend against third party lien claims, to establish the priority of its mortgages, to foreclose its mortgages, to establish the amounts owed pursuant to its mortgages, and to prove its breach of contract claims against Pend Oreille Bonner Development, LLC (“POBD”).

According to the terms of Valiant’s mortgages, the attorneys’ fees and costs it has incurred are amounts that are secured by said mortgages. Moreover, as the claims and defenses raised by North Idaho Resorts, LLC (“NIR”), VP, Inc. (“VP”) and JV, LLC (“JV”) (collectively, “Defendants”) were made frivolously and without any basis in fact and law, Valiant should be awarded its fees and costs due to said frivolity, against Defendants, jointly and severally.

II.
FACTUAL AND PROCEDURAL BACKGROUND

This litigation has been ongoing since October 13, 2009 and arises out of a failed golf course development project commonly known as The Idaho Club (“Idaho Club”). Valiant’s involvement in this litigation arises out of a series of loan documents it was assigned during the summer of 2014. These loan documents include mortgages that were recorded against Idaho Club property to secure the amounts loaned to POBD by three separate lenders. These lenders are RE Loans, LLC

("RE Loans"), Pensco Trust Co. f/b/o Barney Ng ("Pensco"), and Mortgage Fund '08 LLC ("MF08").

The amounts loaned by RE Loans were secured by a mortgage recorded in the Bonner County Recorder's Office ("Recorder's Office") on March 15, 2007 ("RE Loans Mortgage"). The amounts loaned by Pensco were secured by a mortgage recorded in the Recorder's Office on August 6, 2008 ("Pensco Mortgage"). The amounts loaned by MF08 were secured by a mortgage that was recorded in the Recorder's Office a few minutes after the Pensco Mortgage was recorded on August 6, 2008. The RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage will be referred to collectively as the "Valiant Mortgages."

The failed Idaho Club development has spawned several lawsuits. The first of these suits is the case at bar (Bonner County Case No. CV 2009-1810), which was filed October 13, 2009 by Genesis Golf Builders, Inc. ("Genesis") ("Genesis Suit"). The defendants named in the Genesis Suit include RE Loans, Pensco and MF08 (collectively, "Idaho Club Lenders"), among others. Genesis's complaint sought to foreclose a mechanic's lien it recorded to secure amounts it was allegedly owed for work performed in the construction of the Idaho Club golf course. Cross-claims and counterclaims were alleged by several of the defendants. The Idaho Club Lenders successfully defended the priority of their respective Mortgages against all of these claims and cross-claims.

Sage Holdings LLC, Dan Jacobson and Steven Lazar (collectively, "Sage") filed another action on November 9, 2010 styled as *Sage Holdings LLC, et al. v. Pend Oreille Bonner Development, LLC* ("Sage Suit"), Bonner County Case No. CV 2010-2142. The Idaho Club Lenders, among others, were also named as defendants in the Sage Suit. The Sage Suit sought to

foreclose a mortgage recorded by Sage. The Idaho Club Lenders successfully defended the priority of their respective Mortgages against the claims of Sage.

Although ACI Northwest, Inc. ("ACI") was named as a defendant and filed cross-claims against the Idaho Club Lenders seeking to foreclose its own mechanic's lien in the Genesis Suit, ACI also filed a separate lawsuit on November 22, 2010; styled as *ACI, Inc. v. Bar-K, Inc.*, Bonner County Case No. CV 2010-2211 ("ACI Suit"). The ACI Suit sought damages from the Idaho Club Lenders, among others, for failing to disburse construction funding to POBD to pay for construction work purportedly performed by ACI. The Idaho Club Lenders successfully defended against these claims and ACI's claims were dismissed with prejudice.

On January 28, 2011, Union Bank, N.A.'s ("Union Bank") predecessor in interest, Pacific Capital Bank, N.A., filed suit against several defendants, including the Idaho Club Lenders in an action styled as *Pacific Capital Bank, N.A. (i.e., MUFG Union Bank, N.A.) v. Pend Oreille Bonner Development, LLC* ("Union Bank Suit"), Bonner County Case No. CV 2011-0135. Union Bank sought to foreclose a mortgage recorded against the lakefront portion of the Idaho Club development. Although the Idaho Club Lenders subordinated their interests to Union Bank's mortgage, they still incurred attorneys' fees and costs appearing in and clarifying the scope of the Union Bank Suit before disclaiming said interests or allowing judgments to be taken with respect to the lakefront properties.

On December 20, 2011, The Idaho Club Homeowner's Association, Inc. ("HOA") filed suit against the Idaho Club Lenders, among others, in an action styled as *The Idaho Club Homeowner's Association, Inc. v. Pend Oreille Bonner Development, LLC* ("HOA Suit"), Bonner County Case No. CV 2011-2284. The HOA sought to establish the priority of liens recorded

by the HOA to purportedly secure unpaid assessments owed by POBD to the HOA. The Idaho Club Lenders successfully defended the priority of their respective Mortgages against the claims of the HOA.

Finally, on January 3, 2012, the State of Idaho, by and through its Transportation Board (“ITD”), filed suit against the Idaho Club Lenders, among others, in an action styled as *The State of Idaho, Idaho Transportation Board v. Pend Oreille Bonner Development, LLC* (“ITD Suit”), Bonner County Case No. CV 2012-0008. The ITD Suit sought to determine the ownership and value of private property within the Idaho Club development that ITD had condemned for public use. Said real property turned out to be property subject to the Union Bank mortgage. However, the Idaho Club Lenders incurred attorneys’ fees and costs appearing in the ITD Suit and identifying the location of said property prior to disclaiming their respective interest or allowing default judgments to be taken.

On August 19, 2014, Valiant amended its answer in the Genesis Suit to include cross-claims and a third party complaint to establish the amounts POBD owed to the Idaho Club Lenders and to foreclose the Valiant Mortgages (“Valiant Foreclosure”) to recover these amounts. After multiple summary judgments, several motions to reconsider, and a bifurcated four (4) day trial, this Court determined that the Valiant Mortgages are valid first, second and/or third priority liens recorded against the Idaho Club Property, it awarded Valiant a Judgment in the amount of \$21,074,526.88 against POBD, and it awarded Valiant a Decree of Foreclosure entitling Valiant to sell the Idaho Club Property to recover the amounts Valiant is owed pursuant to the Judgment.

The Genesis Suit, Sage Suit, ACI Suit, Union Bank Suit, HOA Suit, ITD Suit, and Valiant Foreclosure shall be referred to collectively herein as the “Idaho Club Lawsuits.”

Valiant is undoubtedly the prevailing party in this case. Pursuant to the Valiant Mortgages, Valiant is entitled to an award of all costs and attorneys' fees it has incurred in the Idaho Club Lawsuits against POBD. Pursuant to Idaho Code § 12-120(3) and Rules 54(d)(1) and 54(e)(1) of the Idaho Rules of Civil Procedure, Valiant is alternatively entitled to an award against POBD of all costs and attorneys' fees it incurred in the Genesis Suit and Valiant Foreclosure. This award is secured by the Valiant Mortgages. Pursuant to Idaho Code § 12-121 and Rules 54(d)(1) and 54(e)(1) of the Idaho Rules of Civil Procedure, Valiant is also entitled to an award of attorneys' fees and costs incurred in the Valiant Foreclosure, jointly and severally against JV, NIR and VP.

III. ARGUMENT

A. VALIANT IS ENTITLED TO AN AWARD OF ATTORNEYS' FEES INCURRED IN THE IDAHO CLUB LAWSUITS PURSUANT TO VALIANT'S MORTGAGES.

Under the terms of the Valiant Mortgages, Valiant is entitled to an award of all reasonable attorneys' fees and legal costs it incurred in the Idaho Club Lawsuits against POBD. Each of the of the Valiant Mortgages has language entitling it to recover these fees and costs from POBD and securing POBD's obligation to pay said costs by the Valiant Mortgages.

Article 4.9 of the RE Loans Mortgage (Plaintiff's Ex. 1), the Pensco Mortgage (Plaintiff's Ex. 16) and the MF08 Mortgage (Plaintiff's Ex. 18) provides:

The prevailing party in any legal action brought by one party against the other and arising out of this Mortgage or the Note shall be entitled to, in addition to any other rights and remedies he may have, to reimbursement for their expenses including court costs and reasonable attorney fees.

Id. (emphasis added). This provision obligates POBD to reimburse Valiant for all attorneys' fees and costs it incurs in the Valiant Foreclosure. Moreover, each of the Valiant Mortgages grants

Valiant said mortgage “[t]o have and to hold the Mortgaged Property for the purposes and uses herein expressed and FOR THE PURPOSE OF SECURING, in such order of priority as Mortgagee may elect: . . . 2. Due, prompt, and complete observance, performance, and discharge of all obligations of the Mortgagor under this Mortgage and any and all modifications, extensions or renewals of this Mortgage.” *Id.* at Plaintiff’s Ex. 1, pp. 3-4; Plaintiff’s Ex. 16, pp. 3-4; and Plaintiff’s Ex. 18, pp. 3-4. Thus, POBD’s obligation to pay Valiant’s legal expenses and reasonable attorneys’ fees is also secured by the Valiant Mortgages.

The secured obligations extend beyond those obligations set forth in Article 4.9 of the Valiant Mortgages. POBD is obligated to forever warrant and **defend the priority of Valiant’s interest** in and title to the Idaho Club Property against any and all lien claims made by third parties. *Id.* at Article 1.2 of the Valiant Mortgages (emphasis added). POBD must “pay or reimburse Mortgagee for all reasonable expenses incurred by Mortgagor before and after the date of this Mortgage with respect to ***any and all actions***, matters or transactions arising out of or related to the this Mortgage.” *Id.* at Article 4.4 of the Valiant Mortgages (emphasis added). Moreover, POBD is also obligated to “***indemnify and hold harmless the Mortgagee from and against all claims, damages, losses and liabilities (including, without limitation, reasonable attorneys’ fees and expenses) arising out of or based upon any matter related to the Mortgaged Property*** and the occupancy, ownership, maintenance, or management of the Mortgaged Property by the Mortgagor.” *Id.* at Article 4.5 of the Valiant Mortgages (emphasis added). As previously explained, all of the obligations of POBD are secured by the Valiant Mortgages. *Id.* at pp. 3-4 of the Valiant Mortgages. As such, the reasonable attorneys’ fees and legal expenses incurred by Valiant, and its predecessors-in-interest in each of the Idaho Club Lawsuits, are secured by the Valiant Mortgages.

Contract provisions for attorneys' fees are enforceable under Idaho law. *Mountain View Landowners Co-op Ass'n, Inc. v. Cool*, 142 Idaho 861 (2006). "[W]here there is a valid contract between the parties which contains a provision for an award of attorney fees and costs, the terms of that contractual provision establish a right to an award of attorney fees and costs." *Farm Credit Bank v. Wissel*, 122 Idaho 565, 568-569 (1992).

As the prevailing party, Valiant is entitled to an award of attorneys' fees under the terms of the Valiant Mortgages. POBD is obligated to reimburse Valiant for all legal expenses and reasonable attorneys' fees it incurred in the Idaho Club Lawsuits. Moreover, this obligation is secured by the Valiant Mortgages. As such, this secured obligation is prior in right, title and interest to any interest possessed by JV, NIR or JV. This award of attorneys' fees and costs should be incorporated into the Judgment as part of Valiant's first priority position pursuant to the RE Loans Mortgage.

B. VALIANT IS ENTITLED TO AN AWARD OF ATTORNEYS' FEES AS THE PREVAILING PARTY IN THIS CASE.

1. Valiant is the Prevailing Party.

Rule 54(e)(1) of the Idaho Rules of Civil Procedure provides:

In any civil action, the Court may award reasonable attorneys' fees, which at the discretion of the Court may include paralegal fees, to the prevailing party or parties as defined in Rule 54(d)(1)(B), when provided for by any statute or contract.

The Idaho Rules of Civil Procedure further define "prevailing party" as follows:

Prevailing Party. In determining which party to an action is a prevailing party and entitled to costs, *the trial court shall* in its sound discretion *consider the final judgment or result of the action in relation to the relief sought by the respective parties.*

I.R.C.P. 54(d)(1)(B). "In determining which party prevailed in an action where there are claims and counterclaims between opposing parties, the court determines who prevailed 'in the action.' That is, the prevailing party question is examined and determined from an overall view, not a claim by claim analysis." *Eighteen Mile Ranch v. Nord Excavating and Paving*, 141 Idaho 716, 719 (2005). "The trial court shall in its sound discretion consider the final judgment or result of the action in relation to the relief sought by the respective parties." *Id.*

There is no possible way to consider the result of this action in relation to the relief sought by the respective parties wherein Valiant is not the prevailing party. Valiant prevailed on all of its claims and in defending itself against all of the cross-claims and affirmative defenses raised by JV, NIR and VP in this case. The Valiant Mortgages are adjudicated to be first, second and/or third priority liens recorded against the Idaho Club Property. Moreover, Valiant obtained a Judgment in the amount of \$21,074,526.88 against POBD and a Decree of Foreclosure entitling Valiant to sell the Idaho Club Property to pay the Judgment amounts. The Court rejected every claim and affirmative defense raised by JV, NIR and VP.

Valiant is clearly the prevailing party when considering the result of this action in relation to the relief sought by the respective parties. Therefore, Valiant is entitled to an award of its attorneys' fees, costs, and prejudgment interest on its damage award pursuant to statute, the Valiant Mortgages, and Idaho case law.

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2. **Valiant is Entitled to An Award of Attorneys' Fees Against POBD in the Genesis Suit and Valiant Foreclosure Pursuant to Idaho Code § 12-120(3).**

Valiant is also statutorily entitled to an award of attorneys' fees it reasonably incurred in the Valiant Foreclosure against POBD. Idaho Code Section 12-120(3) provides:

In any civil action to recover on [a]. . . note and in any commercial transaction. . . the prevailing party shall be allowed a reasonable attorney's fee to be set by the Court to be taxed and collected as costs.

Moreover, "commercial transaction" is statutorily defined as "all transactions, except transactions for personal or household purposes." I.C. § 12-120(3).

Idaho courts have long held that a prevailing party is entitled to an award of its reasonable attorneys' fees whenever a commercial transaction comprises the gravamen of the lawsuit. *Ervin Construction Company v. Van Orden*, 125 Idaho 695, 704 (1993). In other words, the commercial transaction must be integral to the claim and constitute the basis upon which the party is attempting to recover. *Id.* POBD obtained loans from RE Loans, Pensco, and MF08 for purposes of developing a golf course and residential resort community. These loans were obtained for commercial purposes such that a commercial transaction is integral to Valiant's claims and constitute the basis upon which Valiant obtained the Judgment. The gravamen of the Genesis Suit and Valiant Foreclosure plainly arose out of a commercial transaction. As Valiant is the prevailing party in these matters, Valiant is entitled to an award against POBD of all attorneys' fees it reasonably incurred in the Valiant Foreclosure pursuant to Idaho Code § 12-120(3). Should the Court deny an award of the fees and costs Valiant incurred pursuant to the Valiant Mortgages, Valiant is statutorily entitled to an award of fees and costs incurred in the Genesis Suit and Valiant Foreclosure pursuant to Idaho Code § 12-120(3).

3. **Valiant is Entitled to An Award of Attorneys' Fees, Jointly and Severally, Against JV, NIR and JV Pursuant to Idaho Code § 12-121.**

Idaho Code § 12-121 gives the Court discretion to award reasonable attorneys' fees to the prevailing party in any civil action. Under Section 12-121, an award of attorneys' fees is appropriate when the Court "is left with the abiding belief that the case was brought, pursued, or defended frivolously, unreasonably, or without foundation." *McGrew v. McGrew*, 139 Idaho 551, 562 (2003); I.R.C.P. 54(e)(1). In other words, the Court should award attorneys' fees to the prevailing party "if the position advocated by the non-prevailing party is plainly fallacious and, therefore, not fairly debatable." *Assocs. Nw., Inc. v. Beets*, 112 Idaho 603, 605, (Ct. App. 1987). Further, "[e]ven though an action might be proper at its commencement, facts might thereafter develop which indicate that the case was then pursued frivolously, unreasonably, or without foundation." *Win of Mich., Inc. v. Yreka United, Inc.*, 137 Idaho 747, 754 (2002).

A key factor to consider in deciding whether the case was brought frivolously or without foundation is whether there was an absence of any "*legitimate*, triable issue of fact." *McGrew*, 139 Idaho at 562 (emphasis added). For example, the Idaho Supreme Court affirmed a district court's award of attorneys' fees under Section 12-121 where the plaintiffs did not present any facts to support their claims or cite any legal authority to establish their claims by operation of law. *Bedke v. City of Oakley (In re SRBA)*, 149 Idaho 532, --- (2010). As such, the plaintiffs failed to raise a triable issue, making their claims frivolous. *Id.* Similarly, the Court affirmed an award of attorneys' fees where the plaintiff asserted its claims "without having knowledge of or reasonable expectation to be able to prove" the facts essential to its claim. *Sunshine Min. Co. v. Metro. Mines Corp.*, 111 Idaho 654, 659 (1986). That case involved ownership of a subsurface vein of mining ore that the plaintiff believed extended into the defendant's mining claims. *Id.* at 655. The plaintiff

initiated its claim to ownership without having taken any steps to determine whether the vein did actually extend onto the defendant's property. *Id.* As such, the plaintiff had no facts or even a reasonable belief on which to base its claim, making it frivolous. *Id.* at 659.

The Court also affirmed a fee award based on a frivolous claim in a case where "the district court concluded 'that the inclusion of [the defendant] in this litigation was a decision based on the sole desire to include deep pockets....'" *Chavez v. Barrus*, 146 Idaho 212, 225 (2008). Reviewing the record of that case, the Court agreed with the district court that the plaintiff's claims against the defendant *were utterly without merit where the plaintiff failed to submit facts to support its claims.* *Id.* at 223 (emphasis added). The Court affirmed the district court's decision that the plaintiff's claims were frivolous and the defendant was entitled to an award of attorneys' fees under Idaho Code § 12-121. *Id.* at 225.

The claims and defenses alleged by JV, VP and NIR in the Valiant Foreclosure were brought frivolously and without any basis in fact or law. From the outset of this litigation, these parties were fully aware that they had no bases for their claims and defenses. Nonetheless, counsel for said parties completely disregarded their obligations pursuant to Rule 11(a)(1) of the Idaho Rules of Civil Procedure to make reasonable inquiry to ensure that the claims and defenses raised were grounded in fact and warranted by existing law. During the trial of this matter, JV, VP and NIR failed to submit any evidence to support their claims.

Valiant filed its original Motion for Summary Judgment on January 20, 2015 ("1st SJ Motion"). The 1st SJ Motion sought to establish the Valiant Mortgages are senior in right, title and priority to any interest allegedly possessed by JV, VP and NIR. JV, VP and NIR all filed responses objecting to entry of summary judgment despite the fact that the interests possessed by said entities

are clearly junior to the Valiant Mortgages. JV expressly subordinated to each of the Valiant Mortgages *via* subordination agreements recorded in the Recorder's Office on March 15, 2007 and August 6, 2008. Plaintiff's Exs. 6, 25. VP's interest in the Idaho Club Property is limited to four (4) lots it was quitclaimed on September 20, 2013 and which VP did not record until May 20, 2013.^{1/} Declaration of Jeff R. Sykes in Support of Valiant Idaho's 1st SJ Motion ("Sykes Decl."), Exs. 16-18. Finally, NIR released its vendor's lien against the Idaho Club Property on March 15, 2007. *Id.*, Ex. 12.

The Court granted Valiant's 1st SJ Motion by entry of its Memorandum Decision & Order dated April 14, 2015 ("1st SJ Decision"). JV filed its Motion to Alter, Amend and to Reconsider the Court's 1st SJ Decision on April 28, 2015 ("JV's 1st Reconsider Motion"). On June 16, 2015, VP and NIR file a Renewed Motion For Reconsideration and Clarification of the 1st SJ Decision ("VP/NIR's 1st Reconsider Motion"). Both of these motions contended that the 1st SJ Motion should not have been granted because questions of fact remain for trial. No new evidence was provided to the Court to support these motions to reconsider. JV, VP and NIR made the exact same specious arguments they had made and lost in opposition to the 1st SJ Motion. The Court rejected these arguments a second time in its Memorandum Decision and Order Re: (1) JV, LLC, North Idaho Resorts, LLC and VP, Incorporated's Motions to Reconsider; and (2) Valiant's Request For Entry of Proposed Final Judgment and Decree of Foreclosure

^{1/} These quitclaim deeds were recorded more than seven (7) years and two (2) months after the RE Loans Mortgage was recorded and more than five (5) years and nine (9) months after the Pensco and MF08 Mortgages were recorded.

("1st Reconsider Order and 2nd SJ Decision").^{2/} The 1st Reconsider Order and 2nd SJ Decision was entered on July 21, 2015.

On July 30, 2015, JV filed its Motion to Alter, Amend, and Reconsider the Court's Memorandum Decision and Order Re: JV, LLC's Motions to Reconsider, and JV, LLC's Motion For Partial Summary Judgment For Affirmative Relief Concerning JV, LLC's Redemption Deed and as to Valiant's Redemption Deed ("JV's 2nd Reconsider Motion"). On August 18, 2015, JV filed its Motion to Reconsider, Alter and Amend the Judgment (Rule 11(b) and Rule 52(b)) ("JV's 3rd Reconsider Motion"). Thereafter, on August 19, 2015, VP and NIR filed their Motion to Reconsider and Motion to Alter and Amend Judgment ("VP/NIR's 2nd Reconsider Motion"). On August 26, 2015, JV filed its Supplemental Motion to Alter, Amend, Set Aside the Judgment, Based Upon Valiant's Motions to Change the Order of Sale and Change the Decree of Foreclosure ("JV's 4th Reconsider Motion"). None of these Reconsider Motions raised any new arguments or presented new facts. However, they emphasized that questions of fact still remained for trial because of ambiguous language in the now infamous *borrower's final settlement statement* generated by First American Title Company ("FATCO") at the Pensco and MF08 loan closing ("Settlement Statement"). Plaintiff's Ex. 33.

The hearing for the Reconsider Motions was set for September 2, 2015. Prior to oral arguments, the Court advised counsel it believed questions of fact remained for trial based upon ambiguities within the Settlement Statement. The Court entered its Memorandum Decision and

^{2/} On May 19, 2015, Valiant filed its second summary judgment motion styled as Motion For Entry of Final Judgment ("2nd SJ Motion"). The 2nd SJ Motion was filed twenty-eight (28) days in advance of the hearing. The Court heard the 2nd SJ Motion and the motions to reconsider filed by JV, VP and NIR on July 8, 2015.

Order Granting in Part Reconsideration of the July 21, 2015 Memorandum Decision and Order (“2nd Reconsider Order”) on September 4, 2015. The 2nd Reconsider Order provided:

Upon consideration, the Court hereby grants JV’s motion to reconsider in part, and now finds that there is a genuine issue of material fact as to whether the 2007 RE Loans Note (Loan No. P0099) and Pensco Note (Loan No. P0106) have been satisfied. The defendants contend that these Notes have been satisfied by the Mortgage Fund ’08, LLC Note, **but thus far, have offered as evidence only a “Borrower’s Settlement Statement” and “Borrower’s Final Settlement Statement” . . . At trial, the Court would like to see and hear additional evidence on the issue whether or not these loans have been satisfied including testimony from the title company that issued the Settlement Statements.**

Id. at pp. 2-3 (emphasis added).

Valiant filed its Third Motion for Summary Judgment on September 24, 2015 (“3rd SJ Motion”). The 3rd SJ Motion explained that the combined amounts loaned by Pensco and MF08 were insufficient to have paid off the RE Loans Note at the MF08/Pensco loan closing or at any time thereafter. Moreover, it was supported by an affidavit from Barney Ng identifying the amounts loaned by MF08 and Pensco and explaining the all-inclusive nature of the MF08 Mortgage. Nonetheless, JV, NIR and VP maintained their spurious position that the Settlement Statement establishes the RE Loans Note and Pensco Note were paid off by amounts loaned by MF08.^{3/}

^{3/} JV argued that based upon the Settlement Statement “there can be no reasonable doubt that the “First Loan – P0099” was paid off.” JV, LLC’s Objection and Memorandum in Opposition to Valiant Idaho, LLC’s Third Motion For Summary Judgment and JV LLC’s Motion to Strike Valiant’s Third Motion For Summary and Notice of Hearing for October 23, 2015 at 1:30 p.m. (“JV Opp to 3rd SJ Motion”), pp. 15-16. Moreover, NIR and VP emphasized—for five (5) pages of its twelve (12) page brief—questions of fact remain for trial because of the Settlement Statement. Defendants North Idaho Resorts, LLC and VP Incorporated’s Memorandum in Opposition to Valiant Idaho, LLC’s Third Motion for Summary Judgment (“VP Opp to 3rd SJ Motion”), pp. 7-11.

It is important for the Court to fully recognize and understand that counsel for JV and NIR/VP were in already in possession of and had fully reviewed FATCO's escrow file at the time the JV Opp. to 3rd SJ and the VP Opp. to 3rd SJ were filed with the Court. NIR and VP subpoenaed these documents from FATCO on September 10, 2015. Moreover, Susan Weeks attached several of the documents she obtained from FATCO to her Declaration in Opposition to Valiant's Third Motion for Summary Judgment. Although counsel for NIR and VP was obligated to produce the FATCO documents to Valiant upon her receipt and despite having been specifically requested to do so, the FATCO documents were not produced to Valiant's counsel until minutes prior to the hearing on October 23, 2016. These documents include the "File Balance Sheet" and backup documentation that was introduced at trial and testified to by FATCO's escrow officer, Casey Linscott, which unequivocally establish it was mathematically impossible for the RE Loans Note and Pensco Note to have been paid-off at MF08/Pensco loan closing. Plaintiff's Exs. 36, 37, 38, 39, 41, 42, 43, 45, 47, 50, 51, 53, 54. JV, VP and NIR intentionally withheld these documents from Valiant. Moreover, the FATCO documents unequivocally establish that said parties were fully aware their arguments were not grounded in fact or warranted by existing law at the time the opposition briefing was filed with the Court.

The Court denied the 3rd SJ Motion ruling as follows:

Valiant reconciled the figures from the loan documents with those on the Borrower's Final Settlement Statement dated August 8, 2008 (Exhibit H . . .) to support its argument that the 2007 RE Loans Note (Loan No. P0099) and the Pensco Note (Loan No. P0106) have not been satisfied. Upon consideration of this evidence, the Court acknowledges the strength of Valiant's arguments in this regard. **Nevertheless, it appears that conflicting inferences may be drawn from the terms on Exhibit H.**

Id. at p. 15 (emphasis added). The Court further ruled that “the only issue remaining for trial is whether the 2007 RE Loans Note (Loan No. P0099) and the Pensco Note (Loan No. P0106) have been satisfied.” *Id.* at p. 18. It is clear from this ruling that the 3rd SJ Motion was only denied by the slightest of margins. Had JV, VP and NIR timely disclosed or acknowledged the existence of these documents to the Court, the trial of this matter would have been unnecessary and the foreclosure and sale of the Idaho Club Property would not have been delayed for another nine (9) months. Counsel for JV, VP and NIR completely ignored their responsibility to make reasonable inquiry that their opposition briefing was well grounded in fact and warranted by existing law prior to filing their briefing in opposition to the 3rd SJ Motion.

During discovery, Valiant posed interrogatories and requests for production of documents to JV, VP and NIR. These discovery requests included interrogatories asking each Defendant to identify all documents and information supporting its contention that said Defendant possesses an interest in the Idaho Club Property superior to the Valiant Mortgages. The only “factual basis” that JV, VP or NIR ever identified is the Settlement Statement. These discovery responses were not supplemented prior to trial.

At trial, JV and VP abandoned their argument that the RE Loans and Pensco Notes were paid off at the Pensco/MF08 loan closing. There is but one conclusion that may be drawn from their failure to submit any evidence to support this claim—***there is absolutely no factual or legal basis upon which it could be sustained.*** Moreover, the arguments JV and VP attempted to rely upon at trial were equally without factual or legal support. JV, VP and NIR failed to raise any legitimate triable issues of fact as to ***any*** element of any of their defenses and, like the plaintiff in *Sunshine Mining Co.*, Defendants have no reasonable basis on which to base their claims.

Moreover, JV's, VP's and NIR's denials in their answer to Valiant's Amended Answer, Cross-Claims, and Third-Party Complaint were frivolous from the outset. No facts *ever* existed that might have led any of these Defendants to believe they may have priority over the Valiant Mortgages. As established on summary judgment, the Valiant Mortgages were either recorded first, expressly subordinated to, or Defendant's lien was released. Despite having nearly eight (8) years (since October 23, 2009) to investigate their claims and to acknowledge they were mistaken in denying Valiant's claims, JV, VP and NIR did not do so. Instead, these Defendants materially misrepresented facts to this Court to intentionally delay the foreclosure of the Idaho Club Property and to cause Valiant to incur unnecessary expense.

In opposition to Valiant's motions for summary judgment and within multiple motions to reconsider, JV, VP and NIR repeatedly disputed the priority of the Valiant Mortgages. The arguments asserted by JV, VP and NIR lack any legal or factual bases and ignore the real property records that were recorded as a matter of public record.

Although JV and VP withstood summary judgment by the slightest of margins, the trial of this matter was limited to the singular issue of whether the notes Valiant obtained from RE Loans and Pensco were satisfied. Thru multiple motions for summary judgment, motions to reconsider, and other associated motions, JV, VP and NIR provided only one argument as their basis for contending that the RE Loans and Pensco notes have been satisfied. Each *always* asserted that these notes were paid-off at the closing of the MFC8 loan on August 6, 2008. JV, VP and NIR never identified any other factual basis for this argument in pretrial discovery or pretrial briefing.

Throughout this case, JV, VP and NIR have blatantly misinterpreted documents, misstated testimony, and offered arguments that are without any basis in fact or law. Said tactics were consciously undertaken by their counsel for the purpose of harassing Valiant, delaying its efforts to foreclose on the real property secured by its mortgages, and needlessly increasing the costs of litigation. During trial, JV and VP failed to offer a scintilla of evidence that supported their preposterous argument that the notes from RE Loans and Pensco were paid-off at the MF08 loan closing. As set forth in Valiant's Closing Argument, it was mathematically impossible for this to have occurred. Counsel for JV, VP and NIR certified in each pleading setting forth this argument that it was well grounded in fact and warranted by existing law. I.R.C.P. Rule 11(a)(1). It was because of counsel's repeated protestations that these arguments were legitimized and Valiant's summary judgment denied. It is now obvious these arguments were frivolous and without any basis in fact or law.

Valiant is entitled to an award of reasonable attorneys' fees incurred in the Genesis Suit and Valiant Foreclosure against JV, NIR and JV pursuant to Idaho Code § 12-121.

4. Valiant's Attorneys' Fees Are Reasonable Under Rule 54(3)(3).

A trial court's determination of the amount of reasonable attorneys' fees that were incurred in a particular case falls within the discretion of the court. *Sanders v. Lankford*, 134 Idaho 322 326 (Ct. App. 2000). Nonetheless, the court must make this determination based upon consideration of the factors identified in IRCP 54(e)(3). *Id.*

Rule 54(e)(3) of the Idaho Rules of Civil Procedure provides:

In the event the Court grants attorney's fees to a party or parties in a civil action, it shall consider the following factors in determining the amount of such fees:

- A. The time and labor required.
 - B. The novelty and difficulty of the questions.
 - C. The skill requisite to perform the legal service properly and the experience and ability of the attorney in the particular field of law.
 - D. The prevailing charges for like work.
 - E. Whether the fee is fixed or contingent.
 - F. The time limitations imposed by the client or the circumstances of the case.
 - G. The amount involved and the results obtained.
 - H. The undesirability of the case.
 - I. The nature and length of the professional relationship with the client.
 - J. Awards in similar cases.
 - K. The reasonable cost of automated legal research (computer-assisted legal research), if the Court finds that it was reasonably necessary in preparing a party's case.
 - L. Any other factor which the Court deems appropriate in the particular case.
- a. **The Amount of Attorneys' Fees Incurred by Valiant Are Reasonable Given the Size, Scope and Complexity Of This Case.**

There are six (6) separate Idaho Club Lawsuits. Although all of these Lawsuits are somewhat intertwined because they arise out of the Idaho Club development, they are also entirely separate lawsuits. Each Lawsuit involves multiple parties.⁴ Some of these parties are named in all of the Lawsuits and others are only named in one of them. Similarly, each of the parties may play a more significant role in certain of the Lawsuits more so than in others. The claims, defenses and legal theories posed by each party also differ greatly in each case. The number of parties and intertwined Lawsuits make the Idaho Club Lawsuits six of the most complex real estate litigations imaginable.

⁴/ Valiant named twenty-four (24) defendants in the Valiant Foreclosure. The Sage Lawsuit names thirty-one (31) defendants. The Union Bank Lawsuit names twenty-seven (27) defendants. The ACI Lawsuit names five (5) defendants. The ITD Lawsuit names twenty-nine (29) defendants. The HOA Lawsuit names twenty-four (24) defendants.

For example, the Genesis Suit, Valiant Foreclosure and HOA Suit affect the one-hundred and fifty-six (156) lots/parcels identified in the attachments to the Judgment and Foreclosure Decree. The Valiant Foreclosure adjudicated that Valiant has a first priority mortgage against these lots/parcels by virtue of the RE Loans Mortgage. There are literally hundreds of real property records affecting these parcels and the parties' interests in said parcels. All of these records had to be analyzed and understood for purposes of these litigations.

In contrast, the Union Bank Suit and ITD Suit affected a multitude of other parcels commonly known as "Trestle Creek" or lakefront parcels. RE Loans disclaimed its interest in the Trestle Creek parcels during the Union Bank Suit after confirming the validity of the first place lienholder's mortgage (*i.e.*, Union Bank Mortgage) and determining the amounts secured by said lien far exceeded the value of the property. Again, hundreds of real property records affect these parcels and the parties' interests in said parcels. All of these records also had to be disseminated.

The Idaho Club Lawsuits are each individually, factually and legally complex. Each of the Idaho Club Lawsuits involved different properties or portions of said properties. Counsel for Valiant, and its predecessors-in-interest, had to understand the properties subject to each of the Idaho Club Lawsuits, the real property records affecting said properties, and the priorities of the various parties named in each Lawsuit. The legal arguments also differed depending upon the Lawsuit and/or the specific parcels involved. This was a herculean task.

The legal complexity was complicated by bankruptcies filed by RE Loans and MF08. All of the Lawsuits were stayed pending the outcome of these bankruptcies. Counsel for Valiant's predecessor-in-interest, RE Loans, advised the respective courts of the existence of said Lawsuits and the necessity of staying the proceedings. Moreover, said counsel also helped

bankruptcy counsel with legal work necessary to have the stays lifted so the Idaho Club Lawsuits could proceed. These bankruptcies significantly delayed the adjudication of these matters, complicated the litigation issues, and necessarily increased litigation costs. The Idaho Club Lawsuits were essentially stayed for a period of approximately two (2) years because of these bankruptcies.

The claims and counterclaims of the parties in the Idaho Club Lawsuits were also complex. These claims included virtually every kind of legal claim of right, title or interest that a person or entity may claim with respect to real property. These claims included mechanic's lien claims revolving around construction activities taking place over several years, liens for homeowner association fees assessed over a period of several years, a multitude of mortgages that may or may not have been affected by various subordination agreements that were recorded by other lenders, and equitable claims by parties that were unrelated to recorded liens. Consequently, this litigation was necessarily complex from both factual and legal standpoints and counsel for Valiant had to spend countless hours examining documents, consulting with title companies and interviewing individuals in an effort to determine whether there was any legitimacy to the parties' claims. It was critical that Valiant retain counsel with significant experience dealing with real property matters governed by Idaho law.

The Idaho Club Lawsuits were comprehensively litigated for nearly eight (8) years. Discovery was extensive and very complex. Roughly 27,000 pages of real property records, construction documents, invoices, loan documents, and correspondence related to the

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development of the Idaho Club were produced by the parties in this case.^{5/} All of these documents were exhaustively reviewed by Valiant and its counsel throughout the course of the litigation to analyze and understand claims and defenses of the parties in the Idaho Club Lawsuits. These documents were further analyzed in preparation for depositions and for trial. The documents were scanned for use with document management software and key documents were organized into litigation outlines to allow counsel to efficiently locate and access said documents in preparation for depositions and trial.

Numerous motions were also extensively researched, argued and filed in the Idaho Club Lawsuits. Valiant's pleading files for the Genesis Suit and Valiant Foreclosure alone total thirty-two (32) pleading folders and take up several banker's boxes. As set forth hereinabove, the number of motions filed in the Valiant Foreclosure was due in large part to JV, VP and NIR's resolute obstinacy in refusing to acknowledge the complete lack of factual or legal bases to support their claims and defenses in this case. The motions filed in the Valiant Foreclosure include, but are in no way limited to: (i) three (3) motions for summary judgment; (ii) six (6) motions to reconsider; (iii) a motion to amend; (iv) multiple motions *in limine*; (v) innumerable motions to strike; (vi) two(2) final judgment and foreclosure decrees; (vii) two (2) motions for an order of sale; (viii) pre-trial briefing; and (ix) all of the responsive briefs necessitated by these motions.

^{5/} All of these documents were produced in the Genesis Suit or the Valiant Foreclosure, and at least 15,000 pages of these documents were relevant to the Valiant Foreclosure.

In pursuing the Valiant Foreclosure, it was necessary for Valiant's counsel to become intimately familiar with the real properties encumbered by the Valiant Mortgages. The Idaho foreclosure statutes require that the sale of any real property consisting of several known lots or parcels must be sold separately. I.C. § 11-304. The legal descriptions attached to the Valiant Mortgages encumber different properties. Moreover, these legal descriptions do not identify each of the known lots and parcels separately. As such, counsel for Valiant utilized the services of experts to identify and legally describe each of the known lots or parcels individually for sale. Although these experts did not testify at trial, they were critical to helping *counsel* identify the property subject to the Valiant Mortgages and legally describe it on the Judgment, Decree of Foreclosure, and Motion For Order of Sale. Counsel for Valiant conferred extensively with non-testifying experts in this regard.

The trial of this matter was greatly elongated by JV and VP's frivolity. Although the trial was limited to a single issue, JV and VP attempted to re-litigate many of the issues already decided at summary judgment and sought to introduce a tremendous amount of irrelevant and potentially prejudicial evidence at trial. For example, Barney Ng testified on behalf of Valiant concerning the amounts RE Loans, Pensco and MF08 loaned to POBD and explained why RE Loans and Pensco could not possibly have been paid-off at the MF08 loan closing. His testimony on direct lasted less than four (4) hours despite providing all of the foundational testimony necessary for the Court to understand the background for the Idaho Club development. Although a cross-examination generally takes no more than half the amount of time that is taken on direct, JV and VP

cross-examined Mr. Ng. for over eight (8) hours.^{6/} As previously mentioned, counsel for JV and VP also sought to litigate several legal theories that were never disclosed in discovery prior to trial. This failed attempt to sandbag Valiant at trial resulted in extra work to locate additional documents and evidence to rebut these undisclosed legal theories at trial. Nearly two-hundred (200) exhibits were identified and compiled by Valiant for trial. Extensive analysis and dissemination of discovery documents was undertaken to identify the trial exhibits. Extensive preparation was undertaken leading up to and throughout the trial of this matter. Valiant, its counsel, and its experts were required to expend a tremendous amount of time and effort analyzing and preparing for all of the hearings, motions and trial.

b. **The Amount of Attorneys' Fees Incurred by Valiant Are Reasonable When Considered in Proportion to the Amounts Recovered by Valiant.**

The attorneys' fees incurred by Valiant are also reasonable when considered in proportion to the amounts recovered by Valiant. Valiant and its predecessors-in-interest were required to defend the validity and priority of the Valiant Mortgages in order to secure amounts owed by POBD with respect to the Idaho Club Property. These Mortgages were directly under attack in the Genesis Suit and the Valiant Foreclosure. Regardless of the frivolity of the claims and defenses raised by JV, VP and NIR, Valiant and its predecessors-in-interest had to take every precaution to make sure the Court recognized the frivolity of these claims. The legal services performed by counsel on behalf of Valiant and its predecessors-in-interest resulted in a judgment in favor of

^{6/} None of the testimony JV and VP elicited on cross-examination supported their contention that the RE Loans Note and Pensco Note had been satisfied. Counsel for JV and VP knew this would be the case. Mr. Ng was deposed in Oakland, California, less than two (2) months prior to trial. Although there was but one issue remaining for trial, Mr. Ng's deposition lasted more than eight (8) hours due to hours of questioning by counsel for JV and VP concerning matters outside the scope of trial.

Valiant in the amount of \$21,074,526.88 and a Decree of Foreclosure entitling it to sell the Idaho Club Property in payment of these amounts.

The amounts Valiant incurred in the Idaho Club Lawsuits are as follows:

TABLE 1-1 GENESIS SUIT [see Exhibit A]		
Total Attorneys' Fees	\$	146,853.00
Total Costs As A Matter of Right	\$	780.40 Ex A-2
Total Discretionary Costs	\$	1,312.24 Ex A-3
TOTAL FEES & COSTS	\$	148,945.64

TABLE 2-1 SAGE SUIT [see Exhibit B]		
Total Attorneys' Fees	\$	10,396.00
Total Costs As A Matter of Right	\$	58.00 Ex B-2
Total Discretionary Costs	\$	126.00 Ex B-3
TOTAL FEES & COSTS	\$	10,580.00

TABLE 3-1 ACI SUIT [see Exhibit C]		
Total Attorneys' Fees	\$	22,083.00
Total Costs As A Matter of Right	\$	
Total Discretionary Costs	\$	565.73 Ex C-3
TOTAL FEES & COSTS	\$	22,648.73

TABLE 4-1 UNION BANK SUIT [see Exhibit D]		
Total Attorneys' Fees	\$	26,896.00
Total Costs As A Matter of Right	\$	476.06 Ex D-2
Total Discretionary Costs	\$	258.20 Ex D-3
TOTAL FEES & COSTS	\$	27,630.26

TABLE 5-1 HOA SUIT [see Exhibit E]		
Total Attorneys' Fees	\$	10,488.00
Total Costs As A Matter of Right	\$	58.00 Ex E-2
Total Discretionary Costs	\$	39.38 Ex E-3
TOTAL FEES & COSTS	\$	10,585.38

TABLE 6-1 ITD SUIT [see Exhibit F]		
Total Attorneys' Fees	\$	5,045.50
Total Costs As A Matter of Right	\$	58.00 Ex F-2
Total Discretionary Costs	\$	163.84 Ex F-3
TOTAL FEES & COSTS	\$	5,266.84

TABLE 7-1 VALIANT FORECLOSURE [see Exhibit G]		
Total Attorneys' Fees	\$	579,460.50
Total Costs As A Matter of Right	\$	12,627.61 Ex G-2-6
Total Discretionary Costs	\$	27,850.81 Ex G-7-12
TOTAL FEES & COSTS	\$	611,597.16

TABLE 8	
TOTAL ATTORNEYS' FEES AND COSTS	
Tables 1 – 7	
Total Attorneys' Fees	\$ 801,222.00
Total Costs As A Matter of Right	\$ 14,058.07
Total Discretionary Costs	\$ 30,316.20
GRAND TOTAL OF FEES & COSTS	\$ 845,596.27

Declaration of Richard L. Stacey in Support of Valiant Idaho, LLC's Memorandum of Costs and Attorneys' Fees ("Stacey Decl."), Exhibits A thru G, inclusive.

5. Billing Rates of Attorneys and Paralegals.^{7/}

The attorneys and paralegals, and their billable rates, performing legal services on behalf of Valiant, or its predecessors-in-interest, are as follows:

TABLE 1-2			
GENESIS SUIT			
Identification of Attorneys/Paralegals and Billing Rates			
ATTORNEY/# ID		YEAR	RATE
Richard L. Stacey	10	2011	\$ 170.00
		2012	\$ 250.00
Jeff R. Sykes	6	2011	\$ 210.00
Richard W. Mollerup	3	2010	\$ 250.00
		2014	\$ 300.00
Kimbil L. Gowland	5	2013	\$ 245.00
Anna E. Eberlin	15	2010	\$ 140.00
		2012	\$ 190.00

^{7/} **[Initial Notes:** Tables 1-2, 2-2, 3-2, 4-2, 5-2, 6-2 and 7-2 identify the billing attorney, the attorney's assigned number within the billing program, the year and the rates charged for the various billing matters. The attorney billing rates did not necessarily change from year to year, sometimes changed mid-year at the discretion of the firm, and sometimes differed from matter to matter. Attorneys identified with the same billing number were not employed by the firm simultaneously but, rather, in succession. Due to the nature of the Idaho Club Lawsuits, the specific client matter to which time was billed varied, as did a particular attorney's billing rate applicable to that client matter. In addition, certain of the invoices related to costs incurred by Meuleman Mollerup LLP are unavailable due to issues with the dissolution of the firm.]

TABLE 1-2 GENESIS SUIT Identification of Attorneys/Paralegals and Billing Rates			
Brian H. Holleran	19	2011	\$ 110.00
		2013	\$ 180.00
		2014	\$ 190.00
Jason G. Dykstra	11	2011	\$ 170.00

TABLE 2-2 SAGE SUIT Identification of Attorneys/Paralegals and Billing Rates			
ATTORNEY/# ID		YEAR	RATE
Richard L. Stacey	10	2011	\$ 170.00
		2012	\$ 250.00
		2014	\$ 270.00
Richard W. Mollerup	3	2011	\$ 250.00
		2014	\$ 300.00
Anna E. Eberlin	15	2012	\$ 140.00
Chad M. Nicholson	15	2014	\$ 225.00

TABLE 3-2 ACI SUIT Identification of Attorneys/Paralegals and Billing Rates			
ATTORNEY/# ID		YEAR	RATE
Richard L. Stacey	10	2011	\$ 170.00
		2013	\$ 250.00
		2014	\$ 270.00
Jeff R. Sykes	6	2015	\$ 270.00
Steve Sharpe, Paralegal	17	2011	\$ 55.00
Anna E. Eberlin	15	2012	\$ 140.00
		2013	\$ 190.00
Chad M. Nicholson	15	2014	\$ 190.00

TABLE 4-2			
UNION BANK SUIT			
Identification of Attorneys/Paralegals and Billing Rates			
ATTORNEY/# ID		YEAR	RATE
Richard L. Stacey	10	2011	\$ 170.00
		2012	\$ \$250.00
		2014	\$ 270.00
Anna E. Eberlin	15	2012	\$ 190.00

TABLE 5-2			
HOA SUIT			
Identification of Attorneys/Paralegals and Billing Rates			
ATTORNEY/# ID		YEAR	RATE
Richard L. Stacey	10	2012	\$ \$250.00

TABLE 6-2			
ITD SUIT			
Identification of Attorneys/Paralegals and Billing Rates			
ATTORNEY/# ID		YEAR	RATE
Richard L. Stacey	10	2012	\$ \$250.00
		2014	\$ 270.00
Jeff R. Sykes	6	2015	\$ 270.00
Steve Sharpe, Paralegal	17	2011	\$ 55.00
Anna E. Eberlin	15	2012	\$ 190.00
Joe Meuleman	13	2013	\$ 190.00
Chad M. Nicholson	15	2014	\$ 195.00

TABLE 7-2 VALIANT FORECLOSURE Identification of Attorneys/Paralegals and Billing Rates			
ATTORNEY/# ID	YEAR	RATE	
Richard L. Stacey 10	2014	\$ 270.00	
	2015	\$ 250.00	
Jeff R. Sykes 6	2014	\$ 160.00	
	2014	\$ 270.00	
	2015	\$ 250.00	
Chad M. Nicholson 15	2014	\$ 195.00	
	2014	\$ 225.00	
	2015	\$ 195.00	
Chynna C. Tipton 18 Legal Intern	2014	\$ 100.00	
Pamela Lemieux 17	2016	\$ 90.00	

Stacey Decl., Exhibits A thru G.

Given the breadth, scope, gravity and complexity of the Idaho Club Lawsuits, Valiant's attorneys' fees and paralegal fees in the amount of \$801,222.00 are reasonable. More specifically, the attorneys' fees and costs Valiant, and its predecessors-in-interest, incurred in the Genesis Suit and Valiant Foreclosure are also reasonable given the breadth, scope, gravity and complexity of these matters. Finally, the rates billed by Valiant's counsel are consistent with those rates charged by attorneys with similar experience at handling similar matters within the State of Idaho and, in particular, Boise, Idaho.

C. VALIANT IS ENTITLED TO AN AWARD OF COSTS.

1. Valiant is Entitled to An Award of Costs Against POBD, Which is Secured by the Valiant Mortgages.

Valiant is entitled to an award of its costs under the terms of the Valiant Mortgages.

As already explained hereinabove, the Valiant Mortgages make POBD responsible for all

attorneys' fees and costs that Valiant, and its predecessors-in-interest, incurred in this litigation.

The Valiant Mortgages contain several provisions addressing this issue.

Article 4.9 of the RE Loans Mortgage (Plaintiff's Ex. 1), the Pensco Mortgage (Plaintiff's Ex. 16) and the MF08 Mortgage (Plaintiff's Ex. 18) provides:

The prevailing party in any legal action brought by one party against the other and arising out of this Mortgage or the Note ***shall be entitled*** to, in addition to any other rights and remedies he may have, ***to reimbursement for their expenses including court costs and reasonable attorney fees.***

Id. (emphasis added). Moreover, POBD is also obligated to “***indemnify and hold harmless the Mortgagee from and against all claims, damages, losses and liabilities (including, without limitation, reasonable attorneys' fees and expenses) arising out of or based upon any matter related to the Mortgaged Property . . .***” *Id.* at Article 4.5 of the Valiant Mortgages (emphasis added).

The Valiant Mortgages make no distinction between the types of costs the prevailing party incurs. Thus, pursuant to the Valiant Mortgages, Valiant is entitled to recover all of the costs it reasonably incurred regardless of whether the Idaho Rules of Civil Procedure might distinguish between certain of these costs as “costs as a matter of right” and others as “discretionary costs.” See Rule 54(d)(1) of the Idaho Rules of Civil Procedure. Under the terms of the Valiant Mortgages, this Court need not undertake any analysis of whether any of the legal costs that Valiant has incurred were necessary or exceptional so long as they were reasonable. As all of the costs Valiant, and its successors-in-interest, incurred were reasonable given the breadth, scope, gravity and complexity of this case, Valiant is entitled to an award of all costs it incurred.

See Stacey Decl

Valiant is entitled to an award of costs pursuant to the Valiant Mortgages in the amount of \$44,374.27. See Table 8. These amounts are secured by the Valiant Mortgages and should be incorporated into the Judgment as part of Valiant's first priority lien.

2. Valiant is Entitled to An Award of Costs Incurred in the Genesis Suit and the Valiant Foreclosure as a Matter of Right Against JV, NIR and VP.

Rule 54(d)(1)(A) and (C) of the Idaho Rules of Civil Procedure grant the prevailing party in a civil matter certain costs "as a matter of right." Valiant prevailed in the Genesis Suit and the Valiant Foreclosure against JV, VP and NIR and, as such, is entitled to an award of these costs. The Stacey Decl. and Exhibit B thereto itemize the costs incurred by Valiant that are expressly authorized under this Rule. These include certain court filing fees, service of process fees, deposition and transcript fees, witness fees, witness travel expenses, preparation of trial exhibits, and expert witness fees that Valiant incurred in this case.

Valiant seeks the following costs as a matter of right:

COSTS AS A MATTER OF RIGHT			
a.	Court Filing Fees [See Exs. A-2, G-2]	\$	86.00
b.	Actual fees for service of pleadings or documents [See Ex G-4]	\$	2,869.34
c.	Witness fees (\$20.00 per day; \$.30 mileage) actually paid for each day the following witnesses testified at deposition or at trial Casey Linscott Trial - \$20.30 Barney Ng Trial - \$20.00 [See Ex G-5]	\$	20.30
d.	Expenses of certified copies of documents admitted as evidence in hearings or at trial [See Ex G-5]	\$	158.50
e.	Costs of preparing models, maps, pictures, photographs, or other exhibits not to exceed \$500.00 for each party [See Ex G-5/Streamline]	\$	500.00

f.	Charges for reporting and transcribing all depositions and charges for one copy of every deposition taken [See Ex D-2, Ex G-6]	\$ 8,250.19
g.	Computer-assisted research [See Exs. A-2, G-2]	\$ 1,871.06
TOTAL COSTS AS A MATTER OF RIGHT		\$ 13,755.39

Because Valiant is the prevailing party in this case, Valiant's request for costs as a matter of right against JV, VP and NIR, jointly and severally, in an amount totaling \$13,755.39 should be granted.

3. Valiant is Entitled to An Award of Discretionary Costs Incurred in the Genesis Suit and the Valiant Foreclosure Against JV, NIR and VP.

Rule 54(d)(1)(D) of the Idaho Rules of Civil Procedure authorizes this Court to award the prevailing party those costs which were necessary and exceptional in the interest of justice. As the prevailing party in the Genesis Suit and Valiant Foreclosure, Valiant seeks an award of its discretionary costs against JV, VP and NIR. The discretionary costs are also itemized in the Stacey Decl.

Valiant and its counsel incurred necessary and exceptional costs researching and preparing defenses against JV, VP and NIR's unwarranted and frivolous claims and defense. These frivolous claims and defenses greatly increased the scope, length and complexity of this litigation which, in turn, directly increased the necessary and exceptional costs incurred by Valiant.

The witness fees Valiant paid in excess of the \$20.00 per day and mileage fees Valiant is entitled to recover as a matter of right are necessary and exceptional expenses Valiant should be awarded in the interests of justice.

Additionally, the sheer size, scope and complexity of this litigation were such that it resulted in necessary and exceptional costs which Valiant should be awarded in the interests of justice. These are costs which Valiant had to expend to fully litigate this matter but which are not

contemplated by the Idaho Rules of Civil Procedure as costs as a matter of right. The costs allowed as a matter of right are woefully inadequate to cover many of the costs incurred in a case of this length, scope and complexity.

This case required the scanning and copying of thousands of pages of documents. Approximately 27,000 documents were produced in discovery. Almost two-hundred (200) documents were scanned into exhibits for trial. Additionally, hard copies of all exhibits were necessary for the witnesses and record at trial. Valiant incurred in excess of the \$500.00 allowed as a matter of right for scanning, copying and otherwise preparing exhibits for use at trial. These costs are necessary and exceptional expenses that Valiant should be awarded against JV, VP and NIR in the interests of justice.

All individuals with an interest in the subject property must be named as defendants in a foreclosure action. In order to ensure that every person or entity with an interest in the Idaho Club Property was named as a defendant in the Valiant Foreclosure, Valiant obtained and paid for a litigation guarantee. The cost of this litigation guarantee is a necessary and exceptional cost that Valiant is entitled to recover against JV, VP and NIR in the interests of justice.

Counsel for Valiant is located in Boise, Idaho. Counsel for JV, VP and NIR were well aware of this fact. Valiant incurred significant travel expenses to and from multiple hearings that were necessary in this case. The frivolous conduct of JV, VP and NIR necessitated significant travel expenses that would not have been incurred in a typical case. These travel costs were necessary and exceptional and should be awarded in the interests of justice.

In addition to the other discretionary costs already explained herein, Valiant also incurred a variety of other necessary and exceptional costs because of the complexity of this case.

These costs specifically include Valiant's (i) outsourced photocopy expenses; (ii) in-house photocopy expenses; (iii) postage expenses; (iv) courier costs; and (v) telephone expenses. All of these costs should be awarded to Valiant in the interests of justice.

Valiant requests the following discretionary costs, which were necessary and exceptional, be assessed against Defendants in the interests of justice:

DISCRETIONARY COSTS		
a.	Litigation Guarantee for foreclosure action [See Ex G-12]	\$ 20,705.00
b.	Witness fees actually incurred in excess of the \$20.00 per witness per day allowed as a matter of right [See Ex G-11 – Barney Ng]	\$ 1,376.93
c.	Costs of scanning, exhibit stamping, copying, and coding and preparing models, maps, pictures, photographs, or other exhibits for use at trial in excess of the \$500.00 per party allowed as a matter of right [See Ex. G-10]	\$ 588.55
d.	Electronic discovery costs for documents not used as exhibits at trial [See Ex. A-3]	\$ 182.61
e.	In-House photocopy expenses [See Exs. A-3]	\$ 351.30
f.	Out-sourced photocopy expenses, and costs of copies reimbursed to third parties [Exs. A-3, G-10]	\$ 680.57
g.	Postage \$ 76.86 [Ex. G-7] FedEx \$532.82 [Exs. A-3, G-7] Couriers: \$ 44.00 [Ex G-8]	\$ 653.68
h.	Long distance telephone and conference call charges [See Exs. A-3, G-9]	\$ 239.58
i.	Travel expenses for counsel [See Ex G-11]	\$ 5,815.42
TOTAL DISCRETIONARY COSTS		\$ 30,593.64

Stacey Decl., Exhibits A and G. Valiant is the prevailing party in this case. Because the costs incurred by Valiant were necessary and exceptional due to the complexity of the Genesis Suit and the Foreclosure Action, Valiant should be awarded discretionary costs against Defendants in the amount of \$30,593.64.

**IV.
CONCLUSION**

For the foregoing reasons, Valiant respectfully requests this Court to enter an order awarding Valiant its costs, attorneys' fees, interest and staffing expenses against POBD in accordance with the Valiant Mortgages and as set forth in the Stacey Decl., as follows:

TOTAL ATTORNEYS' FEES AND COSTS AS AGAINST POBD	
Total Attorneys' Fees	\$ 801,222.00
Total Costs As A Matter of Right	\$ 14,058.07
Total Discretionary Costs	\$ 30,316.20
GRAND TOTAL OF FEES & COSTS	\$ 845,596.27

Alternatively, Valiant requests an award of attorneys' fees and costs incurred in the Genesis Suit and Valiant Foreclosure against POBD pursuant to Idaho Code § 12-120(3) and the Idaho Rules of Civil Procedure, as follows:

ALTERNATIVE TOTAL ATTORNEYS' FEES AND COSTS AS AGAINST POBD	
Total Attorneys' Fees	\$ 726,313.50
Total Costs As A Matter of Right	\$ 13,408.01
Total Discretionary Costs	\$ 29,163.05
GRAND TOTAL OF FEES & COSTS	\$ 768,884.56

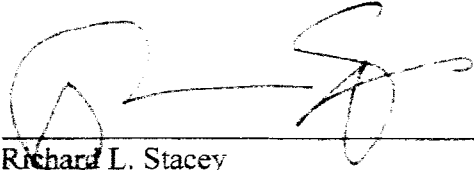
Valiant further requests an award of attorneys' fees and costs incurred in the Genesis Suit and Valiant Foreclosure against JV, VP and NIR, jointly and severally, pursuant to Idaho Code § 12-121 and the Idaho Rules of Civil Procedure, as follows:

TOTAL ATTORNEYS' FEES AND COSTS AS AGAINST JV, NIR AND VP	
Total Attorneys' Fees	\$ 726,313.50
Total Costs As A Matter of Right	\$ 13,408.01
Total Discretionary Costs	\$ 29,163.05
GRAND TOTAL OF FEES & COSTS	\$ 768,884.56

RESPECTFULLY SUBMITTED this 6th day of July 2016.

McCONNELL WAGNER SYKES & STACEY^{PLLC}

BY:


Richard L. Stacey
Attorneys For Valiant Idaho, LLC

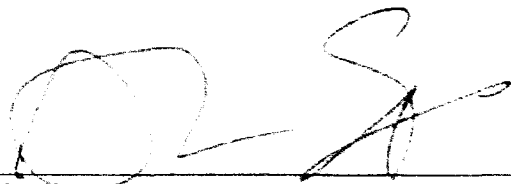
CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 6th day of July 2016, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail garvfinney@finneylaw.net
Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail sweeks@jvwlaw.net

With two copies personally delivered to:

Honorable Barbara A. Buchanan
Judge of the First Judicial District
Bonner County Courthouse
215 South First Avenue
Sandpoint, Idaho 83864



Richard L. Stacey