



SEARCH REPORT

Order Number:
CP0019554414-TS1

AFX Reference Number:
79-276637-47

Subject Property:
3663 WASHINGTON AVE
HOUSTON, TX 77007

Effective:
10/18/2022

Completed:
10/24/2022

AFX RESEARCH, LLC

A Quarter-Century of Title Document Research Expertise

999 Monterey St. Suite 380, San Luis Obispo, CA 93401

(877) 848-5337 / www.afxllc.com

SEARCH REPORT

(pg. 2 of 3)

Order #: CP0019554414-TS1 | Reference #: 79-276637-47 | Completed: 10/24/2022 | Effective: 10/18/2022

SEARCH NAME AND PROPERTY INFORMATION

Name Searched: **BKR MEMORIAL II LLC**
Street Address: **3663 WASHINGTON AVE**
City, State Zip Code: **HOUSTON, TX 77007**
County: **HARRIS**

MORTGAGES AND DEEDS OF TRUST

Instrument: **DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS**

Date Recorded: **01/20/2017** Instrument: **2017-27800**
Dated: **01/16/2017** Original Amount: **\$66,000,000.00**
Mortgagor(s): **BKR MEMORIAL II LLC**
Mortgagee(s): **ELK MOUNTAIN LTD**

ASSOCIATED DOCUMENTS

- 1) Document Type: **MODIFICATION**
Date Recorded: **08/13/2020** Instrument: **2020-371460**
- 2) Document Type: **SUBORDINATION**
Date Recorded: **03/02/2020** Instrument: **2020-92174**

JUDGMENTS, UCC, AND LIENS

Instrument 1. **CLAIM OF LIEN (MECHANIC'S LIEN)**

Date Recorded: **10/15/2020** Instrument: **2020-496116**
Amount: **\$101,761.46**
Plaintiff / Creditor / In Favor Of: **TIMBER MARK LLC**

Instrument 2. **CLAIM OF LIEN (MECHANIC'S LIEN)**

Date Recorded: **02/15/2022** Instrument: **2022-82732**
Amount: **\$5,210.07**
Plaintiff / Creditor / In Favor Of: **TRIO ELECTRIC, LLC**



SEARCH REPORT

(pg. 3 of 3)

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THANK YOU FOR YOUR ORDER

For questions, please contact our office at 1-877-848-5337.

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The Current Owner Search provides encumbrance information upon an address regarding a specific individual(s) or legal entity(ies), at least 10 years back and up to present time. The report will verify property ownership and encumbrances recorded during the ownership of listed individual(s) and/or business(es), to include: mortgages, liens, and judgments.

Our professional network of trained researchers follow established industry protocols and use client-supplied property and name information to complete this Current Owner Search. The report includes:

- Liens, UCC's, and judgment information (i.e. creditor, amounts, and recording dates)
- Current mortgage(s) for name(s) supplied

DISCLAIMER

This report was prepared for the intended use of AFX Research, LLC (AFX) and client, exclusively. This report is not a guarantee of title, nor a commitment to insure, nor a policy of title insurance. No warranty, expressed or implied, is made whatsoever in connection with this report. AFX Research, LLC specifically disclaims the making of any such warranties, including without limitation, merchantability or fitness for a particular use or purpose. The information contained in this report is retrieved as it is recorded from the various agencies that make it available. The total liability is limited to the fee paid for this report.



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MORTGAGES / DEEDS OF TRUST EXHIBIT

SAMPLE

RELIABLE PROPERTY RESEARCH

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

After Recording Return To:
Cradly, Jewett & McCulley, LLP
2727 Allen Parkway, Suite 1700
Houston, Texas 77019-2125
Attn: Dunham F. Jewett

**DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF LEASES AND RENTS**

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF HARRIS §

1. Grant of Lien. BKR Memorial II, LLC, a Texas limited liability company ("Borrower"), whose address is 100 Waugh, Suite 400, Houston, Texas 77007 and whose Organizational ID Number is 47-3452239, for and in consideration of the indebtedness hereinafter described and in order to secure the payment of the indebtedness hereinafter referred to and the performance of the obligations, covenants, agreements and undertakings of Borrower hereinafter described, has irrevocably and unconditionally GRANTED, BARGAINED, SOLD, CONVEYED, MORTGAGED and WARRANTED and by these presents does hereby irrevocably and unconditionally GRANT, BARGAIN, SELL, CONVEY, MORTGAGE and WARRANT unto Dunham F. Jewett of Harris County, Texas whose address is 2727 Allen Parkway, Suite 1700, Houston, Texas 77019-2125, as Trustee and all substitute trustee(s) hereunder ("Trustee"), in trust, for the benefit of Lender (as defined herein), its successors and assigns, WITH POWER OF SALE and WITH RIGHT OF ENTRY AND POSSESSION, all of its right, title and interest in and to the real estate (the "Land") situated in the County of Harris and State of Texas described in Exhibit "A" attached hereto and made a part hereof, TOGETHER WITH all of Borrower's right, title and interest in and to the following, whether now owned or hereafter acquired by Borrower, (a) all the buildings and other improvements now on or hereafter located thereon; (b) all materials, equipment, fixtures or other property whatsoever now or hereafter attached or affixed to or installed in said buildings and other improvements, including, but not limited to, all heating, plumbing, lighting, water heating, cooking, laundry, refrigerating, incinerating, ventilating and air conditioning equipment, disposals, dishwashers, refrigerators and ranges, recreational equipment and apparatus, utility lines and equipment (whether owned individually or jointly with others), sprinkler systems, fire extinguishing apparatus and equipment, water tanks, swimming pools, engines, machines, elevators, motors, cabinets, shades, blinds, partitions, window screens, screen doors, storm windows, awnings, drapes, and rugs and other floor coverings, and all fixtures, accessions and appurtenances thereto, and all renewals or replacements of or substitutions for any of the foregoing, all of which materials, equipment, fixtures and other property are hereby declared to

RP-2017-27800

be permanent fixtures and accessions to the freehold and part of the realty conveyed herein as security for the indebtedness herein mentioned; (c) all easements and rights of way now and at any time hereafter used in connection with any of the foregoing property or as a means of ingress to or egress from said property or for utilities to said property; (d) all interests of Borrower in and to any streets, ways, alleys and/or strips of land adjoining said land or any part thereof; and (e) all rights, estates, powers and privileges appurtenant or incident to the foregoing (collectively, the "Mortgaged Property").

TO HAVE AND TO HOLD the Mortgaged Property unto Trustee and its assigns, forever, in trust, and Borrower does hereby bind Borrower, its successors and assigns, to warrant and forever defend the Mortgaged Property unto Trustee, its successors and assigns, forever, against the claim or claims of all persons whomsoever claiming or to claim the same, or any part thereof.

2. Grant of Security Interest. In order to secure the payment of the indebtedness hereinafter referred to and the performance of the obligations, covenants, agreements and undertakings of Borrower hereinafter described, Borrower hereby grants to Lender (as hereinafter defined) a security interest in all of Borrower's property, including, without limitation

(a) goods, equipment, furnishings, fixtures, furniture, chattels and personal property of whatever nature owned by Borrower now or hereafter located or used in and about the building or buildings or other improvements now erected or hereafter to be erected on the Land, or otherwise located on said Land, and all fixtures, accessions and appurtenances thereto, and all renewals or replacements of or substitutions for any of the foregoing, all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein;

(b) all rents, income, receipts, revenues, issues, profits and other sums of money or other consideration that are payable to Borrower under the Leases or arising or issuing from or out of the Leases or from or out of the Property (defined below) or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, deficiency rents, liquidated damages, payments in consideration for cancellation of a Lease, security deposits, advance rents, loss of rents insurance proceeds and all of Borrower's rights to recover monetary amounts from any lessee in bankruptcy, including specifically the immediate and continuing right to collect and receive each and all of the foregoing (the "Rents");

(c) all leases, subleases, licenses, concessions or other agreements (written or verbal, now or hereafter in effect) which grant a possessory interest in and to, or the right to use, all or any part of the Property, together with all security and other deposits made in connection therewith, including, without implied limitation, all lease agreements with tenants leasing a portion of the Property, and all guarantees of any tenant's obligations, and any agreements (and guarantees thereof) from which Borrower receives compensation for the use, installation, operation or maintenance of parking facilities, communications and cable networks or systems, laundry facilities, exercise and fitness facilities, and/or food service, restaurant, bar or entertainment facilities (the "Leases");

(d) all monetary deposits which Borrower has been required to give to any public or private utility, all issues, profits and proceeds from all or any part of the Property, all proceeds (including premium refunds) of each policy of insurance relating to the Property, all proceeds from the taking of the Property or any part thereof or any interest therein or right or estate appurtenant thereto by eminent domain or by purchase in lieu thereof, all amounts deposited in escrow for the payment of ad valorem taxes, assessments and charges and/or premiums for policies of insurance with respect to the Property;

(e) all contracts related to the Property;

(f) any agreement relating to any transaction that is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond, note or bill option, interest rate option, forward foreign exchange transaction, cap, collar or floor transaction, currency swap, cross-currency rate swap, swap option currency option or any other similar transaction;

(g) all money, funds, accounts (including tax/insurance reserve accounts, capital improvement reserves, tenant improvement reserves, and leasing commission reserves), instruments, documents, general intangibles (including trademarks, trade names and symbols used in connection therewith);

(h) all notes or chattel paper arising from or related to the Property, all permits, approvals, entitlements, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property, all marketing materials, all plans, specifications, maps, surveys, reports, architectural, engineering and construction contracts, books of account, insurance policies and other documents, of whatever kind or character, relating to the construction upon, use, occupancy, leasing, marketing, sale or operation of the Property, all proceeds and other amounts paid or owing to Borrower under or pursuant to any and all contracts and bonds relating to the construction, erection or renovation of the Property;

(i) all oil, gas and other hydrocarbons and other minerals produced from or allocated to the Property and all products processed or obtained therefrom, the proceeds thereof, and all accounts and general intangibles under which such proceeds may arise, together with any sums of money that may now or at any time hereafter become due and payable to Borrower by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and future oil, gas and mining leases covering the Property or any part thereof

(all of the property described in the foregoing paragraphs (a) through (i) of this Section 2, hereinafter collectively called the "Collateral") and all proceeds of the Collateral. The Mortgaged Property and the Collateral are herein sometimes collectively called the "Property".

3. Indebtedness. This Deed of Trust, Security Agreement and Assignment of Leases and Rents (this "Security Instrument") is made to secure and enforce the payment of the

RP-2017-27800

following note, obligations, indebtedness and liabilities: (a) the Promissory Note (such note and all other notes given in substitution therefor or in amendment, restatement, modification, increase, renewal or extension thereof, in whole or in part, collectively, the "Note") of even date herewith in the original principal amount of \$66,000,000, executed by Borrower, payable to the order of Elk Mountain, Ltd., a Texas limited partnership ("Lender"), whose address is 100 Waugh, Suite 400, Houston, Texas 77007, bearing interest at the rate therein stated, with final maturity being one day before the third (3rd) anniversary of the date thereof, which is January 15, 2020, such Note providing, in part, that if certain defaults occur, the unpaid principal thereof and all accrued unpaid interest may be declared due and payable, at the holder's option, prior to the stated maturity thereof, and providing further for the payment of reasonable attorney's fees and other expenses of collection, and (b) any further or additional funds hereafter advanced by Lender to or for the benefit of Borrower in addition to those advanced under the original principal amount of the Note, and all other indebtedness or monetary obligations, of whatever kind or character, owing or which may hereafter become owing by Borrower to Lender, whether such indebtedness is direct or indirect, primary or secondary, fixed or contingent or arises out of or is evidenced by note, deed of trust, open account, overdraft, endorsement, surety agreement, letter of credit, reimbursement agreement, guaranty, or otherwise, including without limitation any agreement relating to any transaction that is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond, note or bill option, interest rate option, forward foreign exchange transaction, cap, collar or floor transaction, currency swap, cross-currency rate swap, swap option currency option or any other similar transaction, it being contemplated that Borrower may hereafter become indebted to Lender in further sum or sums (all of the aforesaid, the "Indebtedness"). Said Indebtedness shall be payable at the above stated address of Lender or at such other place as Lender may hereafter direct in writing; and, unless otherwise provided herein or in the instrument evidencing the Indebtedness, shall bear interest as provided therein. In addition, any and all reasonable attorney's fees and expenses of collection payable under the terms of the Note shall be and constitute a part of the Indebtedness secured hereby. This Security Instrument shall also secure all renewals, rearrangements, extensions and enlargements of any of the Indebtedness.

4. Assignment of Rents.

(a) Lender may exercise its rights relating to the Rents, in Lender's sole discretion and without prejudice to any particular remedy, as provided herein or as otherwise allowed by applicable law, including without limitation, Title 5, Chapter 64 of the Texas Property Code (as amended, the "Property Code") and any replacement statute relating to the assignment of rents.

(b) In addition to the security interest granted in Section 2 hereof, Borrower GRANTS, BARGAINS, SELLS, ASSIGNS and CONVEYS unto Lender the Leases and the Rents TO HAVE AND TO HOLD the Leases and the Rents, unto Lender, forever, and Borrower does bind itself, its successors and assigns to warrant and forever defend the title to the Leases and the Rents unto Lender against every person whomsoever lawfully claiming or to claim the same or any part thereof. Until delivery of a notice (an "Assignment Exercise Notice") of an exercise of the assignment of Rents following a default under the Note (an "Event of Default"), Lender grants to Borrower a revocable license (the "License") to collect and receive the Rents and administer the Leases. Under

the License, Borrower will have the right to receive Rents provided that Borrower will hold the same as a trust fund to be applied, first to the payment of the Indebtedness and second to the payment of all taxes, insurance premiums, utility charges, maintenance and repair costs, replacement reserves and other operating, management and maintenance expenses of the Property, as same become due.

(c) Each tenant under the Leases shall pay Rents directly to Borrower under the License; provided however, during the continuance of an Event of Default, the License will automatically be revoked and Lender will immediately be entitled to possession of the Rents.

(d) Upon delivery of an Assignment Exercise Notice, each tenant under the Leases is authorized and directed to pay directly to Lender all Rents thereafter accruing and the receipt of Rents by Lender will be a release of such tenant to the extent of all amounts so paid. The receipt by a tenant of an Assignment Exercise Notice will be sufficient and irrevocable authorization for such tenant to make all future payments of Rents directly to Lender and each such tenant will be entitled to rely on such Assignment Exercise Notice. Lender will apply all Rents actually collected by Lender first, to the payment (in such order as Lender may from time to time decide in its sole and absolute discretion) of costs and expenses related to the collection of the Rents, the taking and retaining possession of the Property and placing it in a rentable condition, operating expenses relating to the Property and complying with the terms of the Leases, unpaid interest due on the Indebtedness and principal of the Indebtedness (whether or not due and payable); and second, to Borrower.

(e) The Assignment Exercise Notice is intended solely for the benefit of each tenant and will not inure to the benefit of Borrower. It will never be necessary for Lender to institute legal proceedings of any kind whatsoever to enforce the provisions of such assignment. Without impairing its rights hereunder, Lender may, at its option, at any time and from time to time, release to Borrower Rents received by Lender or any part thereof. Borrower will not, under any circumstances, receive credit for the value or present value of the Rents, but only for the actual amount of Rents as and when received by Lender.

(f) Neither the acceptance by Lender of this Security Instrument nor the exercise of any rights concerning the Rents will (i) deem Lender a "mortgagee in possession" or (ii) obligate Lender (A) to appear in or defend any action or proceeding relating to the Leases, Rents or the Property, (B) to take any action hereunder, (C) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability with respect to any Lease, (D) to assume any obligation or responsibility for any tenant deposits which are not physically delivered to Lender, or (E) to assume any obligation or responsibility for any injury or damage to person or property sustained in or about the Property.

(g) Notwithstanding anything to the contrary contained herein, Lender is entitled to all the rights and remedies of an assignee set forth in Chapter 64 of the Texas Property Code, the Texas Assignment of Rents Act ("TARA"). This Security Instrument

shall constitute and serve as a security instrument under TARA. Lender shall have the ability to exercise its rights related to the Leases and Rents, in Lender's sole discretion and without prejudice to any other remedy available, as provided in this Security Instrument or as otherwise allowed by applicable law, including, without limitation, TARA. Notwithstanding anything to the contrary contained in this Security Instrument, to the extent this Security Instrument contains any notice or cure period, the date enforcement of Lender's right under TARA begins shall not be affected, extended or otherwise modified by reason of such periods.

5. Defense of Title. If, while this Security Instrument is in force, the title of Trustee to the Property, or any part thereof, shall be endangered or shall be attacked directly or indirectly, Borrower hereby authorizes Lender, at Borrower's expense, to take all necessary and proper steps for the defense of said title, including the employment of counsel, the prosecution or defense of litigation, and the compromise or discharge of claims made against said title.

6. Borrower' Successors in Interest. In the event the ownership of the Property or any part thereof becomes vested in a person other than Borrower, Lender may, without notice to Borrower, deal with such successor or successors in interest with reference to this Security Instrument and to the Indebtedness in the same manner as with Borrower, without in any way vitiating or discharging Borrower's liability hereunder or for the Indebtedness or waiving the provisions hereof. No sale of the Property and no forbearance on the part of Lender, and no extension of the time for the payment of the Indebtedness given by Lender, will operate to release, discharge, modify, change or affect, either in whole or in part, any original liability of Borrower, or the liability of the guarantors or sureties of Borrower, or of any other party liable for the payment of the Indebtedness or any part thereof.

7. Default and Acceleration. During the continuance of an Event of Default, Lender, at Lender's option, and without demand, presentment for payment, notice of nonpayment, grace, protest, notice of protest, notice of intent to accelerate the Indebtedness, notice of acceleration of the Indebtedness, or any other notice, all of which are hereby expressly waived by Borrower, may declare the entire unpaid balance and accrued interest on the Note and any other unpaid Indebtedness immediately due and payable, whereupon it shall be so due and payable.

8. Prepayment. If, during the continuance of an Event of Default and an acceleration of the Indebtedness or any portion thereof, but prior to a foreclosure sale of the Property, Borrower tenders to Lender payment of an amount sufficient to satisfy the entire amount of the Note, such tender will be deemed to be a voluntary prepayment under the Note and, accordingly, Borrower shall also pay to Lender the premium (if any) then required under the Note in order to exercise the prepayment privilege contained therein.

9. Survival of Covenants and Liens. All of the covenants and agreements of Borrower set forth herein will survive the execution and delivery of this Security Instrument and shall continue in full force and effect until the Indebtedness is paid in full unless otherwise provided therein. Accordingly, if Borrower faithfully performs each and all of such covenants and agreements, then, and then only, this conveyance will become null and void and shall be released in due form, upon Borrower's written request and at Borrower's expense; otherwise, it

shall remain in full force and effect. No release of this conveyance or the lien thereof will be valid unless executed by Lender.

10. **Foreclosure and Sale.** If an Event of Default shall occur, Lender may, at Lender's election and by or through Trustee or otherwise, sell or offer for sale, in one or more sales, all or any part of the Mortgaged Property, in such portions, order and parcels as Lender may determine, with or without having first taken possession of same, to the highest bidder for cash (or credit on the Indebtedness if Lender is the highest bidder) at public auction. Such sale shall be made at the courthouse of the County in which the Mortgaged Property (or any of that portion thereof to be sold) is located, on the first Tuesday of any month between the hours of 10:00 A.M. and 4:00 P.M. after giving legally adequate written notice of sale of that portion of the Mortgaged Property to be sold, at least twenty-one (21) consecutive days prior to the date of said sale:

(a) by posting at the courthouse of each county in which the Mortgaged Property (or the portion thereof to be sold) is located, a written notice designating the county in which the Mortgaged Property will be sold;

(b) by filing in the office of the county clerk of each county in which the Mortgaged Property (or the portion thereof to be sold) is located, a copy of the notice posted under subparagraph (a); and

(c) by serving written notice of the sale on each debtor who, according to the records of Lender, is obligated to pay the Note (and, in the event the proceeds of the foreclosure sale are to be applied to a portion of the Indebtedness other than or in addition to the Note, then to each debtor who, according to the records of Lender, is obligated to pay such portion of the Indebtedness), such service to be complete and effective when the notice is deposited in the United States mail, postage prepaid and addressed to the debtor at the debtor's last known address as shown in the records of Lender.

In the alternative, such notice and sale may be accomplished in such manner as permitted or required by Title 5, §51.002 of the Property Code relating to the sale of real property under contract lien and/or by Chapter 9 of the Texas Business and Commerce Code (as amended, the "UCC") relating to the sale of collateral after default by a debtor (as said title and chapter now exist or may be hereafter amended or succeeded), or by any other present or subsequent laws or regulations relating to same. In instances where the Mortgaged Property is located in states other than Texas, such sales shall be made in accordance with the legal requirements for such state, including, to the extent relevant, the Uniform Commercial Code in effect for such state (also included in the defined term "UCC"). Nothing contained in this paragraph shall be construed to limit in any way Trustee's rights to sell the Property by private sale if, and to the extent that, such private sale is permitted under the laws of the state where the Property (or that portion thereof to be sold) is located, or by public or private sale after entry of a judgment by any court of competent jurisdiction ordering same. At any such sale (a) whether made under the power herein contained, the Property Code, the UCC, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it will not be necessary for Trustee to have physically present, or to have constructive possession of, the Mortgaged Property (Borrower hereby covenanting and agreeing to deliver to Trustee any portion of the Mortgaged

RP-2017-27800

Property not actually or constructively possessed by Trustee immediately upon demand by Trustee), and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale, (b) each instrument of conveyance executed by Trustee shall contain a general warranty of title, binding upon Borrower, (c) each and every recital contained in any instrument of conveyance made by Trustee shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment of the Note (and/or other portion of the Indebtedness with respect to which the sale has been conducted), advertisement and conduct of such sale in the manner provided herein and otherwise by law, and appointment of any successor Trustee hereunder, (d) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed, (e) the receipt of Trustee or of such other party or officer making the sale shall be a sufficient discharge to the purchaser or purchasers for its purchase money and no such purchaser or purchasers, or its assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof, (f) to the fullest extent permitted by law, Borrower will be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale shall be a perpetual bar both at law and in equity against Borrower, and against any and all other persons claiming or to claim the property sold or any part thereof, by, through or under Borrower, and (g) to the extent and under such circumstances as are permitted by law, Lender may be a purchaser at any such sale. The Mortgaged Property may be sold in one or more parcels and in such manner and order as Trustee, in its sole discretion, may elect, it being expressly understood and agreed that the right of sale arising out of any Event of Default will not be exhausted by any one or more sales.

The Trustee making such sale will receive the proceeds thereof and apply same as follows: (w) to the payment of all expenses of advertising, selling, and conveying the Mortgaged Property or part thereof, and/or prosecuting or otherwise collecting Rents, proceeds, premiums, or other sums including reasonable attorneys' fees and expenses and a reasonable fee or commission to Trustee, not to exceed five percent (5%) of the proceeds thereof or sums so received, (x) to the remainder of the Indebtedness as follows: first, to the remaining accrued but unpaid interest, second, to that portion of the Indebtedness which is not, for any reason whatsoever, secured by this Security Instrument, third, to the matured portion of principal of the Indebtedness, and fourth, to prepayment of the unmatured portion, if any, of principal of the Indebtedness applied to installments of principal in inverse order of maturity, (y) the balance, if any and to the extent applicable, remaining after the full and final payment of the Indebtedness and full performance and discharge of the obligations, to the lender of any inferior liens covering the Mortgaged Property, if any, in order of the priority of such inferior liens (Trustee and Lender shall hereby be entitled to rely exclusively upon a commitment for title insurance issued to determine such priority), and (z) the cash balance, if any, to Borrower.

11. Fair Market Value for Calculating Deficiencies. Borrower expressly waives all rights, remedies, claims and defenses based upon or related to Sections 51.003, 51.004 and 51.005 of the Texas Property Code, provided however, in the event such waiver is not enforceable, the following shall be the basis for the finder of fact's opinion of the fair market value (the "Fair Market Value") of the Property as of the date of foreclosure sale in proceedings governed by 51.003, 51.004 and 51.005 of the Texas Property Code:

(a) The "Gross Fair Market Value" of the Property shall be determined based on the following assumptions:

(i) The Property shall be valued in an "as-is" condition as of the date of foreclosure without representations or warranties or any expectation that the Property will be repaired or improved in any manner before a resale of the Property after foreclosure.

(ii) The Property will be resold for cash.

(iii) The Property will be resold within a marketing period not to exceed 12 months.

(iv) Comparable sales and/or rentals shall be used as the basis for valuation of the Property, as appropriate.

(v) Discounted future cash flows shall be used to determine the value of the Property, as appropriate.

(b) From the Gross Fair Market Value determined above, the following items shall be deducted to determine Fair Market Value of the Property:

(i) Estimated holding costs for maintaining the Property during marketing period including, but not limited to, utilities, property management fees, property and franchise taxes, insurance, maintenance contracts, salaries/wages and payroll taxes thereon.

(ii) All costs associated with marketing and sale of the Property including, but not limited to, real estate brokerage commissions, title insurance premiums, title insurance company closing costs, survey, environmental study, tax pro-rations, reasonable attorney fees, and marketing costs.

(c) Any expert opinion testimony given or considered in connection with a determination of the fair market value of the Property must be given by persons having at least five (5) years experience in appraising property similar to the Property and who have conducted and prepared a complete written appraisal of the Property taking into consideration the factors set forth above.

(d) Any appraisal obtained by Lender which meets the foregoing requirements and is otherwise prepared by an independent appraiser in accordance with Financial Institutions Reform, Recovery and Enforcement Act will be considered prima facie evidence of Fair Market Value.

12. Substitute Trustee(s). If, for any reason, Lender shall prefer to appoint a substitute trustee or multiple substitute trustees, or successive substitute trustees or successive multiple substitute trustees, to act instead of the aforementioned Trustee, Lender shall have full power to appoint a substitute trustee (or, if preferred, multiple substitute trustees) in succession who shall succeed (and if multiple substitute trustees are appointed, each of such multiple

substitute trustees shall succeed) to all the estates, rights, powers, and duties of the aforementioned Trustee and no notice of such appointment need be given to Borrower or to any other person or filed for record in any public office. Such appointment may be executed by any authorized agent or officer of Lender, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any organizational action. Borrower hereby ratifies and confirms any and all acts which the aforementioned Trustee, or Trustee's successor or successors in this trust, shall do lawfully by virtue hereof. If multiple substitute Trustees are appointed, each of such multiple substitute Trustees is empowered and authorized to act alone without the necessity of the joinder of the other multiple substitute trustees, whenever any action or undertaking of such substitute trustees is requested or required under or pursuant to this Security Instrument or applicable law.

13. Indemnification of Trustee. **TRUSTEE WILL NOT BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY TRUSTEE IN GOOD FAITH, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING THE TRUSTEE'S NEGLIGENCE AND/OR STRICT LIABILITY), EXCEPT FOR TRUSTEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** Trustee will have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by it in good faith to be genuine. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee will be under no liability for interest on any moneys received by it hereunder. **BORROWER SHALL REIMBURSE TRUSTEE FOR, AND INDEMNIFY AND SAVE IT HARMLESS AGAINST, ANY AND ALL LIABILITY AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES) WHICH MAY BE INCURRED BY IT IN THE PERFORMANCE OF ITS DUTIES HEREUNDER (INCLUDING ANY LIABILITY AND EXPENSES RESULTING FROM TRUSTEE'S OWN NEGLIGENCE AND/OR STRICT LIABILITY).** The foregoing indemnity will not terminate upon release, foreclosure or other termination of this Security Instrument.

14. Purchaser's Right to Disaffirm. The purchaser at any trustee's or foreclosure sale hereunder may disaffirm any encumbrance granted, or rental or lease contract made, in violation of any provision of this Security Instrument, and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of encumbrance and rental or lease contract.

15. Lender as Purchaser. Lender may bid and, being the highest bidder therefor, become the purchaser of any and all Mortgaged Property offered for sale at any trustee's or foreclosure sale hereunder and shall have the right to credit the amount of the bid upon the amount of the Indebtedness owing to Lender, in lieu of cash payment.

16. Recovery of Unmatured Indebtedness. It is agreed that if an Event of Default occurs, the holder of the Indebtedness or any part thereof under which such Event of Default occurs will have the option to proceed with foreclosure in satisfaction of such Event of Default either through the courts or by directing Trustee or its successors in trust to proceed as if under a full foreclosure, conducting the sale as herein provided, and without declaring the whole

RP-2017-27800

Indebtedness due, and provided that if a sale is made because of an Event of Default of an installment, or a part of an installment, such sale may be made subject to the unmatured part of the Note or other Indebtedness secured by this Security Instrument and it is agreed that such sale, if so made, shall not in any manner affect the unmatured portion of the Indebtedness, but as to such unmatured portion of the Indebtedness, this Security Instrument shall remain in full force and effect just as though no sale had been made under the provisions of this paragraph. It is further agreed that several sales may be made hereunder without exhausting the right of sale for any unmatured portion of the Indebtedness, it being the intention of the parties hereto to provide for a foreclosure and sale of the security for any matured portion of the Indebtedness without exhausting the power to foreclose and to sell the security for any other portion of the Indebtedness whether matured at the time or subsequently maturing. It is agreed that an assignee holding any installment or part of any installment of the Note or other Indebtedness secured hereby shall have the same powers as are hereby conferred on the holder of the Indebtedness to proceed with foreclosure on a matured installment or installments, and also to request Trustee or its successors in trust to sell the Property or any part thereof; but if an assignee forecloses or causes a sale to be made to satisfy any installment, part of an installment, or installments, then the purchaser at such foreclosure or sale shall be made subject to all of the terms and provisions hereof with respect to the unmatured part of the Note and other Indebtedness secured hereby owned by the then holder of such Indebtedness.

17. Election to Discontinue Remedy. In the event Lender elects to invoke any of the rights or remedies provided for herein or at law or in equity, but thereafter determines to withdraw or discontinue same for any reason, it will have the unqualified right to do so, whereupon all parties will be automatically restored and returned to their respective positions regarding the Indebtedness and this Security Instrument as shall have existed prior to the invocation of Lender's rights hereunder, and the rights, powers and remedies of Lender hereunder shall be and remain in full force and effect.

18. Release or Renewal of Liens. Any part of the Property may be released by Lender without affecting the lien, security interest and rights hereof against the remainder. The lien, security interest and rights hereby granted shall not affect or be affected by any other security taken for the Indebtedness or any part thereof. The taking of additional security, or the extension or renewal of the Indebtedness or any part thereof, shall at no time release or impair the liens, security interests and rights granted hereby, or affect the liability of any endorser, guarantor or surety, or improve the right of any junior lienholder. This Security Instrument, as well as any instrument given to secure any renewal or extension of the Indebtedness, or any part thereof, will be and remain a first and prior lien and security interest on all of the Property not expressly released, until the Indebtedness is completely paid.

19. Waiver of Marshaling and Certain Rights. To the extent that Borrower may lawfully do so, Borrower hereby expressly waives any right pertaining to the marshaling of assets, the administration of estates of decedents, or other matters to defeat, reduce or affect (a) the right of Lender to sell all or any part of the Property for the collection of the Indebtedness (without any prior or different resort for collection), or (b) the right of Lender to the payment of the Indebtedness out of the proceeds of the sale of all or any part of the Property in preference to every other person and claimant.

20. Waivers. It is expressly agreed that (a) no waiver of any Event of Default on the part of Borrower or breach of any of the provisions of this Security Instrument shall be considered a waiver of any other or subsequent Event of Default or breach, and no delay or omission in exercising or enforcing the rights and powers herein granted shall be construed as a waiver of such rights and powers, and likewise no exercise or enforcement of any rights or powers hereunder shall be held to exhaust such rights and powers, and every such right and power may be exercised from time to time, (b) any failure by Lender to insist upon the strict performance by Borrower of any of the terms and provisions herein shall not be deemed to be a waiver of any of the terms and provisions herein, and Lender, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Borrower of any and all of the terms and provisions of this Security Instrument, (c) neither Borrower nor any other person now or hereafter obligated for the payment of all or any part of the Indebtedness shall be relieved of such obligations by reason of the failure of Lender or Trustee to comply with any request of Borrower, or of any other person so obligated, to take action to foreclose this Security Instrument or otherwise enforce any of the provisions of this Security Instrument or of any obligations secured by this Security Instrument, or by reason of the release, regardless of consideration, of all or any part of the security held for the Indebtedness, or by reason of the subordination in whole or in part by Lender of the lien, security interest or rights evidenced hereby, or by reason of any agreement or stipulation with any subsequent owner or owners of the Property extending the time of payment or modifying the terms of the Indebtedness or this Security Instrument without first having obtained the consent of Borrower or such other person, and, in the latter event, Borrower and all such other persons shall continue to be liable to make such payments according to the terms of any such agreement of extension or modification unless expressly released and discharged in writing by Lender, (d) regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien or security interest on the Property, Lender may release the obligation of anyone at any time liable for any of the Indebtedness or any part of the security held for the Indebtedness and may extend the time of payment or otherwise modify the terms of the Indebtedness and/or this Security Instrument without, as to the security or the remainder thereof, in any way impairing or affecting the lien or security interest of this Security Instrument or the priority of such lien or security interest, as security for the payment of the Indebtedness as it may be so extended or modified over any subordinate lien or security interest, (e) the holder of any subordinate lien or security interest does not have the right, and will not be granted the right, to terminate any lease affecting the Property whether or not such lease be subordinate to this Security Instrument, (f) Lender may resort for the payment of the Indebtedness to any security therefor held by Lender in such order and manner as Lender may elect in its sole discretion, and (g) in connection with any foreclosure action, Lender may assign this Security Instrument and the Indebtedness to another party (which may or may not be an affiliate or subsidiary of Lender) either before a foreclosure posting, after a foreclosure posting or immediately prior to a foreclosure sale and Borrower waives any right to require Lender notify it of such sale or require the Property to be "reposted" at a later foreclosure date.

21. Terminable Tenancy Upon Foreclosure. In the event of a Trustee's sale hereunder, and, if at the time of such sale, Borrower, or any other party occupies the Property so sold, each and all shall immediately become the tenant of the purchaser at such sale, which tenancy shall be terminable at the will of the landlord. Such purchaser may file an action of

forcible detainer and/or any other legal proceedings if the tenant holds over after a demand in writing for possession of said property.

22. Appointment of Receiver. During the existence of an Event of Default, Lender as a matter of right and without (a) notice to the Borrower or any other party, (b) a showing of insolvency of the Borrower, (c) a showing of fraud or mismanagement with respect to the Loan or the Property, (d) regard to the sufficiency of the security for the repayment of the Indebtedness, or (e) the necessity of filing any proceeding other than a proceeding for appointment of a receiver, shall be entitled to the appointment of a receiver or receivers for the Property or any part thereof (including without limitation the Rents of the Property). Borrower, for itself and any subsequent owner or owners, irrevocably consents to such appointment and waives any and all defenses to such application for a receiver. This section will not deprive Lender of any other right, remedy or privilege it may have under applicable law to have a receiver appointed for the Property. Additionally, during the pendency of a receivership for all or a portion of the Property, Borrower consents to any proceeding commenced by Lender which seeks to enforce another right or remedy of Lender under this Security Instrument or applicable law, including without limitation, the commencement of a foreclosure of the Property. Any money advanced by Lender in connection with any such receivership will constitute a demand obligation owing by Borrower and shall bear interest from the date of expenditure until paid at the Default Rate (as defined in the Note), all of which shall constitute a portion of the Indebtedness. This section is made an express condition upon which the Loan is made.

23. Subrogation. To the extent that proceeds of the Note are used to pay any prior indebtedness secured by an outstanding lien, security interest, charge or prior encumbrance against the Property, such proceeds have been advanced by Lender at Borrower's request; and Lender shall be subrogated to any and all rights, powers, equities, liens and security interests owned or granted by any owner or holder of such prior indebtedness, irrespective of whether said security interests, liens, charges or encumbrances are released of record.

24. Security Agreement.

(a) Security Interest. This Security Instrument shall be a security agreement between Borrower, as the debtor, and Lender, as the secured party, covering the Collateral pursuant to the UCC. In addition to Lender's other rights hereunder, Lender shall have all rights of a secured party under the UCC. If Lender should dispose of any of the Collateral pursuant to the UCC, ten (10) days' written notice by Lender to Borrower will be deemed to be reasonable notice; provided, however, Lender may dispose of such property in accordance with the foreclosure procedures of this Security Instrument in lieu of proceeding under the UCC.

(b) Notice of Changes. Borrower shall give at least thirty (30) days' advance notice in writing to Lender of any proposed change in Borrower's name, identity, or structure.

(c) Fixtures. Some of the items of the Collateral described herein are goods that are or are to become fixtures related to the land described herein, and it is intended that, as to those goods, this Security Instrument will be effective as a financing statement

filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Collateral is situated. Information concerning the security interest created by this Security Instrument may be obtained from Lender, as secured party, at the address of Lender stated on the first page hereof. The mailing address of Borrower, as debtor, is as stated on the first page hereof.

(d) Filing of Financing Statements. Borrower hereby irrevocably authorizes Lender at any time and from time to time to file, without the signature of Borrower, in any jurisdiction, any amendments to existing financing statements and any initial financing statements and amendments thereto that (a) indicate the Property (i) as “all assets of Borrower and all proceeds thereof, and all rights and privileges with respect thereto” or words of similar effect, regardless of whether any particular asset comprised in the Property falls within the scope of Article/Chapter 9 of the UCC, or (ii) as being of an equal or lesser scope or with greater detail; (b) contain any other information required by subchapter E of Article/Chapter 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including whether Borrower is an organization, the type of organization and any organization identification number issued to Borrower; and (c) are necessary to properly effectuate the transactions described in this Security Instrument, as determined by Lender in its discretion. Borrower agrees to furnish any such information to Lender promptly upon request. Borrower further agrees that a carbon, photographic or other reproduction of this Agreement or any financing statement describing any Property is sufficient as a financing statement and may be filed in any jurisdiction by Lender. Borrower waives any right under the UCC or any other applicable law to receive notice and/or copies of any filed or recorded financing statements, amendments thereto, continuations thereof or termination statements and releases and excuses Lender from any obligation under the UCC or any other applicable law to provide notice or a copy of any such filed or recorded documents.

(e) Foreclosure Sale. Any sale made pursuant to the provisions of this paragraph will be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with the sale of the Mortgaged Property under the power of sale as provided herein upon giving the same notice with respect to the sale of the Collateral hereunder as is required for such sale of the Mortgaged Property under the power of sale. In the event of a foreclosure sale, whether made by Lender, the Trustee or under judgment of a court, the Collateral and the Mortgaged Property may, at the option of Lender, be sold partially or as a whole.

(f) Account Debtors. Lender may at any time during the continuance of an Event of Default notify the account debtors or obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness included in the Collateral to pay Lender directly.

25. Binding on Successors. The covenants herein contained shall inure to the benefit of Lender and Trustee, their heirs, legal representatives, successors and assigns, and will be binding upon the respective heirs, legal representatives, successors and assigns of Borrower, but nothing in this paragraph will constitute an authorization for Borrower to sell or in any way dispose of the Property or any part thereof if otherwise prohibited by any of the terms hereof.

26. Unsecured Portion of Indebtedness. If any part of the secured indebtedness cannot be lawfully secured by this Security Instrument or if any part of the Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is unsecured by this Security Instrument.

27. Definitions. Wherever used in this Security Instrument, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the words "Security Instrument" shall mean "this Deed of Trust, Security Agreement and Assignment of Rents and any supplement or supplements hereto"; the word "Borrower" shall mean "Borrower, its heirs, legal representatives, successors and assigns, and/or any subsequent owner or owners of the Property"; the word "Lender" shall mean "Lender or any subsequent holder or holders of the Note or other Indebtedness secured hereby"; the word "Note" shall mean the "Note secured by this Security Instrument and any renewals, extensions, rearrangements and enlargements thereof"; the word "person" shall mean "an individual, corporation, trust, partnership or unincorporated association"; and the pronouns of any gender shall include the other genders, and either the singular or plural shall include the other.

28. APPLICABLE LAW. THIS SECURITY INSTRUMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE LAND IS LOCATED, EXCEPT TO THE EXTENT THAT THE LAWS OF THE UNITED STATES OF AMERICA AND ANY RULES, REGULATIONS, OR ORDERS ISSUED OR PROMULGATED THEREUNDER, APPLICABLE TO THE AFFAIRS AND TRANSACTIONS ENTERED INTO BY LENDER, OTHERWISE PREEMPT SUCH LAW; IN WHICH EVENT FEDERAL LAW SHALL CONTROL.

29. NO ORAL AGREEMENTS. THE NOTE AND THIS WRITTEN SECURITY INSTRUMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

RP-2017-27800

IN WITNESS WHEREOF, this Security Instrument has been executed on the date of acknowledgment below, but is to be effective as of January 16, 2017.

BORROWER:

BKR Memorial II, LLC,
a Texas limited liability company

By: *Sharin A. Scott*
Sharin A. Scott, Manager

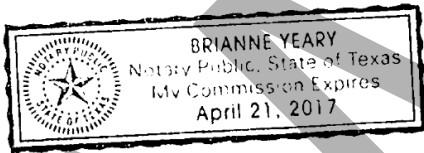
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 20th day of January, 2017 by Sharin A. Scott, Manager of BKR Memorial II, LLC, a Texas limited liability company, on behalf of said limited liability company.

Brianne Yeary
Notary Public in and for the State of Texas

Printed Name: Brianne Yeary

My Commission Expires: _____



RP-2017-27800

EXHIBIT "A"

**DESCRIPTION OF A 3.970 ACRE TRACT OF LAND SITUATED
IN THE JOHN AUSTIN SURVEY, ABSTRACT NO. 1
CITY OF HOUSTON
HARRIS COUNTY, TEXAS**

BEING a 3.970 acre (172,941 square foot) tract of land situated in the John Austin Survey, Abstract No. 1 of Harris County, Texas and being a portion of Unrestricted Reserve "A" of MEMORIAL HEIGHTS RE-DEVELOPMENT, a subdivision per plat recorded under Film Code No. 628202 of the Harris County Map Records (H.C.M.R.), said 3.970 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8-inch iron rod with cap stamped "Thomas 1494 5736" found for the northwest corner of a called 4.911 acre tract of land as described in a deed to Archstone Memorial Heights Villages I LLC, recorded under Harris County Clerk's File (H.C.C.F.) Number 20120232046, and lying on the east right-of-way line of South Heights Boulevard (width varies) as shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT;

THENCE, N02°34'00" W, a distance of 43.18 along and with said east right-of-way line to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the southwest corner and POINT OF BEGINNING of the herein described tract;

THENCE, N 02°34'00" W, a distance of 413.38 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a tangent curve to the right, being the south end of a radial return at the southeast intersection of said South Heights Boulevard and Washington Avenue (width varies) recorded in Volume R, Page 310 of the Harris County Deed Records (H.C.D.R.) and as shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT;

THENCE, in a Northeasterly direction, along said curve to the right, a distance of 42.26 feet, having a radius of 25.00 feet, a central angle of 96°50'34" and a chord which bears N 45°51'17" E, 37.40 feet to the point of tangency and from which a found 5/8-inch iron rod bears N 11°16' E, 0.41 feet;

THENCE, along and with the south right-of-way line of said Washington Avenue the following courses and distances:

S 85°43'26" E, a distance of 322.46 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S 77°59'33" E, a distance of 53.59 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S 85°52'27" E, a distance of 33.51 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the northeast corner of the herein described tract;

THENCE, S 04°58'45" W, a distance of 402.47 feet over and across said Unrestricted Reserve "A" to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the southeast corner of the herein described tract;

THENCE, S 89°55'49" W, a distance of 380.79 feet continuing over and across said Unrestricted Reserve "A" to the POINT OF BEGINNING and containing 3.970 acres (172,941 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.

RP-2017-27800
Pages 18
01/20/2017 11:37 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees \$80.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Stan Stanart

COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2017-27800

SAMPLE

SUBORDINATION AND NON-DISTURBANCE AGREEMENT

RECORDING REQUESTED BY &)
WHEN RECORDED RETURN TO:)
)
Google LLC)
1600 Amphitheatre Parkway)
Mountain View, California 94043)
Attn: Legal Department/RE Matters)
)
)
)

(Space Above This Line For Recorder's Use)

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT (this "Agreement") is made as of February 25, 2020, by and among BKR Memorial II, LLC, a Texas limited liability company ("Landlord"), Google LLC, a Delaware limited liability company ("Tenant"); and Elk Mountain, Ltd., a Texas limited partnership ("Lender").

RECITALS

A. Landlord has entered into a Lease with Tenant, dated as of February 25, 2020 (as may be amended from time to time, the "Lease"), with respect to certain premises located at 3663 Washington Avenue, Houston, Texas 77007 (as more particularly described in the Lease, the "Premises").

B. Lender, an affiliate of Landlord, has made a loan (the "Loan") to Landlord secured by a Deed of Trust, Security Agreement and Assignment of Leases and Rents dated January 16, 2017 and recorded January 20, 2017 in the Official Public Records of Real Property of Harris County, Texas under Clerk File No. RP-2017-27800 and other security instruments (collectively, and as may be modified, extended, increased, spread, or consolidated, the "Security Instrument") encumbering the real property at which the Premises are located, which real property is more particularly described in Exhibit A attached hereto.

C. Tenant has agreed to that the Lease shall be subordinate to the Security Instrument and has entered into the Lease on the condition that Tenant is assured of continued occupancy of the Premises without disturbance under the terms of the Lease and this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, and the mutual benefits to accrue to the parties hereto, the parties agree as follows:

1. SUBORDINATION.

1.1 Leasehold Estate. Tenant subordinates the Lease and all estates, rights, options, liens and charges therein contained or created under the Lease to the Security Instrument, and to all advances made or to be made thereunder, to the full extent of amounts secured thereby and interest thereon on the terms

RP-2020-92174

and conditions of this Agreement. The terms of the Lease control if there are any inconsistencies between the Lease and the Security Instrument or this Agreement as to Tenant's rights and obligations under the Lease or as to Landlord's obligations under said Lease. This Agreement shall in no way amend the Lease except as may be expressly provided herein with respect to the subordination of the Lease to the Security Instrument and Tenant's right to non-disturbance.

1.2 Tenant's Fixtures and Equipment Not Subject to Security Instrument. The lien of the Security Instrument does not encumber any trade fixtures or equipment used by Tenant in its business at the Premises.

2. TENANT'S RIGHTS. Tenant has the following rights in the event (a) Lender commences any proceedings for foreclosure and sale or any other suit, sale or proceeding under the Security Instrument or (b) Landlord delivers a deed in lieu of foreclosure to Lender, so long as Tenant is not in default under the Lease beyond any notice and cure period provided by the Lease or applicable laws:

2.1 Non-disturbance. Provided Tenant is not in default beyond any applicable notice and cure periods as of the date Lender commences foreclosure proceedings or accepts a deed in lieu of foreclosure (and if Tenant is in default at such date and the default is capable of cure by Tenant and Tenant is diligently pursuing such cure to completion then such default shall not affect Lender's obligations to Tenant or Tenant's rights hereunder or under the Lease), then Landlord and Lender agree not to disturb Tenant's possession of the Premises under the Lease, nor to extinguish nor otherwise modify the Lease and further agree to recognize Tenant's rights to the Premises pursuant to the terms of the Lease, including, without limitation, the Tenant Extension Option, Tenant Hold Space Option, and Tenant's Right of First Refusal Option under the Lease, regardless of any default under the Security Instrument and any proceeding to foreclose the same or the acceptance by Lender of a deed in lieu of foreclosure, or the exercise of any of Lender's rights under any of the Security Documents.

2.2 Tenant Not Made a Party to Litigation. Lender shall not join or otherwise make Tenant a party to any foreclosure or other litigation, suit, sale or proceeding under the Security Instrument. No foreclosure or other suit, sale or proceeding under the Security Instrument may affect Tenant's rights under the Lease.

2.3 Condominium Declaration. Landlord, Tenant and Lender acknowledge and agree that the Premises is subject to a Condominium Declaration, as such term is defined in the Lease. Lender agrees that in no event shall Lender exercise any rights under the Condominium Declaration (as successor to Landlord thereunder) to circumvent the provisions of this Agreement with respect to non-disturbance of Tenant's tenancy and possession of the Premises.

2.4 Amendments to Lease. Any amendment to the Lease shall be binding as between Landlord and Tenant, and after a foreclosure or transfer of the Premises after a default by Landlord under the Security Instrument, upon Lender.

2.5 No Tenant Obligations Under Security Agreement. Except as expressly provided herein, Tenant shall have no obligations whatsoever under the Security Agreement.

3. POSITION OF LENDER AS LANDLORD. Lender (or any successor or assign) shall assume Landlord's position under the Lease, including Landlord's liabilities, responsibilities and obligations, including, without limitation, Landlord's obligations in respect of the Tenant Improvements Allowance (as defined in the Lease) and recognition of Tenant's remedies for any Landlord default (subject to applicable notice and cure rights), as though Lender (or any successor or assign) was the original Landlord.

4. **ATTORNTMENT.** After written notice from Lender, which written notice Tenant shall be entitled to rely upon without inquiry or investigation or liability to either Landlord or Lender, Tenant shall attorn to the purchaser or grantee upon any foreclosure and sale or deed in lieu of foreclosure and shall recognize the purchaser or grantee as the Landlord under the Lease.

5. **CONSENTS.** Tenant consents to the existence of the Security Instrument. Lender shall promptly respond to any request by Landlord or Tenant concerning this Agreement, the Lease or the Premises. Lender shall not unreasonably withhold, condition, or delay any response or consent requested by Landlord or Tenant with regard to this Agreement, the Lease or the Premises.

6. **NOTICES.** Each party shall give each other party a copy of any notice of default served upon any other party with respect to this Agreement, the Lease or the Security Instrument at the address set forth below. All notices or other communications hereunder to or from Lender shall be deemed to have been properly given (i) upon delivery, if delivered in person, (ii) one (1) business day after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) business days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the addresses set forth below or as such party may from time to time designate by written notice to the other parties. Any party by notice to the others in the manner provided herein may designate reasonable number of additional or different addresses for subsequent notices or communications. Notwithstanding anything to the contrary contained herein, except as expressly provided herein, Tenant shall not be required to provide any notices to Lender under the Security Instrument or otherwise. Any communications by and between Landlord and Tenant shall continue to be given as provided in the Lease.

Tenant's Address for Notice: Google LLC
1600 Amphitheatre Parkway
Mountain View, California 94043
Attn: REWS/Lease Administration

With a copy to: Google LLC
1600 Amphitheatre Parkway
Mountain View, California 94043
Attn: Legal Department/RE Matters

Landlord's Address for Notice: BKR Memorial II LLC
100 Waugh, Suite 400
Houston, Texas 77007
Attn: Mike Irely
Email: mirey@sginterests.com

With a copy to: BKR Memorial II LLC
100 Waugh, Suite 400
Houston, Texas 77007
Attn: Sharin Scott
Email: sscott@sginterests.com

Lender's Address for Notice: Elk Mountain, Ltd.
100 Waugh, Suite 400
Houston, Texas 77007
Attn: Mike Irey
Email: mirey@sginterests.com

With a copy to: Elk Mountain, Ltd.
100 Waugh, Suite 400
Houston, Texas 77007
Attn: Sharin Scott
Email: sscott@sginterests.com

Either Lender or Landlord shall provide notice of the extinguishment of the Security Instrument, which notice Tenant shall be entitled to rely upon without duty of inquiry or investigation, and upon such extinguishment and the termination of any interest of Lender or its successors under the Security Interest in the Premises, this Agreement shall terminate and be of no further force or effect.

7. **RELEASE.** Tenant has notice that the rent and all other sums due under the Lease have been assigned to Lender as additional security under the Security Instrument. If Lender notifies Tenant in writing of a default under the Security Instrument and demands in writing that Tenant pay its rent and all other sums due under the Lease directly to Lender or as otherwise required pursuant to Lender's notice, Tenant shall be entitled to rely on such notice without duty of inquiry or investigation and shall honor such demand and pay its rent and all other sums due under the Lease directly to Lender or as otherwise required pursuant to Lender's notice. Landlord hereby authorizes Tenant to make such payments to Lender or as Lender shall otherwise direct, and Landlord and Lender hereby release and discharge Tenant of and from any liability to Landlord or Lender resulting from Tenant's compliance with Lender's demands.

8. **SUCCESSORS AND ASSIGNS.** This Agreement shall bind and inure to the benefit of the successors and assigns of the parties hereto; the singular number includes the plural, and any gender includes all other genders.

9. **INSURANCE AND CONDEMNATION PROCEEDS.** If fire or other casualty destroys all or any portion of the Premises, then all insurance proceeds associated with such casualty to which Tenant is entitled under the Lease shall be paid to Tenant as if there were no Security Instrument, notwithstanding any provision of the Security Instrument to the contrary, and all insurance proceeds associated with such casualty to which Landlord is entitled under the Lease shall be made available to Landlord (subject to the attornment requirements hereunder) to satisfy Landlord's obligations under the Lease subject to the limitations set forth in Section 11(B) of the Lease. If all or any portion of the Premises is taken under power of eminent domain, all condemnation awards associated with such taking (or compensation paid in lieu thereof) shall be apportioned in accordance with the Lease (subject to the attornment requirements hereunder), as applicable, notwithstanding any provision of the Security Instrument to the contrary.

10. **LEASE PROVISIONS.** This Agreement supersedes, to the extent inconsistent therewith, the provisions of the Lease relating to subordination of the Lease and attornment to Lender with respect to payment of rent thereunder.

11. **EFFECTIVENESS.** This Agreement shall not be effective as to the subordination unless executed by all of the parties hereto and shall not be binding on Tenant unless Tenant has received a fully executed duplicate original of this Agreement. If and only if requested by Tenant in writing, a copy of the fully executed copy of this Agreement shall be recorded in the official records of the county in which the

Premises is located by Lender or Landlord, and a conformed copy shall be returned to Tenant within ten (10) days from the date of such request.

12. MISCELLANEOUS. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Premises are located. Lender shall give notice to Tenant of the reconveyance or other release of the Security Instrument within thirty (30) days of the date the reconveyance or other release is recorded. Upon such reconveyance or other release, this Agreement shall be of no further force or effect. This Agreement may be executed in multiple counterparts, and by the different parties hereto in separate counterparts, each of which when so executed and delivered and placed together shall be deemed to be one and the same instrument with the same signature as if all parties to this Agreement had signed the same signature page. If any term or provision of this Agreement is held to be or rendered invalid or unenforceable at any time in any jurisdiction, such term or provision shall not affect the validity or enforceability of any other term or provision of this Agreement, or the validity or enforceability of such affected term or provision at any other time or in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

LANDLORD:

BKR MEMORIAL II LLC,
a Texas limited liability company

By: Sharin A Scott
Name: Sharin A Scott
Its: manager

TENANT:

GOOGLE LLC,
a Delaware limited liability company

By: _____
Name: _____
Its: _____

LENDER:

ELK MOUNTAIN, LTD.,
a Texas limited partnership

By: GORDY OIL COMPANY,
a Texas corporation,
its general partner

By: Thomas R. Speck
Name: THOMAS R. SPECK
Its: VICE PRESIDENT

(signatures must be notarized)

RP-2020-92174

Premises is located by Lender or Landlord, and a conformed copy shall be returned to Tenant within ten (10) days from the date of such request.

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IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

LANDLORD:

BKR MEMORIAL II LLC,
a Texas limited liability company

By: _____
Name: _____
Its: _____

TENANT:

GOOGLE LLC,
a Delaware limited liability company



By: David Radcliffe
Name: **David Radcliffe**
Its: **VP. Real Estate**

LENDER:

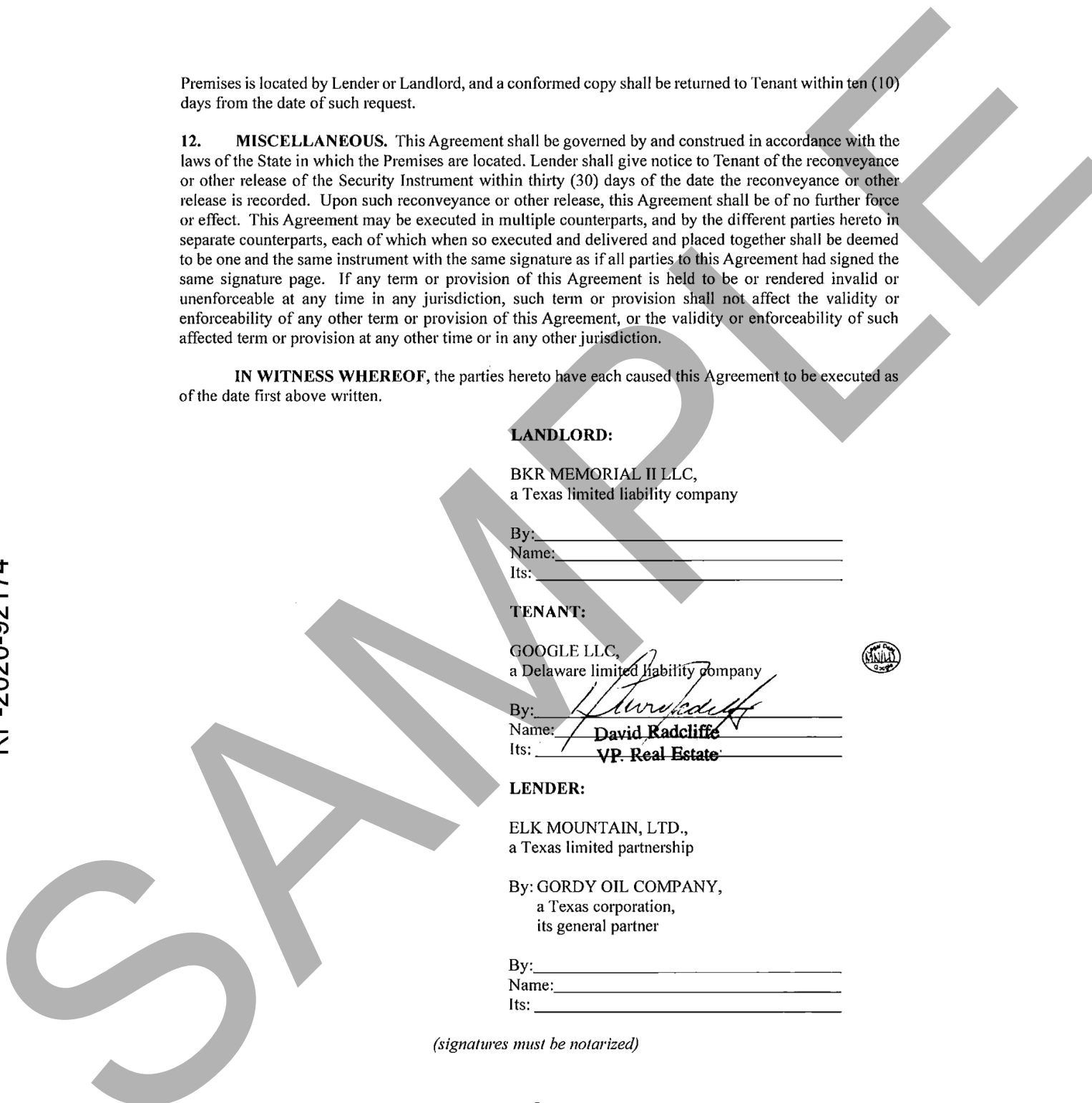
ELK MOUNTAIN, LTD.,
a Texas limited partnership

By: GORDY OIL COMPANY,
a Texas corporation,
its general partner

By: _____
Name: _____
Its: _____

(signatures must be notarized)

RP-2020-92174



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CA

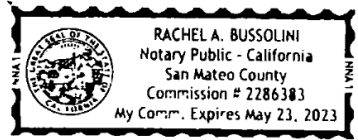
COUNTY OF San Mateo ss.

On 2/18/2020, before me, Rachel A. Bussolini
Notary Public, personally appeared David Padgett who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rachel A. Bussolini
(Seal)



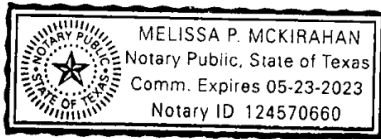
RP-2020-92174

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 24th day of February, 2020 by Sharin A. Scott, Manager of BKR Memorial II, LLC, a Texas limited liability company, on behalf of said limited liability company.

Stamp Name and Date of Expiration
of Commission Below:

Melissa P. Mckirahan
Notary Public in and for the State of Texas

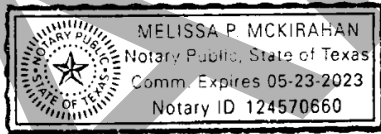


STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 24th day of February, 2020 by Thomas R. Speck, Vice President of Gordy Oil Company, a Texas corporation, the General Partner of ELK MOUNTAIN, LTD., a Texas limited partnership, on behalf of said limited partnership.

Stamp Name and Date of Expiration
of Commission Below:

Melissa P. Mckirahan
Notary Public in and for the State of Texas



RECORDING REQUESTED BY &
WHEN RECORDED RETURN TO:

Google LLC
1600 Amphitheatre Parkway
Mountain View, California 94043
Attn: Legal Department/RE Matters

RP-2020-92174

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL PROPERTY

DESCRIPTION OF A 3.970 ACRE TRACT OF LAND SITUATED
IN THE JOHN AUSTIN SURVEY, ABSTRACT NO. 1
CITY OF HOUSTON
HARRIS COUNTY, TEXAS

BEING a 3.970 acre (172,941 square foot) tract of land situated in the John Austin Survey, Abstract No. 1 of Harris County, Texas and being a portion of Unrestricted Reserve "A" of MEMORIAL HEIGHTS RE-DEVELOPMENT, a subdivision per plat recorded under Film Code No. 628202 of the Harris County Map Records (H.C.M.R.), said 3.970 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8-inch iron rod with cap stamped "Thomas 1494 5736" found for the northwest corner of a called 4.911 acre tract of land as described in a deed to Archstone Memorial Heights Villages I LLC, recorded under Harris County Clerk's File (H.C.C.F.) Number 20120232046, and lying on the east right-of-way line of South Heights Boulevard (width varies) as shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT;

THENCE, N02°34'00" W, a distance of 43.18 along and with said east right-of-way line to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the southwest corner and POINT OF BEGINNING of the herein described tract;

THENCE, N 02°34'00" W, a distance of 413.38 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a tangent curve to the right, being the south end of a radial return at the southeast intersection of said South Heights Boulevard and Washington Avenue (width varies) recorded in Volume R, Page 310 of the Harris County Deed Records (H.C.D.R.) and as shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT;

THENCE, in a Northeasterly direction, along said curve to the right, a distance of 42.26 feet, having a radius of 25.00 feet, a central angle of 96°50'34" and a chord which bears N 45°51'17" E, 37.40 feet to the point of tangency and from which a found 5/8-inch iron rod bears N 11°16' E, 0.41 feet;

THENCE, along and with the south right-of-way line of said Washington Avenue the following courses and distances:

S 85°43'26" E, a distance of 322.46 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S 77°59'33" E, a distance of 53.59 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S 85°52'27" E, a distance of 33.51 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the northeast corner of the herein described tract;

THENCE, S 04°58'45" W, a distance of 402.47 feet over and across said Unrestricted Reserve "A" to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the southeast corner of the herein described tract;

THENCE, S 89°55'49" W, a distance of 380.79 feet continuing over and across said Unrestricted Reserve "A" to the POINT OF BEGINNING and containing 3.970 acres (172,941 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.

RP-2020-92174
Pages 10
03/02/2020 08:24 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
DIANE TRAUTMAN
COUNTY CLERK
Fees \$48.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Diane Trautman

COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2020-92174

SAMPLE

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

EXTENSION, MODIFICATION AND RENEWAL AGREEMENT

This Extension, Modification and Renewal Agreement (“Agreement”) is made and entered into as of **January 16, 2020** (the “Effective Date”), by and between **Elk Mountain, Ltd.**, a Texas limited partnership (“Lender”), and **BKR Memorial II, LLC**, a Texas limited liability company (“Borrower”).

RECITALS

Lender is the sole owner and holder of that one certain Secured Multiple Advance Promissory Note dated January 16, 2017, in the maximum principal amount of \$66,00,000.00, executed by Borrower and payable in accordance with the terms thereof to the order of Lender (the "Note").

The Note was executed in conjunction with that certain Construction Loan Agreement between Lender and Borrower effective as of January 16, 2017 (the “Loan Agreement”).

The payment of the Note is secured by the following liens/security interests (the "Liens"): (i) that certain Deed of Trust, Security Agreement & Assignment of Leases and Rents dated January 16, 2017, executed by BKR Memorial II, LLC in favor of Dunham F. Jewett, Trustee for the benefit of Lender recorded at Clerk’s File No. 2017-27800 in the Official Public Records of Real Property of Harris County, Texas on January 17, 2017(the “Deed of Trust”); and, (ii) the liens/security interest perfected by that UCC Financing Statement dated January 16, 2017, given by BKR Memorial II, LLC, as debtor, in favor of Lender, as secured party, filed in the Office of the Texas Secretary of State, File No. 17-0002261049 on January 17, 2017 each covering and/or pertaining to that that certain approximately 3.970 acre tract of land more particularly described on Exhibit A attached to said Deed of Trust lien (the “Original Property”).

Effective on October 1, 2019, an additional 1.051 acre tract of land surrounding two sides of the Original Property was conveyed to Borrower by General Warranty Deed from BKR Memorial Holdco, LLC to BKR Memorial II, LLC recorded at Clerk’s File No. 2019-450892 in the Official Public Records of Real Property of Harris County, Texas (the “Additional Property”). The Additional Property contains certain access drives, easements and utilities benefiting the Original Property.

The Original Property together with the Additional Property is herein referred to as the “Property.”

RP-2020-371460

Borrower and Lender wish to include the Additional Property to the Mortgaged Property (as defined in said Deed of Trust).

The Note was used in connection with the construction of commercial mixed-use (retail, residential and office) improvements upon the Property and the total sum of \$5,011,031.72 was drawn down from the principal available under said Note in accordance with the Loan Agreement.

The Improvements constructed on the Property have been certified to Lender as complete, and Borrower is actively leasing the improvements.

The Deed of Trust, the Financing Statement, together with the Loan Agreement and all other instruments in any way securing the payment of the Note, if any, as each of the foregoing may have been revised, are collectively referred to herein as the "Security Instruments".

In connection with the foregoing transaction, Borrower has requested Lender to modify certain provisions of the Note and the Security Instruments. Subject to the terms of this Agreement, Lender has agreed to make certain modifications to the Note and Security Instruments, all as hereinafter provided. (Unless otherwise specifically defined herein or otherwise specified, capitalized and defined terms herein will have the respective meanings ascribed thereto in the Loan Agreement.)

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises contained herein, including those contained in the Recitals Section, and other good and valuable consideration to be received by each of the parties hereto, the receipt and sufficiency of which are hereby acknowledged and confessed, Borrower and Lender hereby agree as follows:

1. Affirmation of Note and Security Instruments. The Note and the Security Instruments (such terms as used hereinafter being references to the Note and Security Instruments, as modified herein, except as expressly provided otherwise or as the context may otherwise indicate) are hereby ratified and affirmed so that as expressly modified hereby, all of the terms and provisions thereof shall remain in full force and effect. This affirmation shall be without prejudice to Lender's rights at any time in the future to exercise any and all rights conferred upon Lender by the Note and Security Instruments in the event of a future default thereunder, including the right to accelerate the maturity date thereof. Borrower hereby: (a) acknowledges that Borrower is primarily liable for the payment of the indebtedness evidenced by the Note and the performance of the obligations of the maker/grantor/debtor under the Note and the Security Instruments; (b) extends and renews the Note and Security Instruments as provided herein, agreeing that such extension and rearrangement shall not otherwise affect or impair the Note or Security Instruments; and, (c) promises to pay to the order of Lender the indebtedness evidenced by the Note according to the terms thereof as modified hereby.

2. Definition of Land in the Deed of Trust and Loan Agreement. Exhibit A to both the Deed of Trust and Loan Agreement, which describes the Land affected and burdened by the terms and conditions thereof, is hereby substituted and replaced with Exhibits A-1 and A-2 attached to this Agreement (the "Land"). It is the parties' intention that both that certain 3.970 acre tract of land and

that certain 1.051 acre tract of land, both being out of the John Austin Survey, Abst. No. 1, Harris County, Texas be subject to the liens established under the Deed of Trust and the terms and conditions of the Loan Agreement, as modified by this Agreement.

3. Acknowledgment of Outstanding Balance. Lender and Borrower hereby agree that as of the Effective Date, prior to the modification evidenced and made by this Agreement, the outstanding principal balance under the Note is **Four Million, Nine Hundred Seventy-Nine, Nine Hundred Thirty-Six and 19/100 Dollars (\$4,979,936.19)**.

4. Modification of Available Loan Amount. Lender and Borrower hereby agree as of the Effective Date of this Agreement that the maximum amount of **Twenty-Two Million and NO/100 Dollars (\$22,000,000.00)** (the "Modified Loan Amount") is available under the multiple advance credit facility made under the Construction Loan Agreement, as modified by this Agreement.

5. Renewal and Extension of Maturity. The Note and the Liens are hereby renewed and modified so that: the maturity of the Note is hereby modified to **May 26, 2022** (the "Revised Maturity Date").

6. Certification of Completion of Construction. Borrower represents to Lender that the Improvements contemplated by the Loan Agreement are substantially complete and that the conditions for advances relating to the construction of the Improvements under Section 1.1 and 1.2 of the Loan Agreement are satisfied. Attached hereto as **Exhibit B** is Borrower's Architect's Certificate of Substantial Completion of the Improvements.

7. Post-Construction Completion Advances. Borrower is planning an expansion of the Improvements on the Land and is in the process of developing schematics, land planning, plans and specifications for such expansion. Further, the Borrower is presently in a rent stabilization phase of its project and may, from time to time, require additional capital to fund the day-to-day operations of the Property. Therefore, provided Borrower is in compliance with all of the covenants and other requirements of the Note and the Security Instruments, Lender shall make and Borrower shall accept, in installments, disbursements of the Modified Loan Amount, not to exceed the Modified Loan Amount, for purposes of satisfying Property Costs (as later defined herein), but only to the extent that such Property Costs are approved by Lender, such approval not to be unreasonably withheld, conditioned or delayed. Borrower shall provide Lender with notice of any requested advance of a portion of the Modified Loan Amount and Lender shall review and respond to same within ten (10) business days after receipt of any such request.

8. Limitation on Renewal Subsequent to the Revised Maturity Date. **NOTWITHSTANDING ANYTHING HEREIN SEEMINGLY TO THE CONTRARY, ALL AMOUNTS DUE UNDER THE NOTE, PRINCIPAL AND ACCRUED INTEREST, ARE DUE AND PAYABLE ON THE REVISED MATURITY DATE, UNLESS PAYMENTS DUE UNDER THE NOTE ARE DUE AND PAYABLE SOONER PURSUANT TO THE TERMS OF THE NOTE, THE SECURITY INSTRUMENTS, OR THIS AGREEMENT. LENDER IS UNDER NO OBLIGATION TO REFINANCE THE NOTE ON THE REVISED MATURITY DATE. BORROWER**

ACKNOWLEDGES THAT IT MAY, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THAT BORROWER MAY OWN, OR BORROWER MAY HAVE TO FIND A PARTY WILLING TO LEND BORROWER THE AMOUNT THEN OWING ON THE NOTE, WHICH MAY BE LENDER. IF BORROWER REFINANCES THE NOTE AT MATURITY, BORROWER MAY HAVE TO PAY SOME OR ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN, EVEN IF BORROWER OBTAINS REFINANCING FROM LENDER.

9. Interest Rate. From and after the Effective Date, interest will accrue on the principal amount outstanding under the Note (as it may change from time to time) at a varying rate per annum which shall from day to day be equal to the lesser of: (a) the "Maximum Legal Rate" (as hereinafter defined); or (b) the "Base Rate" (as hereinafter defined), **plus one and one-half of one percent (1.50%)**; per **annum**, each such change in the rate of interest charged hereunder to become effective, without notice to Maker, on the effective date of each change in the "Base Rate" (as hereinafter defined) or the Maximum Legal Rate, as the case may be; provided, however, if at any time the rate of interest specified in clause (b) preceding shall exceed the Maximum Legal Rate, thereby causing the interest rate hereon to be limited to the Maximum Legal Rate, then any subsequent reduction in the Base Rate shall not reduce the rate of interest hereon below the Maximum Legal Rate until the total amount of interest accrued hereon equals the amount of interest which would have accrued hereon if the rate specified in clause (b) preceding had at all times been in effect. All past due principal and interest shall bear interest at the Maximum Legal Rate.

INTEREST SHALL BE COMPUTED ON A PER ANNUM BASIS OF A YEAR OF THREE HUNDRED SIXTY (360) DAYS UNLESS "APPLICABLE LAW" (AS HEREINAFTER DEFINED) REQUIRES THAT INTEREST BE COMPUTED ON THE ACTUAL NUMBER OF DAYS ELAPSED, IN WHICH EVENT INTEREST WILL BE COMPUTED ON A PER ANNUM BASIS OF A YEAR OF THREE HUNDRED SIXTY-FIVE (365) DAYS OR THREE HUNDRED SIXTY-SIX (366) DAYS IN A LEAP YEAR, AS THE CASE MAY BE, AND FOR THE ACTUAL NUMBER OF DAYS ELAPSED.

10. Required Payments. From and after the Effective Date, interest shall be due and payable quarterly as it accrues, on the first day of each and every calendar quarter beginning on April 1, 2020, and continuing regularly thereafter until the **Revised Maturity Date**, at which time all amounts outstanding under the Note, principal and accrued interest, will be due and payable. If by application of the foregoing a payment is due on a day on which Lender is not open for business, the payment will be due and payable on the next succeeding day on which Lender is open for business.

Notwithstanding the foregoing, if not sooner paid pursuant to the payment terms hereof, all amounts outstanding under the Note will be due and payable on the Revised Maturity Date.

11. Prepayment. All or any part of the principal hereof may be prepaid at any time without payment of any penalty or premium.

12. Definitions. As used in this Agreement, the following terms shall have the respective meanings indicated below:

“Applicable Law” means that law in effect from time to time and applicable to the Note which lawfully permits the charging and collection of the highest permissible lawful nonusurious rate of interest on the Note, including laws of the State of Texas and laws of the United States of America. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving tri-party accounts) apply to the loan evidenced hereby.

“Base Rate” means the LIBOR Daily Floating Rate, which is a fluctuating rate of interest which can change on each banking day. The rate will be adjusted on each banking day to equal the London Interbank Offered Rate (or a comparable successor rate which is approved by the Bank) for U.S. Dollar deposits for delivery on the date in question for a one-month term beginning on that date. Lender will use the London Interbank Offered Rate as published by Bloomberg (or other commercially available source providing quotations of such rate as selected by Lender from time to time) as determined at approximately 11:00 a.m. London time two (2) London Banking Days prior to the date in question, as adjusted from time to time in Lender’s sole discretion for reserve requirements, deposit insurance, assessment rates and other regulatory costs. If such rate is not available at such time for any reason, then the rate will be determined by such alternate method as reasonably selected by Lender. A “London Banking Day” is a day on which banks in London are open for business and dealing in offshore dollars. If at any time the LIBOR Daily Floating Rate is less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Maximum Legal Rate” means, at any time, the maximum rate of interest under applicable law that the Lender may charge Borrower. The Maximum Legal Rate shall be calculated in a manner that takes into account any and all fees, payments, and other charges in respect of the Note and the Security Instruments that constitute interest under applicable law. Each change in any interest rate provided for herein based upon the Maximum Legal Rate resulting from a change in the Maximum Legal Rate shall take effect without notice to the Borrower at the time of such change in the Maximum Legal Rate. For purposes of determining the Maximum Legal Rate under Texas law, the applicable rate ceiling shall be the weekly rate ceiling described in, and computed in accordance with, Chapter 303, Subchapter A, of the Texas Finance Code.

“Property Costs” means: (i) all third party costs incurred in connection with the planning, design and engineering of the expansion of the Improvements; (ii) interest expenses on the Note; (iii) management expenses directly associated with the Property; (iv) bookkeeping, accounting and external and internal audit costs and reasonable attorneys’ fees applicable to the Property (v) wages and

salaries of all employees engaged in the operation, maintenance, cleaning or access control of the Property, (vi) the costs of all supplies, tools, equipment and materials used in the operation and maintenance of the Property, maintenance and repairs (whether capital or non-capital) to the Improvements and Property (viii) all utility expenses associated with the Property, not paid for under the terms of any tenant leases; (ix) costs of all costs of all maintenance and service agreements associated with the Property, including but not limited to window cleaning, access control, elevator/escalator maintenance, janitorial services, HVAC servicing, water treatment, pool and spa maintenance, fire safety, sprinkler systems, pest control, and landscaping; (x) insurance costs (casualty and liability, business interruption, umbrella, flood and other types of policies); (xi) *ad valorem* taxes and other assessments or governmental charges levied against the Property; (xii) leasing expenses directly associated with the Property, including but not limited to, brokerage fees, space planning costs, tenant improvement costs; (xiii) costs of collecting delinquent rents and/or evictions; and (xiv) all other reasonable expenses directly related to the operation, maintenance, repair, and leasing of the Property.

13. (a) Usury. No provisions of this Agreement, the Note, the Security Instruments, or any other instrument evidencing or securing the Note, or otherwise relating to the indebtedness evidenced by the Note, shall require the payment or permit the collection, application or receipt of interest in excess of the maximum permitted by applicable state or federal law. If any excess of interest in such respect is herein or in any such other instrument provided for, or shall be adjudicated to be so provided for herein or in any such instrument, the provisions of this paragraph shall govern, and neither Borrower nor any endorsers of the Note nor their respective heirs, personal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent it is in excess of the amount permitted by applicable law. It is expressly stipulated and agreed to be the intent of Borrower and Lender to at all times comply with the usury and other laws relating to the Note and the Security Instruments and any subsequent revisions, repeals, or judicial interpretations thereof, to the extent applicable thereto. In the event Lender or other holder of the Note ever receives, collects or applies as interest any such excess, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of the Note and if the principal balance of the Note is paid in full, any remaining excess shall be forthwith paid to Borrower and the provisions of the Note and the Security Instruments shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of execution of any new documents, so as to comply with the then applicable law, but so as to permit the recovery of the fullest amount otherwise called for thereunder. In determining whether or not the interest paid or payable under any specific contingency exceeds the maximum interest allowed to be charged by applicable law, Borrower and Lender or other holder hereof shall, to the maximum extent permitted under applicable law, amortize, prorate, allocate and spread the total amount of interest throughout the entire time of the Note so that the amount or rate of interest charged for any and all periods of time during the term of the Note is to the greatest extent possible less than the maximum amount or rate of interest allowed to be charged by law during the relevant period of time. Notwithstanding any of the foregoing, if at any time applicable laws shall be changed so as to permit a higher rate or amount of interest to be charged than that permitted prior to such change, then unless prohibited by law, references in the Note to "applicable law" for purposes of

determining the maximum interest or rate of interest that can be charged shall be deemed to refer to such applicable law as so amended to allow the greater amount or rate of interest.

(b) Release and Waiver of Usury Claims. In consideration of the benefits received by Borrower hereunder, Borrower hereby waives, releases and terminates all claims, or right to claim, whether known or unknown, that Lender has charged, collected or received usurious interest under the Note or any Security Instrument, and hereby waives and releases any right or power to bring any claim against Lender for usury or to pursue any cause of action against Lender based on any claim of usury.

14. Release and Waiver of Other Claims. In consideration of (i) the modification of certain provisions of the Note and Security Instruments, all as herein provided, and (ii) the other benefits received by Borrower hereunder, Borrower hereby RELEASES, RELINQUISHES and forever DISCHARGES Lender, as well as its successors, assigns, agents, officers, directors, employees and representatives, of and from any and all claims, demands, actions and causes of action of any and every kind or character, whether known or unknown, present or future, which Borrower may have against Lender, and its successors, assigns, agents, officers, directors, employees and representatives, arising out of or with respect to any and all transactions relating to the Note and the Security Instruments, including any loss, cost or damage, of any kind or character, arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of Lender, and its successors, assigns, agents, officers, directors, employees and representatives, and any breach of fiduciary duty, breach of any duty of fair dealing, breach of confidence, breach of funding commitment, undue influence, duress, economic coercion, conflict of interest, negligence, bad faith, malpractice, violations of the Racketeer Influenced and Corrupt Organizations Act, intentional or negligent infliction of mental distress, tortious interference with contractual relations, tortious interference with corporate governance or prospective business advantage, breach of contract, deceptive trade practices, libel, slander, conspiracy or any claim for wrongfully accelerating the Note or wrongfully attempting to foreclose on any collateral relating to the Note, but in each case only to the extent permitted by applicable law.

15. Addresses for Notices. The address of the parties for purposes of any notices required by the Note or Security Instruments shall, as of the Effective Date, be as follows:

Borrower: BKR Memorial II, LLC
100 Waugh, Suite 400
Houston, Texas 77007

Lender: Elk Mountain, Ltd.
100 Waugh, Suite 400
Houston, Texas 77007

16. Miscellaneous.

(a) As modified hereby, the liens of the Security Instruments shall continue in full force and effect, and Borrower acknowledges and reaffirms its liability to Lender thereunder.

(b) Borrower hereby agrees to pay all costs and expenses incurred by Lender in connection with the execution and administration of this Agreement, the Note, the Security Instruments, and any other documents executed in connection herewith, including, but not necessarily limited to, the cost for an updated survey, if required by Lender, and the premium for a mortgagee title policy or endorsement, or binder or extension, with respect to the lien(s) extended hereby.

(c) Any default by Borrower in the performance of its obligations herein contained shall constitute a default under the Note and the Security Instruments, and shall allow Lender to exercise all of its remedies set forth in the Note and the Security Instruments.

(d) Except to the extent expressly provided in this Agreement, Lender does not, by its execution of this Agreement, waive any rights it may have against any person not a party hereto.

(e) VENUE FOR ANY DISPUTE ARISING HEREUNDER WILL BE PROPER IN THE APPROPRIATE FORUM OF **HARRIS COUNTY, TEXAS**. TO THE EXTENT ALLOWED BY LAW, AT THE ELECTION OF LENDER, ANY SUCH DISPUTE MAY BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES PROMULGATED BY THE AMERICAN ARBITRATION ASSOCIATION AND, TO THE EXTENT NOT INCONSISTENT THEREWITH, THE FEDERAL ARBITRATION ACT.

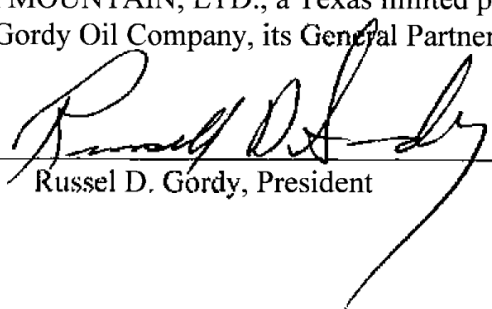
(f) Any notices required or permitted under this Agreement, the Note, or any of the Security Instruments shall be given to the Borrower or Lender, as applicable, at their respective addresses as set forth hereinabove. Such notices will be effective when actually received, regardless of the method of delivery, and, if not sooner received, will be effective on the third (3rd) calendar day after being mailed by certified mail, return receipt requested, to the address of the party for whom intended as set forth hereinabove.

(g) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original for all intents and purposes, and when taken together, shall constitute one and the same instrument.

EXECUTED on the 27th day of April, 2020, but effective as of the Effective Date.

LENDER:

ELK MOUNTAIN, LTD., a Texas limited partnership
By: Gordy Oil Company, its General Partner

By: 
Russel D. Gordy, President

RP-2020-371460

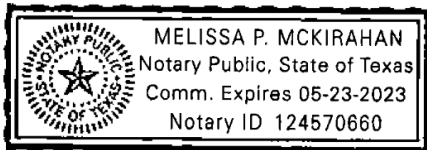
BORROWER:

BKR MEMORIAL II, LLC, a Texas limited liability company

By: Sharin A. Scott
Sharin A. Scott, Manager

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 27th day of April, 2020 by Russell D. Gordy, President of Gordy Oil Company, a Texas corporation, sole general partner to Elk Mountain, Ltd., a Texas limited partnership, for and on behalf of said limited partnership.



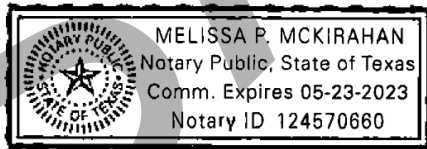
Melissa P. Mckirahan
Notary Public in and for the State of Texas

Printed Name: Melissa P. Mckirahan

My Commission Expires: 5.23.23

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 27th day of April, 2020 by Sharin A. Scott, Manager of BKR Memorial II, LLC, a Texas limited liability company, on behalf of said limited liability company.



Melissa P. Mckirahan
Notary Public in and for the State of Texas

Printed Name: Melissa P. Mckirahan

My Commission Expires: 5.23.23

RP-2020-371460

AFTER RECORDING RETURN TO:

Leigh Ann Rhodes-Zittrier
Cradly Jewett McCulley & Houren LLP
2727 Allen Parkway, Suite 1700
Houston, TX 77019-2125

RP-2020-371460

SAMPLE

Exhibit A-1
[Legal of 3.970 acre tract]

RP-2020-371460

SAMPLE

DESCRIPTION OF A 3.970 ACRE TRACT OF LAND SITUATED
IN THE JOHN AUSTIN SURVEY, ABSTRACT NO. 1
CITY OF HOUSTON
HARRIS COUNTY, TEXAS

BEING a 3.970 acre (172,941 square foot) tract of land situated in the John Austin Survey, Abstract No. 1 of Harris County, Texas and being a portion of Unrestricted Reserve "A" of MEMORIAL HEIGHTS RE-DEVELOPMENT, a subdivision per plat recorded under Film Code No. 628202 of the Harris County Map Records (H.C.M.R.), said 3.970 acre tract of land being more particularly described by notes and bounds as follows:

COMMENCING at a 5/8-inch iron rod with cap stamped "Thomas 1494 5736" found for the northwest corner of a called 4.911 acre tract of land as described in a deed to Archstone Memorial Heights Villages I L.L.C, recorded under Harris County Clerk's File (H.C.C.F.) Number 20120232046, and lying on the east right-of-way line of South Heights Boulevard (width varies) as shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT;

THENCE, N02°34'00" W, a distance of 43.18 along and with said east right-of-way line to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the southwest corner and POINT OF BEGINNING of the herein described tract;

THENCE, N 02°34'00" W, a distance of 413.38 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a tangent curve to the right, being the south end of a radial return at the southeast intersection of said South Heights Boulevard and Washington Avenue (width varies) recorded in Volume R, Page 310 of the Harris County Deed Records (H.C.D.R.) and as shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT;

THENCE, in a Northeastly direction, along said curve to the right, a distance of 42.26 feet, having a radius of 25.00 feet, a central angle of 96°50'34" and a chord which bears N 45°51'17" E, 37.40 feet to the point of tangency and from which a found 5/8-inch iron rod bears N 11°16' E, 0.41 feet;

THENCE, along and with the south right-of-way line of said Washington Avenue the following courses and distances:

S 85°43'26" E, a distance of 322.46 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S 77°59'33" E, a distance of 53.59 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S 85°52'27" E, a distance of 33.51 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the northeast corner of the herein described tract;

THENCE, S 04°58'45" W, a distance of 402.47 feet over and across said Unrestricted Reserve "A" to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the southeast corner of the herein described tract;

THENCE, S 89°55'49" W, a distance of 380.79 feet continuing over and across said Unrestricted Reserve "A" to the POINT OF BEGINNING and containing 3.970 acres (172,941 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.

Exhibit A-1

Exhibit A-2
[Legal of 1.051 acre tract]

RP-2020-371460

SAMPLE

BUFFALO HEIGHTS
1.051 ACRES

DECEMBER 20, 2018
JOB NO. 3977-02

DESCRIPTION OF A 1.051 ACRE TRACT OF LAND SITUATED
IN THE JOHN AUSTIN SURVEY, ABSTRACT NO. 1
CITY OF HOUSTON
HARRIS COUNTY, TEXAS

BEING a 1.051 acres (45,797 square foot) tract of land situated in the John Austin Survey, Abstract No. 1 of Harris County, Texas and being a portion of a called 5.009 acre tract of land described in an instrument to BKR Memorial II, LLC recorded under Harris County Clerk's File Number (H.C.C.F. No.) RP-2016-229630, and also a portion of Unrestricted Reserve "A" of MEMORIAL HEIGHTS RE-DEVELOPMENT, a subdivision per plat recorded under Film Code No. 628202 of the Harris County Map Records (H.C.M.R.), said 1.051 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch iron pipe with cap stamped "Brown & Gay" found for the beginning of a tangent curve to the right, being the southerly end of a radial return at the southeast intersection of South Heights Boulevard (width varies) as shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT and Washington Avenue (width varies) recorded in Volume R, Page 310 of the Harris County Deed Records (H.C.D.R.) and also shown on the recorded plat of said MEMORIAL HEIGHTS RE-DEVELOPMENT, also being the most westerly northwest corner of said 5.009 acre tract;

THENCE, in a Northeasterly direction, along said curve to the right, a distance of 42.26 feet, having a radius of 25.00 feet, a central angle of $96^{\circ}50'34''$ and a chord which bears $N 45^{\circ}51'17'' E$, 37.40 feet to the point of tangency and from which a found 5/8-inch iron rod bears $N 11^{\circ}16' E$, 0.41 feet;

THENCE, along and with the south right-of-way line of said Washington Avenue, same being the common north line of said 5.009 acre tract and said Unrestricted Reserve "A", the following courses and distances:

S $85^{\circ}43'26'' E$, a distance of 322.46 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S $77^{\circ}59'33'' E$, a distance of 53.59 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an angle point;

S $85^{\circ}52'27'' E$, a distance of 31.17 feet to the POINT OF BEGINNING and northwest corner of the herein described tract;

THENCE, S $85^{\circ}52'27'' E$, at a distance of 2.34 feet passing a 5/8-inch iron rod with cap stamped "Brown & Gay", continuing along and with said south right-of-way line, and over and across said Unrestricted Reserve "A" for a total distance of 159.67 feet to the common northeast corner of said 5.009 acre tract and the herein described tract;

THENCE, continuing over and across said Unrestricted Reserve "A", the following courses and distances:

S $04^{\circ}07'33'' W$, a distance of 46.00 feet to the common southeast corner of the herein described tract;

Exhibit A-2

RP-2020-371460

BUFFALO HEIGHTS
1.051 ACRES

DECEMBER 20, 2018
JOB NO. 3977-02

N 85°52'27" W, a distance of 129.05 feet to an interior corner of the herein described tract;

S 02°34'00" E, a distance of 396.56 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" found for the southeast corner of the herein described tract, lying on the north line of a called 4.911 acre tract of land as described in a deed to Arohstone Memorial Heights Villages I LLC, recorded under Harris County Clerk's File (H.C.C.P.) Number 20120232046;

THENCE, along and with the north line of said 4.911 acre tract, the following courses and distances:

N 89°55'29" W, a distance of 430.77 feet to a 5/8-inch iron rod with cap stamped "Thomas 1494 5736" found for the beginning of a tangent curve to the left;

In a Westerly direction, along said curve to the left, a distance of 4.61 feet, having a radius of 100.00 feet, a central angle of 02°38'31" and a chord which bears S 88°45'15" W, 4.61 feet to a 5/8-inch iron rod with cap stamped "Thomas 1494 5736" found for the point of tangency;

S 87°26'00" W, a distance of 21.08 feet to a 5/8-inch iron rod with cap stamped "Thomas 1494 5736" found for the northwest corner of said called 4.911 acre tract and being the southwest corner of the herein described tract lying on the east right-of-way line of said South Heights Boulevard, same being the west line of said Unrestricted Reserve "A";

THENCE, N 02°34'00" W, a distance of 43.18 feet along and with said east right-of-way, same being the common west line of said Unrestricted Reserve "A" and said 5.009 acre tract to the most westerly northwest corner of the herein described tract;

THENCE, N 89°55'49" E, a distance of 302.74 feet over and across said Unrestricted Reserve "A" to a point for corner;

THENCE, S 83°40'58" E, a distance of 75.74 feet over and across said Unrestricted Reserve "A" to a point for an interior corner of the herein described tract;

THENCE, N 04°56'06" E, a distance of 411.07 feet over and across said Unrestricted Reserve "A" and said 5.009 acre tract to the POINT OF BEGINNING and containing 1.051 acres (45,797 square feet) of land.

Exhibit A-2

RP-2020-371460

Exhibit B
Architect's Certificate of Completion

RP-2020-371460

SAMPLE



AIA Document G704™ – 2017

Certificate of Substantial Completion

PROJECT: <i>(name and address)</i> Buffalo Heights- Phase I 3663 Washington Ave. Houston TX, 77007	CONTRACT INFORMATION: Contract For: General Construction Date: July 26, 2017	CERTIFICATE INFORMATION: Certificate Number: 007 Date: October 21, 2019
OWNER: <i>(name and address)</i> BKR Memorial II, LLC 100 Waugh Dr., Suite 400 Houston, TX 77007	ARCHITECT: <i>(name and address)</i> Ziegler Cooper, Inc 700 Louisiana Suite 350 Houston, TX 77002	CONTRACTOR: <i>(name and address)</i> Arch-Con Corporation 1335 West Gray, Suite 210 Houston, TX 77019

The Work identified below has been reviewed and found, to the Architect's best knowledge, information, and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion designated below is the date established by this Certificate.

(Identify the Work, or portion thereof, that is substantially complete.)

Entire Building & Site Substantial Completion

<u>Ziegler Cooper, Inc.</u> ARCHITECT <i>(Firm Name)</i>	 SIGNATURE	<u>Jim Zemski, Sr. Principal</u> PRINTED NAME AND TITLE	<u>October 21, 2019</u> DATE OF SUBSTANTIAL COMPLETION
-------------------------------------------------------------	---------------	------------------------------------------------------------	-----------------------------------------------------------

WARRANTIES

The date of Substantial Completion of the Project or portion designated above is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

(Identify warranties that do not commence on the date of Substantial Completion, if any, and indicate their date of commencement.)

October 21, 2019

WORK TO BE COMPLETED OR CORRECTED

A list of items to be completed or corrected is attached hereto, or transmitted as agreed upon by the parties, and identified as follows:
(Identify the list of Work to be completed or corrected.)

- ZCA SC Punchlist
- Midway SC Punchlist
- Arch-Con SC Punchlist
- KW Punchlist
- BGE Punchlist
- Fire Sprinkler 3rd Party Report

The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment, whichever occurs first. The Contractor will complete or correct the Work on the list of items attached hereto within 30 (Thirty) days from the above date of Substantial Completion.

Cost estimate of Work to be completed or corrected: \$4,100.00

The responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work, insurance, and other items identified below shall be as follows:

(Note: Owner's and Contractor's legal and insurance counsel should review insurance requirements and coverage.)

The Owner and Contractor hereby accept the responsibilities assigned to them in this Certificate of Substantial Completion:

RP-2020-371460

Arch-Low Corporation
CONTRACTOR (Firm Name)

Michael Vaughn
SIGNATURE

Michael Vaughn SR
PRINTED NAME AND TITLE

10-24-19
DATE

BKR Memorial II LLC
OWNER (Firm Name)

Sharon A Scott
SIGNATURE

Sharon A Scott
manager
PRINTED NAME AND TITLE

10/25/19
DATE

RP-2020-371460

SAMPLE

RP-2020-371460
Pages 19
08/13/2020 02:34 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
CHRIS HOLLINS
COUNTY CLERK
Fees \$86.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2020-371460

JUDGMENTS, UCC, AND LIENS EXHIBIT

SAMPLE



2
LAPPT
2

**NOTICE: THIS IS NOT A LIEN.
THIS IS ONLY AN AFFIDAVIT CLAIMING A LIEN.**

AFFIDAVIT FOR MECHANIC'S AND MATERIAL MAN'S LIEN

State of Texas §

County of Harris §

Kimberly Fenner, on behalf of Timber Mark LLC, d/b/a Timber Mark Cabinetry appeared personally before me, the undersigned authority, and upon oath, deposed and stated:

My name is Kimberly Fenner, I am the office manager for Timber Mark LLC d/b/a Timber Mark Cabinetry, which is referred to in this affidavit as "Claimant". I have personal knowledge of the facts set forth below and am competent and authorized to make this affidavit.

Pursuant to a contract with Arch-Con Corporation, (the "Contractor"), located at 1335 West Gray, Suite 300, Houston, Texas 77019, Claimant furnished labor and materials to improve real property located at 201 S. Heights Boulevard, Houston, Texas 77007; commonly known or referred to as Buffalo Heights (the "Property"). The Contractor represented that the Owner of the Property approved the contract wherein Claimant was to supply all labor, materials, and equipment necessary to provide and install new cabinets and countertops at the Property. Claimant furnished materials and completed all such work in accordance with the contract in the following months: December 2018 - June 2020. A notice of claim was sent to the Contractor and Owner(s) on August 3, 2020.

The Owner(s) of the Property and the improvements thereon are believed to be BKR Memorial, LLC and/or BKR Memorial II, LLC, located at 100 Waugh Drive, Suite 400, Houston, Texas 77007.

After allowing all just credits and offsets, the amount of ONE HUNDRED AND ONE THOUSAND SEVEN HUNDRED SIXTY-ONE AND 46/100 (\$101,761.46) DOLLARS remains unpaid and is due and owing under the contract.

Claimant claims a lien against the Property and improvements thereon in the amount as stated above, pursuant to Chapter 53 of the Property Code of the State of Texas, and makes this sworn statement of claim in support thereof.

Claimant also claims a first lien on all removables and claims a Constitutional mechanic's and materialman's lien to the extent Claimant is deemed an original contractor.

The legal description of the Property is:

RES A BLK 1
MEMORIAL HEIGHTS RE-DEVELOPMENT

HARRIS COUNTY CLERK
HARRIS COUNTY TEXAS

2020 OCT 14 PM 4:34
AFTER HOURS FILING

(3)
lll
lll

RP-2020-496116

CLAIMANT:

Timber Mark LLC d/b/a
Timber Mark Cabinetry
3807 Oakland Circle
Missouri City, Texas 77459

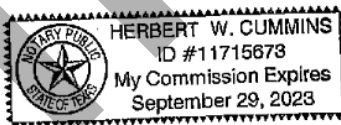
20

By: *Kimberly Fenner*
KIMBERLY FENNER

Subscribed and sworn to before me on this the 14th day of October 2020.

Herbert W. Cummins
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

[Seal]



Upon Filing Please Return to:

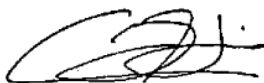
Mark Rubal ✓
Waldron & Schneider, LLP
15150 Middlebrook Drive
Houston, Texas 77058
(281) 488-4438 Telephone
(281) 488-4597 Telefax
Attorneys for Claimant

RP-2020-496116

FILED FOR RECORD

8:00:00 AM

Thursday, October 15, 2020



COUNTY CLERK, HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED; in the Official Public Records of Real Property of Harris County Texas

Thursday, October 15, 2020



COUNTY CLERK
HARRIS COUNTY, TEXAS



RP-2020-496116

**AFFIDAVIT FOR MECHANICS' AND MATERIALSMENS' LIEN AND
CONSTITUTIONAL LIEN**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, personally appeared Brian Hebert, who, under oath, stated the following:

1. "I am the CFO of Trio Electric, LLC ("Claimant"). I have personal knowledge of the facts set forth below, and I am competent and authorized to make this affidavit on behalf of Claimant.

2. Claimant's address is 11413 Todd St.

3. The real property and improvements thereon sought to be charged with a lien by Claimant is the real property and improvements known as the Misc. Service project, located at 3663 Washington Ave, Houston, TX Harris County, Texas, Misc. Service (Project), and/or being more specifically as:

Misc. Service work

4. Pursuant to an agreement between Claimant and BKR Memorial II, LLC, Claimant furnished materials and labor, including, but not limited to electrical, for the construction and/or improvements at Misc. Service Work Project.

5. The owner, or reputed owner, of the above-described real property and improvements located therein is BKR Memorial II, LLC, whose last known address is 800 Town & Country Blvd Ste 200, Houston, TX 77024 .

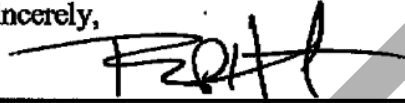
6. Claimant is the original contractor for the improvements for which a lien is claimed.

7. After allowing all just credits, offsets, and payments, the amount of **\$5,210.07** remains unpaid and is due and owing to Claimant. Claimant hereby asserts a lien on the above-described property and improvements under the provisions of TEXAS PROPERTY CODE § 53.001 *et seq.* to secure payment of said amount.

8. Claimant claims a constitutional lien on such property and improvements pursuant to the provisions of Article 16, Section 37 of the TEXAS CONSTITUTION

RP-2022-82732

Sincerely,



Brian Hebert-CFO
of Trio Electric, LLC

THE STATE OF TEXAS

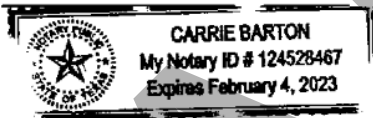
§
§
§

COUNTY OF HARRIS

BEFORE ME the undersigned authority on the 15th day of February 2022 personally appeared Brian Hebert, CFO, on behalf of said limited partnership, who stated that he is an authorized representative of Trio Electric, LLC and that the information contained herein is within his knowledge and is true and correct. This document has been ACKNOWLEDGED, SIGNED AND SWORN TO before me as indicated herein.



NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



RP-2022-82732

SAMPLE

After Recording Return To:
Trio Electric, LLC
11413 Todd St.
Houston, TX 77055

RP-2022-82732

SAMPLE

RP-2022-82732
Pages 4
02/15/2022 01:44 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
TENESHIA HUDSPETH
COUNTY CLERK
Fees \$26.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Teneshia Hudspeth
COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2022-82732