


TREASURER'S USE ONLY	RECORDER'S USE ONLY
<p>Real Estate Excise Tax Exempt Kittitas County Treasurer By <u>Almit</u> Affidavit No. <u>2009-1420</u> Date: <u>10-16-09</u></p>	<p>10/16/2009 04:23:02 PM \$70.00 Miscellaneous Deed SLOTHOWER Kittitas County Auditor 200910160036 Page 1 of 9</p> 

AFTER RECORDING RETURN TO:

Jeff Slothower
LATHROP, WINBAUER, HARREL,
SLOTHOWER & DENISON, LLP
P.O. Box 1088
Ellensburg, WA 98926

Document Title: DEED IN LIEU OF FORECLOSURE

Grantor: STARLITE RESORTS, LLC, a Washington Limited Liability Company

Grantee: BOULDER CREEK ENTERPRISES, INC., a Washington corporation

Legal Descriptions: Section 34, Township 21N, Range 14E, W.M., Ptn NE Quarter of NW Quarter

Assessor's Parcel No: 21-14-34021-0001 (076935); 21-14-34021-0002 (086935); 21-14-34021-0003 (096935)
761836

Reference No. Docs: 200502070006

DEED IN LIEU OF FORECLOSURE

THIS AGREEMENT is made and entered into this 12th day of OCTOBER, 2009, by STARLITE RESORTS, LLC, a Washington Limited Liability Company, Grantor (hereinafter "Grantor") and BOULDER CREEK ENTERPRISES, INC., a Washington corporation, Beneficiary (hereinafter "Grantee").

RECITALS:

A. Grantor made and entered into with Beneficiary a Promissory Note (hereinafter referred to as the "Note") together with a respective Deed of Trust (hereinafter the "Deed of Trust") dated January 31, 2005 and recorded under Kittitas County Auditor's File No. 200502070006 securing the Note and granting to Beneficiary real property security interests in certain real properties situated in Kittitas County, Washington (hereinafter collectively the "Real Property"), all of which are more fully set forth as follows:

[Faint stamp: Kittitas County Auditor]

PARCEL 1:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 21 North, Range 14 East, W.M., in the County of Kittitas, State of Washington, which is bounded by a line described as follows:

Beginning at the North quarter corner of said Section 34, thence North 89°57'40" West, 706.01 feet, along the North line of said section to a point on the East right of way line of the County road; thence South 30°32'00" East, 356 feet to the true point of beginning; thence North 59°28'00" East, 180 feet; thence South 30°32'00" East, 344.00 feet; thence South 59°28'00" West, 180 feet; thence North 30°32'00" West, along the East right of way line of the County Road, 344 feet to the true point of beginning.

PARCEL 2:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 21 North, Range 14 East, W.M., in the County of Kittitas, State of Washington, which is bounded by a line, described as follows:

Beginning at the North quarter corner of said Section 34; thence North 89°57'40" West, 706.01 feet along the North line of said section to a point on the East right of way line of the county road; thence South 30°32'00" East, 356 feet; thence North 59°28'00" East, 180 feet; thence South 30°32'00" East, 344.00 feet; thence North 59°28'00" East, 226.36 feet to the East line of the Northeast Quarter of the Northwest Quarter of said Section 34; thence North 0°04'40" East, 396.37 feet to the point of beginning.

PARCEL 3:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 21 North, Range 14 East, W.M., County of Kittitas, State of Washington, which is bounded by a line described as follows:

Beginning at the North quarter corner of said Section 34, thence North 89°57'40" West 706.01 feet, along the North line of said section to a point on the East right of way line of the County Road; thence South 30°32'00" East, 700 feet, to the true point of beginning; thence North 59°28'00" East, 408.36 feet to the East line of the Northeast Quarter of the Northwest Quarter of said Section 34; thence South 0°04'40" West, along said East line 798.03 feet to the intersection with the North right of way line of the County Road; thence North 30°32'00" West, along the said North right of way line 686.82 feet to the true point of beginning.

B. Grantor has defaulted on its obligations under the Deed of Trust and Note by its failure to pay the amounts owing thereunder and to otherwise fully perform and keep all obligations under the Note and Deed of Trust required by the terms thereof, which default includes Grantor's failure to pay real estate taxes assessed on the Property for the second half of tax year 2008 and for tax year 2009.

C. Grantor cannot perform their respective obligations under the Deed of Trust or Note.

D. Grantor desires to avoid or limit their respective exposure to liabilities and obligations as Grantor under said Deed of Trust and Note, and, toward that end, Grantor is willing to relinquish and surrender all of its right, title and interest in and to the Real Property and Deed of Trust and to the any and all personal property currently located on the Real Property, if any, (the "Personal Property").

E. Beneficiary is willing to allow Grantor the accommodations set forth herein in consideration for Grantor relinquishing and surrendering all of its right, title and interest in and to the Real Property and Deed of Trust and

to the Personal Property, specifically including the forfeiture of all consideration previously paid or performed by Grantor under said Deed of Trust, or any of them.

F. The Deed of Trust and Note each specifically provide that time is of the essence thereof and in the event that Grantor fails to make any payment or perform any covenant or condition of said Deed of Trust or Note, that Beneficiary shall have, in addition to other remedies, the right to foreclose and terminate Grantor's interest and rights under said Deed of Trust and to the Real Property and the Personal Property, including forfeiture of all money previously paid under said Note.

DEED AND AGREEMENT

In consideration of the mutual covenants and agreements herein set forth and other valuable consideration, receipt of which is hereby acknowledged, the parties hereby convey, covenant, warrant and agree as follows:

1. STARLITE RESORTS, LLC, a Washington limited liability company, as Grantor, transfers, conveys and quit claims to BOULDER CREEK ENTERPRISES, INC., a Washington corporation, all of its right, title and interest, including all after-acquired title, and all of its right and equity of redemption established by law and equity, in, under and to the Deed of Trust and the Real Property, legally described as follows:

PARCEL 1:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 21 North, Range 14 East, W.M., in the County of Kittitas, State of Washington, which is bounded by a line described as follows:

Beginning at the North quarter corner of said Section 34, thence North 89°57'40" West, 706.01 feet, along the North line of said section to a point on the East right of way line of the County road; thence South 30°32'00" East, 356 feet to the true point of beginning; thence North 59°28'00" East, 180 feet; thence South 30°32'00" East, 344.00 feet; thence South 59°28'00" West, 180 feet; thence North 30°32'00" West, along the East right of way line of the County Road, 344 feet to the true point of beginning.

PARCEL 2:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 21 North, Range 14 East, W.M., in the County of Kittitas, State of Washington, which is bounded by a line, described as follows:

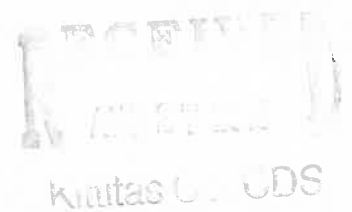
Beginning at the North quarter corner of said Section 34; thence North 89°57'40" West, 706.01 feet along the North line of said section to a point on the East right of way line of the county road; thence South 30°32'00" East, 356 feet; thence North 59°28'00" East, 180 feet; thence South 30°32'00" East, 344.00 feet; thence North 59°28'00" East, 226.38 feet to the East line of the Northeast Quarter of the Northwest Quarter of said Section 34; thence North 0°04'40" East, 396.37 feet to the point of beginning.

PARCEL 3:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 21 North, Range 14 East, W.M., County of Kittitas, State of Washington, which is bounded by a line described as follows:

Beginning at the North quarter corner of said Section 34, thence North 89°57'40" West 706.01 feet, along the North line of said section to a point on the East right of way line of the County Road; thence South 30°32'00" East, 700 feet, to the true point of beginning; thence North 59°28'00" East, 406.36 feet to the East line of the Northeast Quarter of the Northwest Quarter of said Section 34; thence South 89°04'40" West, along said East line 798.03 feet to the intersection with the North right of way line of the County Road; thence North 30°32'00" West, along the said North right of way line 886.82 feet to the true point of beginning.

TOGETHER WITH any and all, if any, personal property located in, on or about



the real property, improvements and premises described above and including that personal property identified on Exhibit A attached hereto and incorporated herein by reference.

TOGETHER WITH all existing, erected, or affixed buildings, improvements, and fixtures; all easements, rights of way, and appurtenances; all water, water rights, and ditch rights, including stock in utilities with ditch or irrigation rights; and all other rights, royalties and profits relating to the real property, including without limitation, all mineral, oil, gas, geothermal, and similar matters.

(Hereinafter collectively referred to as the "Property").

2. Grantor hereby acknowledges and warrants as follows:

- (a) That all of its rights, title and interest in the Real Property and Personal Property are hereby terminated;
- (b) That Grantor's rights under the Deed of Trust, and each of them, are hereby terminated;
- (c) That all sums previously paid under the Deed of Trust, or any of them, and all other consideration given by it under said Deed of Trust, and/or Note shall belong to and be retained by Beneficiary; and
- (d) That Grantor will pay the sum of \$14,356.40 to Grantee to be applied to the outstanding real estate taxes currently owed on the Property; and
- (e) That all improvements made to all of the above-described Real and Personal Property shall belong to Beneficiary.

3. Grantor hereby peacefully delivers and surrenders possession of the Real Property, together with all improvements and together with all Personal Property to Beneficiary contemporaneously with the execution of this deed and agreement.

4. Grantor acknowledges that it has been advised of the following:

- (a) The nature of the defaults on the Note and Deed of Trust;
- (b) Their right to cure the defaults on said Note and Deed of Trust Agreement; and
- (c) That by curing said defaults, Grantor's rights under said Note and Deed of Trust will be reinstated.

5. Grantor acknowledges and represents that it has consulted with such legal and financial advisors as they deem prudent prior to executing this deed and agreement.

6. Grantor's conveyance and transfer of the Real Property and Personal Property is made absolutely and free of any right of redemption or other right or interest in and to the Real Property and the Deed of Trust, and any of them. Grantor's conveyance and transfer of the Real Property and its relinquishment of its rights under said Deed of Trust is not intended as nor shall it constitute a Mortgage, Deed of Trust, trust conveyance or security interest or right to reacquire of any kind. Grantor's conveyance and transfer of the Personal Property is made absolutely and free of any right of redemption or any other right or interest in and to the Personal Property.

7. Grantor has executed and delivered this deed and agreement conveying and transferring the Real Property and Personal Property and terminating its interest in the subject Deed of Trust in good faith and without duress or undue influence from any party. Grantor's conveyance and transfer of the Real Property and Personal Property and relinquishment of its rights under the Deed of Trust are not intended to hinder or delay any person or entity to which Grantor is now or shall hereafter become indebted.

8. The Grantor believes that the deferred balance owing on said Note secured by said Deed of Trust



equals or exceeds the fair market value of the Real Property and Personal Property as of the date of this deed.

9. Grantor's conveyance and transfer of the Real Property and Personal Property to Beneficiary and the relinquishment of its rights in the subject Deed of Trust is not intended to be a preferential transfer against any other of Grantor's creditors, and Grantor has no other creditors whose rights would be prejudiced by said transfer, conveyance and relinquishment.

10. Beneficiary, by accepting Grantor's transfer and conveyance of the Real Property and Personal Property and its relinquishment of its rights under the subject Deed of Trust shall not release and shall not discharge Grantor from any personal liability on the Note or for its obligations and duties as Grantor under said Deed of Trust; however, Beneficiary covenants that it will not execute against any of Grantor's properties in which Beneficiary does not now or hereafter hold a deed of trust or other security interest. Beneficiary further covenants that by accepting this transfer it shall fully release and discharge the Guarantors of Grantor's obligation from any liability on the Note or Deed of Trust. Grantor and Beneficiary acknowledge that that the balance owing on the Note will continue to be a charge against the Real Property and improvements subject to the lien of the Deed of Trust.

11. Grantor has not and shall not receive any cash consideration for the relinquishment of its Grantor's rights under the subject Deed of Trust and transfer and conveyance of the Real Property and Personal Property.

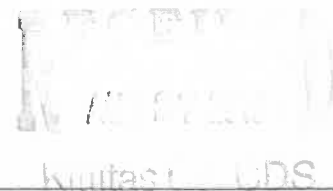
12. Neither the transfer and conveyance of the Real Property and Personal Property, nor the relinquishment of Grantor's rights under the subject Deed of Trust, nor the acceptance or recording of this deed by Beneficiary is intended to nor shall it constitute a merger of the legal and equitable estates to the above-described property with respect to the parties hereto or third parties. Beneficiary shall have the right to foreclose the Deed of Trust, or any of them, by a judicial or non-judicial deed of trust foreclosure action and to foreclose any and all subordinate interests in the Real Property arising from or attributable to Grantor's ownership thereof.

13. Beneficiary, by accepting and recording this deed, does not assume or promise to pay any encumbrance, tax, assessment or other bill or charge existing on or relating to the Real Property and Personal Property. Grantor will pay and or assume responsibility for any and all liabilities arising from leases of personal property between Grantor and third parties. Grantor will hold Beneficiary harmless from and indemnify Beneficiary against any and all liabilities arising from leases of personal property between Grantor and third parties.

14. GRANTOR, FOR ITSELF AND ITS HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, HEREBY RELEASES, WAIVES, SATISFIES AND FOREVER DISCHARGES BENEFICIARY, AND ITS GUARANTORS, EMPLOYEES, AGENTS, ATTORNEYS, SUCCESSORS, LEGAL REPRESENTATIVES, HEIRS AND ASSIGNS, (HEREINAFTER REFERRED TO AS "RELEASED PARTIES"), OF AND FROM ALL CLAIMS, DEMANDS, CAUSES OF ACTION AND DAMAGES WHATSOEVER, IN LAW OR EQUITY, GRANTOR NOW HAVE OR WHICH MAY SUBSEQUENTLY HAVE AGAINST ANY OF THE RELEASED PARTIES.

15. Grantor represents that it is currently holding no deposits paid by tenants or former tenants of the subject real property.

16. This agreement contains the entire agreement between the parties relating to the termination and relinquishment of Grantor's interest in the subject Deed of Trust and Real Property.



17. This agreement shall bind the heirs, successors, legal representatives and assigns of the parties.


18. The Recitals set forth above are hereby incorporated herein and deemed a part of this agreement.

19. In the event that any dispute arises between the parties to this agreement concerning the provisions hereof, or the performance hereof, which dispute must be determined by litigation or arbitration, the prevailing party shall be entitled to recover from the other, in addition to such other relief as may be granted, a reasonable sum for attorneys fees and costs incurred by the prevailing party, as shall be determined by the court or arbitration hearing the matter. Venue in any such action shall lie in Kittitas County, Washington. This attorney fee provision shall also apply in any litigation (whether in the form of motion practice such as lifting stays, abandoning property from the estate, as well as adversary proceedings) in any bankruptcy proceedings.


IN WITNESS WHEREOF, the parties have executed this agreement the 12th day of October, 2009.

GRANTOR:

STARLITE RESORTS, LLC



By: Don Hardy
Title: Member

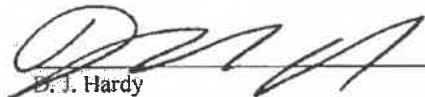


By: D. J. Hardy
Title: Member

GUARANTORS:




Don Hardy



D. J. Hardy

BENEFICIARY:

BOULDER CREEK ENTERPRISES, INC.

By: 

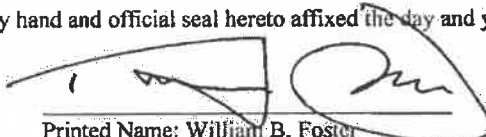
Title: Pres.

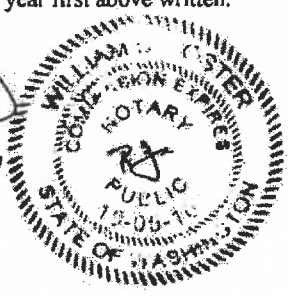
RECORDED
INDEXED
Kittitas Co. CDS

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

On this 12th day of October, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **DON HARDY**, to me known to be a Member of **STARLITE RESORTS, LLC**, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of said limited liability company.

WITNESS my hand and official seal hereto affixed the day and year first above written.

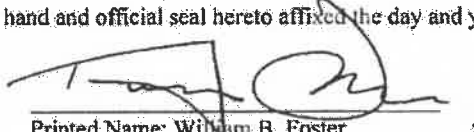

Printed Name: William B. Foster
NOTARY PUBLIC in and for the State of
Washington, residing at LAKE STEVENS, WA
My commission expires: 10-5-2010

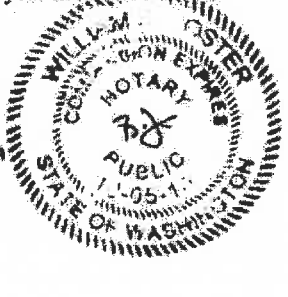


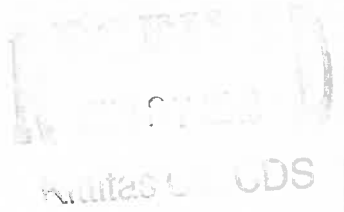
STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

On this 12th day of October, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **D. J. HARDY**, to me known to be a Member of **STARLITE RESORTS, LLC**, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of said limited liability company.

WITNESS my hand and official seal hereto affixed the day and year first above written.


Printed Name: William B. Foster
NOTARY PUBLIC in and for the State of
Washington, residing at LAKE STEVENS, WA
My commission expires: 10-5-2010



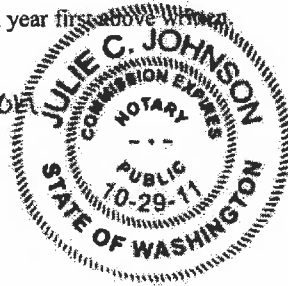


STATE OF WASHINGTON)
) ss.
COUNTY OF KITTITAS)

On this 15th day of October, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Donald L. May, to me known to be the President of BOULDER CREEK ENTERPRISES, INC., the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed (if any) is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Julie C. Johnson
Printed Name: Julie C. Johnson
NOTARY PUBLIC in and for the State of
Washington, residing at Ehlersburg
My commission expires: 10-29-11



STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

This is to certify that on this 12th day of October, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared DON HARDY, to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged to me that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

William B. Foster
Printed Name: William B. Foster
NOTARY PUBLIC in and for the State of
Washington, residing at LAKE STEVENS, WA
My commission expires: 10-5-2010



STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

This is to certify that on this 12th day of October, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared D. J. HARDY, to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged to me that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

William B. Foster
Printed Name: William B. Foster
NOTARY PUBLIC in and for the State of
Washington, residing at LAKE STEVENS, WA
My commission expires: 10-5-2010



Kittitas CO. CDS

Exhibit "A"
Personal Property

DINING ROOM

6 booths and tables	11 tables, 58 chairs	1 11-foot bench
1 steam table	2 salad bars	1 5-foot countertop refrigerator
1 bar sink	1 microwave	1 upright refrigerator
1 radio	1 large ice machine	2 heat lamps
2 pull tab machines	1 drink mixer	

KITCHEN AREA

2 2-burner tops	8 storage racks	1 walk-in freezer w/racks
1 36-inch grill top	1 24-inch broiler	2 deep fryers
1 12-foot hood and fire control	1 24-inch grill top	1 oven
2 microwaves	1 4PL toaster	1 steam table
1 meat slicer	1 large mixer (12 qt.)	1 table
1 3-tub sink	1 sandwich bar cooler	1 4-foot stainless table
1 24-inch can rack	2 24-inch tables	1 36-inch roll around table
2 roll around dish carts		1 walk-in cooler

BAR AREA

1 3-tub bar sink	11 bar stools	1 5-foot bar cooler
1 3-keg cooler	1 ice tray	1 19-inch TV
1 microwave	1 side-by-side refrigerator	6 pull tab bowls
1 59-inch TV	2 25-inch TV	19 tables
1 bar mixer	2 wine racks	1 11-foot bench
5 6-foot banquet tables	51 blue chrome chairs	10 captain chairs
28 roller chairs	1 stack washer & dryer	2 pool table lamps

OFFICE

2 computers	2 printers (standard)	2 keyboards
1 fax machine	office/restaurant	1 storage cabinet
1 copy machine	2 printers (small) bar/kitchen	4 calculators
3 monitors	3 cash draws	3 misc. cabinets
1 file cabinet	3 desks	1 large safe
1 telephone system	1 pull tab scale	
1 24-inch refrigerator	3 office chairs	

MOTEL

12 19-inch TV	14 Queen beds	12 dressers
12 nightstands	12 lamps	12 chairs
2 washers	2 dryers	

MISC.

Pots, pans, dishes (plates & bowls) knives, salad bar bowls, flatware, kitchen utensils (ladles, spoons) glassware (glasses/cups)

1985 ESQIR mobile home, VIN 11536

Any and all replacements and/or additions to the equipment and property listed above, but specifically excluding a front end loader, point-of-sale system and antennae.

