

## **Development Impact Fee Deferral Agreement (water and sewer connection charges)**

THIS FEE DEFERRAL AGREEMENT (this "Agreement") is made and entered into as of June 8, 2022, by and between Coach RV LLC, a Minnesota limited liability company, dba Coachella Lakes RV Resort ("Owner"), and the CITY OF COACHELLA, a municipal corporation ("City").

### **RECITALS**

A. On March 6, 2019, the Planning Commission of the City of Coachella approved Architectural Review 18-18 and Conditional Use Permit 308 allowing for the construction of a new 469 space recreational vehicle campground community including a 1,400 sq. ft. clubhouse, two laundry/restroom buildings, and certain other buildings (the "Project") on 78.3 acres of vacant land located at 44-790 Dillon Road (the "Property").

B. The owner has requested that City defer a portion of the water and sewer related development impact fees (connection charges) charged in connection with the construction of the Project. All new developments are required to pay water and sewer connection fees for purposes of upgrading City water and sewer capacity to accommodate the additional service needs resulting from the new development.

C. On June 8, 2022, the City Council approved a deferral of the Deferred Fees (as hereafter defined) subject to certain conditions, including without limitation execution documents prepared by the City staff to evidence the deferral and repayment of the connection fees.

D. The parties now desire to enter into this Agreement to defer the receipt of a portion of the development fees associated with the construction of the Project, and that Owner shall repay the fees over time, upon the terms and conditions set forth in this Agreement.

### **AGREEMENT**

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Deferred connection fees. City hereby agrees to defer a portion of the water and sewer fees due and payable by Owner in connection with the development of the Project for up to five years, up to a maximum amount of one million Dollars (\$1,000,000) as set forth on Exhibit C attached hereto and incorporated herein by this reference (collectively, the "Deferred Fees"). The payment of the Deferred Fees will be evidenced by a promissory note in the principal amount of the Deferred Fees, to be executed by Owner in substantially the form attached hereto as Exhibit A and incorporated herein by this reference (the "Note"). As security for the Note, Owner shall grant to City a deed of trust creating a valid lien upon the Property, in substantially the form attached hereto as Exhibit B and incorporated herein by this reference (the "Deed of Trust").

2. Conditions Precedent to Deferral of the Deferred Fees. The following are conditions precedent, and shall be satisfactorily completed as a condition to deferral of the Deferred Fees by the City:

a. There exists no default, beyond any applicable cure period, nor any act, failure, omission or condition that would constitute an event of default beyond any applicable cure period under this Agreement;

b. Owner shall execute, in recordable form where applicable, and deliver to City the Note and the Deed of Trust;

c. A title insurer reasonably acceptable to the City is unconditionally and irrevocably committed to issuing a CLTA standard form lender's policy of title insurance insuring the priority of the Deed of Trust as a lien against the Property, subject only to such exceptions and exclusions as may be reasonably acceptable to the City, and containing such endorsements as the City may reasonably require;

d. Owner has obtained all approvals and permits (with the exception of issuance of the final building permit) necessary for commencement of construction of the Project.

e. Owner has completed all acts and obtained all approvals necessary for issuance of the final granting permit for the Project, subject only to completion of all other conditions precedent set forth in this Section 2, and delivery of the Note and the Deed of Trust;

3. Repayment. As more fully set forth in the Note, (i) the Deferred CFD shall accrue simple interest at the rate of three percent (3%) per annum from beginning July 1, 2022, (ii) Owner shall commence equal annual principal and interest installment payments on the outstanding balance by June 30, 2023 due every June 30<sup>th</sup> thereafter.

4. Subordination. City shall subordinate its right to receive the payments under the Note to financing obtained by Owner to construct and develop the Development, as well as to any subsequent refinancing thereof; provided, however, that City shall not be required to subordinate if, in the reasonable discretion of City, Owner has not presented reasonably satisfactory evidence to City that the Project will generate sufficient funds to pay the debt service on the financing that is proposed and to repay the Deferred Fees from the Project as set forth in Section 3 and in accordance with the Note.

5. Costs of Enforcement. Owner agrees to pay the following costs, expenses, and attorneys' fees paid or incurred by City or adjudged by a Court: (1) reasonable costs of collection, costs, and expenses, and reasonable attorneys' fees paid or incurred in connection with the collection, enforcement, or foreclosure sale of any security for this Agreement, or of any covenant of this Agreement or such security, whether or not suit is filed; (2) costs of suit and such sums the Court may adjudge as attorneys' fees in any action to enforce payment of all amounts due under this Agreement or any part of it; and (3) costs of suit and such sums as the Court may adjudge as reasonable attorneys' fees in any other litigation or controversy connected with the enforcement of this Agreement.

6. No Liability of City Officials. No councilmember, director, official or employee of the City shall be personally liable to the City, or any successor in interest, in the event of any default or breach by the City under this Agreement or for any amount which may become due to the City under the terms of this Agreement.

7. Certificate of Occupancy. City hereby acknowledges and agrees that payment of the Deferred Fees shall not be a condition of the City issuing the building permits for the Project, nor shall it be a condition of City issuing a Certificate of Occupancy with respect to the development.

8. Prevailing Wage.

a. Owner has been alerted to the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. (the “Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the work to be performed under this Agreement by Owner is being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Owner agrees to fully comply with such Prevailing Wage Laws.

b. Owner shall defend (with counsel acceptable to the City), indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Owner and its contractors to comply with, to the extent applicable to the Project, all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815), public works contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

c. It shall be the sole responsibility of Owner to determine whether to comply with Prevailing Wage Laws for any or all work required by this Agreement. As a material part of this Agreement, Owner agrees to assume all risk of liability arising from any decision not to comply with Prevailing Wage Laws for work required by this Agreement.

9. Miscellaneous Provisions.

a. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, to the jurisdiction of which the parties hereto submit.

b. Time of the Essence. Time is of the essence of each and every provision of this Agreement.

c. Notices. Notices or other communications given under this Agreement shall be in writing and shall be served personally or transmitted by first class mail, postage prepaid. Notices shall be deemed received either at the time of actual receipt or, if mailed in accordance herewith, on the third (3rd) business day after mailing, whichever occurs first. Notices shall be directed to the parties at the following addresses or at such other addresses as the parties may indicate by notice:

City: City of Coachella  
53990 Enterprise Way  
Coachella, CA 92236  
Attn: Finance Director

Owner: Coach RV LLC  
2800 Niagara Lane  
Plymouth MN 55447

d. Invalidity. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

e. Headings. The titles and headings of the various sections of this Agreement are intended solely for reference and are not intended to explain, modify or place any interpretation upon any provision of this Agreement.

f. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such or the remaining provisions of this Agreement.

g. Waiver. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

h. Number and Gender. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each include the others whenever the context so indicates or requires.

i. Further Assurances. The parties shall execute, acknowledge, file or record such other instruments and statements and shall take such additional action as may be necessary to carry out the purpose and intent of this Agreement.

j. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, legal representatives, successors and assigns.

k. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior or contemporaneous agreements, representations, warranties and understandings of the parties concerning the subject matter contained herein, written or oral. No change, modification, addendum or amendment to any provision of this Agreement shall be valid unless executed in writing by each party hereto. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Any rule of law (including, without limitation, California Civil Code Section 1654) or legal decision that

would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is hereby waived.

l. Attorneys' Fees. In the event of any litigation arising out of this Agreement, the prevailing party in such action, or the nondismissing party where the dismissal occurs other than by reason of a settlement, shall be entitled to recover its reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs paid or incurred in good faith. The "prevailing party," for purposes of this Agreement, shall be deemed to be that party who obtains substantially the result sought, whether by settlement, dismissal or judgment.

m. Counterparts. This Agreement may be executed in counterparts which taken together shall constitute one agreement.

*[Remainder of page left intentionally blank. Signatures appear on following page.]*

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

**CITY:**  
CITY OF COACHELLA,  
a California Municipal Corporation

**OWNER:**  
Coach RV LLC, a Minnesota limited liability  
company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Mayor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM:**  
BEST BEST & KRIEGER LLP

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: City Attorney

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: City Clerk

## EXHIBIT A

### PROMISSORY NOTE

Not to Exceed:  
\$1,000,000

June 8, 2022  
Coachella, California

FOR VALUE RECEIVED, Coach RV LLC, a Minnesota limited liability company, dba Coachella Lakes RV Resort (the “Maker” or “Owner”), promises to pay the CITY OF COACHELLA, or order (“Holder” or “City”), the initial principal sum not to exceed one million dollars (\$1,000,000) (the “Deferred Fees”), or so much as may be deferred or advanced by the City, plus interest thereon pursuant to Section 3, below.

1. City and Owner have entered into that certain Fee Deferral Agreement, dated as of June 8, 2022 herewith (the “Agreement”), providing for, among other things, City’s agreement to defer the receipt of certain fees (collectively, the “Fees”) due and payable by Owner in connection with the Project. All capitalized terms not defined herein shall have the meanings ascribed to such terms in the Agreement.

2. This promissory note (this “Note”) evidences the amount of the Fees to be deferred by the City, in the amount of one million dollars (\$1,000,000), which would otherwise be due and payable by Owner for the Project.

3. Commencing on July 1, 2022, and continuing throughout the term of this Note, the outstanding principal balance of the Deferred Fees shall accrue simple interest at the rate of three percent (3%) annually. Notwithstanding the foregoing, in the event of a Default as defined in Section 12, below, interest shall accrue at the default rate set forth in Section 13, below.

4. Payment of this Note is secured by a Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the “Deed of Trust”) from Maker to Holder, which Deed of Trust has been recorded against the Site. The Agreement, the Deed of Trust and this Note shall constitute the “Loan Documents.”

5. Owner shall pay the Note in five (5) equal annual payments of principal and interest in the amount of Two Hundred Eighteen Thousand Three Hundred Fifty-Four and 57/100 Dollars (\$218,354.57) with the first such payment being due on June 30, 2023. The outstanding balance of principal and interest of this Note, if any, shall be due and payable on June 30, 2027 (the “Maturity Date”).

6. Payment shall be made in lawful money of the United States to Holder at 53990 Enterprise Way, Coachella, California 92236. The place of payment may be changed from time to time as the Holder may from time to time designate in writing.

7. Maker hereby covenants and agrees that it shall maintain, or cause to be maintained, the Site in a manner consistent with the provisions set forth therefor in the City’s Municipal Code, and shall keep the entire Site reasonably free from any accumulation of debris or waste materials prior to and after construction.

If, at any time, Maker fails to maintain the Site, and has either failed to commence to cure such condition, or to diligently prosecute to completion the condition and such failure is not corrected within thirty (30) days from the date of written notice from Holder to Maker (or such longer period if the condition cannot reasonably be cured in thirty (30) days and Maker commences to cure the condition within thirty (30) days and thereafter diligently pursues the same), Holder may perform the necessary corrective maintenance, and Maker shall pay such costs as are reasonably incurred for such maintenance. The Holder shall have the right to place a lien on the property should Maker not reimburse Holder for such costs within sixty (60) days following Holder's written demand to Maker for reimbursement of such costs. Maker, on behalf of itself its heirs, successors and assigns, hereby grants to Holder and its officers, employees and agents, an irrevocable license to enter upon the Site to perform such maintenance during normal business hours after receipt of written notice from Holder as hereinabove described and Maker's failure to cure or remedy such failure within thirty (30) days of such notice (or such longer period as described above, if applicable). Any such entry shall be made only after reasonable notice to Maker, and Holder shall indemnify and hold Maker harmless from any claims or liabilities pertaining to any such entry by Holder.

8. The occurrence of any of the following shall constitute an event of default under this Note: (i) Maker fails to pay any amount due hereunder within fifteen (15) days of its due date; (ii) Any other breach by Maker under this Note if such failure is not corrected within thirty (30) days from the date of written notice from Holder to Maker (or such longer period if the failure cannot reasonably be cured in thirty (30) days and Maker commences to cure the condition within thirty (30) days and thereafter diligently pursues the same), (iii) any default by Maker under the Deed of Trust or the Agreement after the expiration of applicable notice and cure periods, including default under the transfer and assignment restrictions; (iii) Any default by Maker under any other loan document affecting the Project or the Site after the expiration of applicable notice cure periods provided; (iv) the filing or initiation of bankruptcy or insolvency proceedings by or against Maker, whether voluntary or involuntary that is not dismissed within sixty (60) days of initiation, or if Maker makes a general assignment for the benefit of creditors or states its inability to pay its debts as they mature; or (v) Maker dissolves or liquidates.

Upon the occurrence of any event of default, or at any time thereafter, at the option of the Holder hereof and without notice, the entire unpaid principal and interest owing on this Note shall become immediately due and payable. However, this option may be exercised at any time following any such event for so long as such default continues, and the acceptance of one or more installments thereafter shall not constitute a waiver of Holder's option. Holder's failure to exercise such option shall not constitute a waiver of such option with respect to any subsequent event. Holder's failure in the exercise of any other right or remedy hereunder or under any agreement which secures the indebtedness or is related thereto shall not affect any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof. Holder agrees that in the event any such default is cured by a general partner or limited partner of Maker within the times set forth herein, it shall accept such cure as a cure of the default under this Note.

9. At all times when Maker is in default hereunder by reason of Maker's failure to pay principal due under this Note or any amounts due under any Loan Documents securing this Note, the interest rate on the sums as to which Maker is in default (including principal, if Holder has



elected to declare it immediately due and payable), shall be the lower of (i) Ten Percent (10%) per annum, or (ii) the highest rate then allowed by law, commencing as of the date of the default until paid in full, or until the default has been cured, whichever is applicable.

10. Maker and any endorsers hereof and all others who may become liable for all or any part of this obligation, severally waive presentment for payment, demand and protest and notice of protest, and of dishonor and nonpayment of this Note, and expressly consent to any extension of the time of payment hereof or of any installment hereof, to the release of any party liable for this obligation, and any such extension or release may be made without notice to any of said parties and without any way affecting or discharging this liability.

11. Maker agrees to pay immediately upon demand all reasonable costs and expenses of Holder including without limitation reasonable attorneys' fees: (i) if after default this Note be placed in the hands of an attorney or attorneys for collection; or (ii) if after a default hereunder or under the Deed of Trust, the Agreement or under any Loan Document referred to in this Note, Holder finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Maker, any guarantor or any other party liable therefor or to the protection of its rights under this Note, the Deed of Trust, the Agreement or other Loan Document.

12. If Holder shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental agency, affecting the Site or the title thereto or the interest of the Holder under the Deed of Trust, including, without limitation, any form of condemnation or eminent domain proceeding, Holder shall be reimbursed by Maker immediately upon demand for all reasonable costs, charges and attorneys' fees incurred by Holder in any such case, and the same shall be secured by the Deed of Trust as a further charge and lien upon the Property.

13. Any notices provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested at the address stated in this Note or at such address as either party may designate by written notice.

14. This Note shall be binding upon Maker, its successors, and assigns.

15. This Note shall be construed in accordance with and be governed by the laws of the State of California.

16. If any provision of this Note shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

17. This Note is a nonrecourse obligation of Maker. Neither Maker nor any of its general and limited partners shall have any personal liability for repayment of the Loan, and the Holder must resort only to the Project or the Site, or both, for repayment should the Maker fail to repay the sums evidenced hereby.

18. Regardless of the limitation of liability above, Maker will be fully liable for the following:

A. Failure to pay taxes, assessments, and any other charges that could result in liens against the Site or any portion of the Site or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents, provided, however, that if Maker is contesting these taxes, assessments or other charges, any delay in the payment of such items shall not be a default hereunder;

B. Failure to pay and discharge any material liens or other liens against any portion of the Site or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents, provided, however, that if Maker is contesting such liens, any delay in the payment of such items shall not be a default hereunder; or

C. Fraud or intentional misrepresentation with respect to any representation, warranties, or certifications made in the Loan Documents, or otherwise made by Maker in connection with the loan evidenced by this Note.

D. Retention by Maker of any rental income or other income arising with respect to any portion of the Site or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents subsequent to the date of any notice of default from Holder to Maker, or which, under the terms of the Loan Documents, should otherwise have been paid to Holder;

E. Retention by Maker of any insurance proceeds, condemnation awards, or other similar funds or payments attributable to the Site or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents that, by its terms, should have been paid to Holder or used in a manner contrary to the use made by Maker; or

F. Waste on the Site, or any failure to maintain, repair, or restore any portion of the Site or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents in accordance with the terms.

Nothing in this section will affect or limit the rights of Holder to enforce any of Holder's rights or remedies with respect to any portion of the Site described in the Deed of Trust or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents.

*[Remainder of page left intentionally blank. Signatures appear on following page.]*

IN WITNESS WHEREOF, Maker has executed this Note as of the date first written above.

**MAKER:**

Caoch RV LLC, a Minnesota limited liability  
company,

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT B**

**RECORDING REQUESTED BY:  
AND WHEN RECORDED MAIL TO:**

City of Coachella  
53990 Enterprise Way  
Coachella, CA 92236  
Attn: City Clerk

No fee required for recording pursuant to  
Government Code § 27383

Space Above This Line For Recorder’s Use

**DEED OF TRUST, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

This Deed of Trust is made as of June 8, 2022, among Coach RV LLC, a Minnesota limited liability company, dba Coahcella Lakes RV Resort whose address is 2800 Niagara Lane, Plymouth, Minnesota 55447 (“Trustor”) and the CITY OF COACHELLA, a municipal corporation of the State of California, whose address is 53990 Enterprise Way, Coachella, California 92236 (“Beneficiary”). [NOTE TO CITY: Please designate a Trustee.]

Trustor irrevocably grants, conveys, transfers and assigns to Trustee in trust, with power of sale and right of entry and possession, all of Trustor’s estate, right, title and interest in, to and under the following property (collectively, the “Property”): (a) the real property in the City of Coachella, County of Riverside, California, described on Exhibit A attached hereto and incorporated herein by this reference, together with all existing and future easements and rights affording access to it (the “Land”), (b) together with all buildings, structures and improvements now existing or hereafter constructed thereon (the “Improvements”), and (c) together with all articles of personal property owned by Trustor now or hereafter attached to, placed upon for an indefinite term, or used in connection with the Land and/or Improvements, together with all goods and other property that are, or at any time become, so related to the Property that an interest in them arises under real estate law, or they are otherwise adjudged to be a “fixture” under applicable law (each a “Fixture,” collectively “Fixtures”), provided, for clarity, that mobile homes and trailers shall not be deemed Fixtures.

- 1. Secured Obligations.** Trustor makes the grant, conveyance, transfer and assignment herein for the purpose of securing the following obligations (the “Secured Obligations”): (a) payment of the sum of up to one million dollars (\$1,000,000) with interest thereon according to the terms of a promissory note (the “Note”) of even date herewith, executed by Trustor in favor of Beneficiary or order and any extension or renewals thereof; (b) payment of such further sums as the then record owner of the Property may borrow from Beneficiary, when evidenced by a promissory note or notes executed by Trustor reciting that they are secured by this Deed of Trust; (c) performance of each obligation of Trustor under that certain Fee Deferral Agreement, dated June 8, 2022, entered into between Trustor and Beneficiary (“Agreement”); and (d) performance of each agreement of Trustor

incorporated by reference or contained herein. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

2. **Maintenance and Repair.** Trustor shall (a) keep the Property in good condition and repair and not remove or demolish any building; (b) complete or restore promptly and in good and workmanlike manner any building (excluding mobile homes and trailers which are not owned by Trustor) which may be constructed, damaged or destroyed; (c) pay when due all claims for labor performed and materials furnished with respect to the Property; (d) comply with all laws affecting the Property or requiring any alterations or improvements to be made; (e) not commit or permit waste; and (f) cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of the Property may be reasonably necessary.
3. **Insurance.** Trustor shall maintain hazard insurance against loss by fire, hazards included with the term “extended coverage,” and any other hazards for which Beneficiary requires insurance, and liability insurance. The insurance carrier and the insurance policies and amounts of coverage shall be reasonably acceptable to Beneficiary, the policies shall name Beneficiary as a loss payee or an additional insured, as applicable, and shall require 30 days’ prior notice to Beneficiary before the policy is modified or terminated.
4. **Defense of Security.** Trustor shall appear in and defend any action or proceeding purporting to affect the security or the rights or powers of Beneficiary or Trustee. Trustor shall pay all reasonable costs and expenses, including costs of evidence of title and attorneys’ fees, in any such action or proceeding in which Trustee or Beneficiary may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.
5. **Payment of Taxes and Liens.** Trustor shall pay (a) at least 10 days before delinquency, all taxes and assessments affecting the Property, including water stock assessments; (b) when due, all encumbrances, charges and liens, with interest, on the Property, which are or appear to be prior or superior to this Deed of Trust; and (c) upon demand all costs, fees and expenses of this Deed of Trust. If Trustor fails to make any payment or to do any act provided for in this Deed of Trust within the times periods provided and beyond any applicable cure period, then Beneficiary or Trustee may, without obligation to do so, and with notice to Trustor, and without releasing Trustor from any obligation under this Deed of Trust: (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (b) appear in or commence any action or proceeding purporting to affect the security, or the rights or powers of Beneficiary or Trustee; (c) pay, purchase, contest or settle any encumbrance, charge or lien which in the judgment of either appears to be senior to this Deed of Trust; and (d) in exercising any such powers, pay allowable expenses, including attorneys’ fees.
6. **Notices to Limited Partners; Right to Cure.** Following written request to Beneficiary by any limited partner of Trustor, Beneficiary shall deliver to such limited partner a copy of any notice or demand provided to Trustor hereunder. Any limited partner of Trustor shall have the right to cure any default within the applicable cure period described herein, whether in its own capacity or on behalf of the Trustor, and Beneficiary shall accept such

cure as if tendered by Trustor. However, failure by Beneficiary to deliver any such notice to Trustor's limited partner shall not be a default under this Deed of Trust.

7. **Reimbursement of Costs.** Trustor shall pay upon demand all reasonable sums expended by Beneficiary or Trustee provided for in this Deed of Trust or allowed by law, with interest from date of expenditure at the maximum rate provided in the Note.
8. **No Waiver.** By accepting payment of any sum after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums or declare a default for failure to pay.
9. **Reconveyance.** That upon written request of Beneficiary (which may be requested first by Trustor) stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said note or notes to Trustee for cancellation and retention or other disposition as Trustee in its reasonable discretion may choose and upon payment of any Trustee fees required to be paid hereunder, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals of such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."
10. **Subordination.** Beneficiary and Trustee each acknowledge and agree that this Deed of Trust is subordinate to existing financing obtained by Trustor, which such financing is evidenced in the land records. Beneficiary and Trustee further agree that this Deed of Trust shall be subordinate to any refinancing obtained by Trustor and agree to execute any reasonable instruments requested by Trustor's lender(s) to effect such subordination.
11. **Assignment of Rents.** Subject to the subordination set forth at Section 10 hereof, Trustor hereby absolutely and unconditionally assigns to Beneficiary all of the rents, issues, profits, royalties, revenues, income and other benefits (collectively, the "Rents") derived from the Property, whether now due, past due or to become due, and hereby gives to and confers upon Beneficiary, either directly or through a receiver, the right, power and authority, but not the obligation, to collect the Rents, and to sue, either in the name of Trustor or Beneficiary, for all such Rents and to apply the same to the indebtedness secured hereby in such order as Beneficiary may determine in its sole discretion. This assignment of Rents is intended to create and shall be construed to create an absolute assignment to Beneficiary of all of Trustor's right, title and interest in the Rents, the foregoing, so long as no default exists by Trustor in the payment of any indebtedness secured hereby, or in any other covenant contained herein, or in said note or notes or in any other document evidencing or securing such indebtedness, Trustor shall have the right to collect all Rents from the Property and to retain, use and enjoy the same. Upon the occurrence of such a default, without the necessity of demand or other notice to Trustor or any other act to enforce Beneficiary's interest pursuant to this assignment, Trustor shall have no interest whatsoever in the Rents that are received by Trustor after a default, and all such Rents shall be received and held by Trustor in constructive trust for Beneficiary and delivered promptly to Beneficiary, or to a court appointed receiver for the Property, without the necessity for further notice to, or demand upon, Trustor. Upon the occurrence of such a default and at any time thereafter during the continuance thereof, Beneficiary may, at its

option, send any tenant of the Property a notice to the effect that: (a) a default has occurred; (b) Beneficiary has elected to exercise its rights under this assignment; and (c) such tenant is thereby directed to thereafter make all payments of Rents to or for the benefit of Beneficiary or as Beneficiary shall direct. Any such tenant shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rents made pursuant to such notice, irrespective of whether a dispute exists between Trustor and Beneficiary with respect to the existence of a default or the rights of Beneficiary hereunder. Any such tenant shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this assignment. Trustor hereby agrees to indemnify, defend and hold any such tenant harmless from and against any and all losses, claims, damages or liabilities arising from or related to any payment of Rents by such tenant made in reliance on and pursuant to such notice. Beneficiary agrees that its rights pursuant to this Section 11 are subject to the subordination set forth at Section 10 and that Beneficiary will not exercise any such rights without first coordinating with any lender whose interest has priority over this Deed of Trust.

12. **Default and Foreclosure.** Upon default by Trustor in payment or performance of any Secured Obligation, subject to any applicable cure period, Beneficiary may declare all sums secured immediately due and payable by delivery to Trustee of a declaration of default and demand for sale and of a notice of default and of a notice of sale, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said note or notes and all documents evidencing expenditures secured by this Deed of Trust. Upon default of any obligation secured by this Deed of Trust and acceleration of all sums due, Beneficiary may instruct Trustee to proceed with a sale of the Property under the power of sale granted in this Deed of Trust, noticed and held in accordance with California Civil Code Sections 2924, et seq., as such statutes may be amended from time to time. Trustor waives all rights it may have to require marshaling of assets or to require sales of assets in any particular order, including any rights under California Civil Code Sections 2899 and 3455.
13. **Substitution of Trustee.** Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee.
14. **Successors and Assigns.** This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder, including pledgees, of the secured note or notes, whether or not named as Beneficiary herein.

15. **Trustee Acceptance.** Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.
16. **Further Assurances.** Trustor shall, at its own cost and expense, do, execute, acknowledge, and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, and assurances as Trustee or Beneficiary shall from time to time reasonably require, for better assuring, conveying, assigning, transferring, and confirming unto Trustee the Property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Trustee, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering, or recording this Deed of Trust. Trustor shall, on demand, execute and deliver one or more financing statements, chattel mortgages, or comparable security instruments, if reasonably required to evidence more effectively the lien hereof. Immediately upon the execution and delivery of this Deed of Trust, and thereafter from time to time, Trustor shall cause this Deed of Trust, and any security instruments creating a lien or evidencing the lien hereof upon any personal property and each instrument of further assurance, to be filed, registered, or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the title of Trustee to, the Property encumbered hereby.
17. **Condemnation and Insurance Proceeds.** Immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or other taking of all or any portion of the Property, or knowledge of any casualty damage to the Property, or damage in any other manner, Trustor shall immediately notify Beneficiary thereof. Subject to the subordination set forth at Section 10 hereof, Trustor hereby authorizes and empowers Beneficiary as attorney in fact for Trustor to make proof of loss, to adjust and compromise any claim under the insurance policies covering the Property, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this Section shall require Beneficiary to incur any expense or take any action hereunder. Subject to the subordination set forth at Section 10 hereof, Trustor hereby authorizes and empowers Beneficiary, at Beneficiary's option, as attorney in fact for Trustor, to commence, appear in and prosecute, in Beneficiary's or Trustor's name, any action or proceeding relating to any condemnation or other taking of all or any part of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, or for conveyances in lieu of the Property, or any part thereof, if not paid to a trustor with priority, shall be paid to Beneficiary. Trustor hereby authorizes Beneficiary to apply such awards, payments, proceeds or damages relating to condemnation of the Property and insurance covering the Property, after the deduction of Beneficiary's expenses incurred in the collection of such amounts, subject to the requirements of



applicable law and the provisions hereof, to restoration or repair of the Property or to payment of the sums secured by this Deed of Trust. Beneficiary shall be under no obligation to question the amount of any compensation, awards, proceeds, damages, claims, rights of action, and payments relating to condemnation or other taking of the Property or insured casualty affecting the Property, and may accept the same in the amount in which the same shall be paid. Trustor shall execute such further evidence of assignment of any awards, proceeds damages or claims arising in connection with such condemnation or taking or such insurance as Beneficiary may reasonably require. Notwithstanding the above, the Beneficiary shall release all insurance and condemnation proceeds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary determines that such restoration, repair or rebuilding is economically feasible. If such insurance proceeds shall be insufficient for such purposes, Trustor shall make up the deficiency. If the Project (as defined in the Agreement) is subject to a partial condemnation or taking, then the proceeds received therefrom, to the extent not paid to a trustor with priority, shall be applied to restore the Project taken, provided the Beneficiary determines that such restoration is economically feasible and no default exists under the Loan Documents following the expiration of all applicable cure periods. If the Project is subject to a total condemnation, or if Beneficiary determines that restoration of the Housing Project is not feasible following a partial condemnation, or if a default exists then the proceeds from any condemnation award or claim for damages shall be used first to repay all sums under the Note, with the excess, if any, paid to Trustor.

18. **Severability.** If any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Deed of Trust, but this Deed of Trust shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein or therein, but only to the extent of such invalidity.
19. **Estoppel Certificate.** Trustor shall, within ten (10) days of a written request from Beneficiary, furnish Beneficiary with a written statement, duly acknowledged, setting forth the sums secured by this Deed of Trust and any right of set off, counterclaim or other defense which exists against such sums and the obligations of this Deed of Trust.
20. **California Uniform Commercial Code Security Agreement; Fixture Filing.** Trustor hereby grants Beneficiary a security interest in all personal property of Trustor located on the Property and wherever located and used in any way in connection with or in any way relating to the Property, and whether now owned or hereafter in existence, acquired or created (including equipment, inventory, goods, documents, instruments, general intangibles, chattel paper, accounts, accounts receivable, deposit accounts and contract rights), and all fixtures of Trustor now owned or hereafter in existence, acquired or created on, of or relating to the Property, and all substitutions, replacements, additions, accessions and proceeds (including insurance proceeds) of all of the foregoing (collectively, the "Personal Property"). Beneficiary may file this Deed of Trust, or a reproduction hereof, in the real estate records or other appropriate index, as a financing statement for the Personal Property. Any reproduction of this Deed of Trust or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Trustor shall

execute and deliver to Beneficiary, upon Beneficiary's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Deed of Trust in such form as Beneficiary may require to perfect a security interest with respect to the Personal Property. Trustor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Beneficiary may reasonably require. Without the prior written consent of Beneficiary, Trustor shall not create or suffer to be created pursuant to the California Uniform Commercial Code any other security interest in the Personal Property. Upon Trustor's breach of any covenant or agreement of Trustor contained in this Deed of Trust, including the covenants to pay when due all sums secured by this Deed of Trust, Beneficiary shall have the remedies of a secured party under the California Uniform Commercial Code and, at Beneficiary's option, may also invoke any remedies provided in this Deed of Trust as to the Personal Property. In exercising any of such remedies, Beneficiary may proceed against the Property and any of the Personal Property separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies under the California Uniform Commercial Code or the remedies provided in the Deed of Trust. This Deed of Trust also covers goods which are or which are to become fixtures on the Property and constitutes and is filed as a fixture filing under the California Uniform Commercial Code.

21. **Due On Sale or Encumbrance.** Except as set forth in the Agreement, if all or any part of the Property, or any interest therein, or any beneficial interest in Trustor (if Trustor is not a natural person or persons but is a corporation, partnership, trust, limited liability company or other legal entity), is sold, transferred, mortgaged, assigned, pledged, or further encumbered, whether directly or indirectly, whether voluntarily or involuntarily or by operational law, Beneficiary may, at Beneficiary's option, declare all of the sums secured by this Deed of Trust to be immediately due and payable, and Beneficiary may invoke any remedies permitted by this Deed of Trust.

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to Trustor at Trustor's address hereinbefore set forth.

**TRUSTOR:**

Coach RV LLC, a Minnesota limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT C**

DEFERRED FEES

|                               |                   |
|-------------------------------|-------------------|
| Total Development Impact Fees | \$1,770,448       |
| Less Payments Made            | <u>-\$770,448</u> |
| Deferral Amount               | \$1,000,000       |



ACKNOWLEDGMENT

[INSERT NOTARY PAGE]