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This instrument prepared by, and to be returned to:

A0227-137232

RETURN TO:  
JOHN W. MONROE, JR.  
EMMANUEL, SHEPPARD & CONDON  
30 S. SPRING STREET  
PENSACOLA, FL 32502

  
20160908000325160 1/9 \$40.00  
Shelby Cnty Judge of Probate, AL  
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## **NOTICE OF FUTURE ADVANCE AND MORTGAGE MODIFICATION AGREEMENT**

THIS NOTICE OF FUTURE ADVANCE AND MORTGAGE MODIFICATION AGREEMENT, is made this 25 day of August, 2016, by and between **ADAMS HOMES, LLC**, an Alabama limited liability company ("Borrower"), whose address is 3000 Gulf Breeze Parkway, Gulf Breeze, Florida 32563, and **AXIOM BANK** ("Lender"), whose address is 258 Southhall Lane, Suite 400, Maitland, Florida 32751.

### **BACKGROUND**

A. Borrower and other co-borrowers have previously executed and delivered its Real Estate Note (Revolving Credit Facility) dated **March 13, 2015** in the amount of \$10,000,000.00 (the "Initial Note").

B. Borrower has secured the Initial Note with a certain Real Estate Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the "Initial Mortgage") dated **April 10, 2015** recorded in as instrument No. 1508357 in the Probate Court in Baldwin County, Alabama; instrument No. 20150414000189250 in the Probate Court in Madison County, Alabama; instrument No. 20150416000122900 in the Probate Court in Shelby County, Alabama; and instrument No. 20150417000379180, Book LR201561, Page 21823, in the Probate Court in Jefferson County, Alabama (collectively, "Mortgage"), (all of which are referred to collectively in this instrument as the "Security Documents"). The Security Documents encumber property more particularly described in the Security Documents (the "Mortgaged Property").

C. At the time of the execution and delivery of the Security Documents, Borrower and Lender entered into a certain Hazardous Substance Certificate and Indemnification Agreement dated March 13, 2015 ("Environmental Certificate"), and a certain Construction Loan Agreement (Revolving Credit Facility) dated March 13, 2015 as amended by that certain First Amendment to Construction Loan Agreement (Revolving Credit Facility) dated May 15, 2015, as amended and restated by that certain Amended and Restated Construction Loan Agreement (Revolving Credit Facility) dated of even date herewith (collectively, the "Loan Agreement"), setting forth the terms upon which Lender has agreed to make advances under the Initial Note from time to time for acquisition and/or construction of improvements on real property to be



encumbered by the Security Documents. The Security Documents, Loan Agreement, Environmental Certificate, and Assignment, and all other documents executed by Borrower and other co-borrowers in connection with the Loan evidenced by the Consolidated Note (as defined below), including any subsequent modifications thereto, are referred to herein as the "Loan Documents."

D. At Borrower's request Lender has increased the amount of the Loan. Lender and Borrower have entered into this Agreement to evidence and provide notice of that future advance.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in the Note, Security Documents and Loan Agreement, of the loan funds being advanced from time to time by Lender to Borrower, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The foregoing recitals are acknowledged as true and correct and are incorporated herein.
2. Future Advance and Consolidation of Notes. Lender has concurrently with the execution of this Agreement increased the amount of the Loan by making a future advance of \$5,000,000.00 pursuant to the Security Documents, as evidenced by that certain Future Advance Real Estate Note (Revolving Credit Facility) (the "Future Advance Note") dated of even date herewith by and among Borrower and other co-borrowers in favor of the Lender. Accordingly, the total principal obligation now secured by the Security Documents is the total principal obligation of \$15,000,000.00, as evidenced by that certain Amended, Restated and Consolidated Real Estate Note (Revolving Credit Facility) (the "Consolidated Note") dated of even date herewith by Borrower and other co-borrowers in favor of Lender, which Consolidated Note amends, restates, renews and consolidates the Initial Note and the Future Advance Note. The Security Documents also secure Borrower's and the other co-borrowers' payment and performance of all other amounts, obligations, and liabilities that are described in the Security Documents.
3. Modification and Performance of Loan Documents. The Consolidated Note, Security Documents, and other documents evidencing or securing the Loan shall remain in effect and unchanged except as necessary to implement and reflect these changes. References in the Loan Documents to the Security Documents shall be deemed to include this Agreement. Borrower agrees to perform, be bound by, and observe all covenants, terms, agreements, conditions, requirements, stipulations, and obligations that the Consolidated Note, Security Documents, and other loan documents require Borrower to observe or perform, or that are otherwise Borrower's responsibility or obligation.
4. Lien of Security Documents. The Borrower warrants that the Borrower is the owner of the Mortgaged Property and that there are no other liens or claims against the Mortgaged Property. All of the Mortgaged Property shall in all respects remain subject to the lien, charge, and encumbrance of the Security Documents. This instrument shall not be construed as impairing or otherwise affecting the lien, charge, or encumbrance of the

Security Documents or the priority of the Security Documents over any other liens, charges, encumbrances, conveyances, or other matters affecting title to the Mortgaged Property. This Agreement will not be construed in any manner that impairs any of Lender's security interest in any collateral offered as security for repayment and performance of the obligations represented by or arising from the Loan.

5. No Defenses. Borrower acknowledges and agrees that Borrower remains bound by and obligated to pay and otherwise perform the Consolidated Note, Security Documents, and other loan documents, and that Borrower has no challenges, defenses, setoffs, or counterclaims that might relieve Borrower from, or prevent, impede, or affect in any manner whatsoever the enforcement against Borrower of, any covenant, liability, obligation, agreement, condition, conveyance, warranty, or term of the Loan.
6. Severability. If any provision of this Agreement, the deletion of which would not adversely affect a party's enjoyment of any material benefit intended by this Agreement nor substantially increase the burden of either party under this Agreement, is found to be invalid or unenforceable, that provision will be severed from this Agreement and the remainder of this Agreement will continue to be binding and enforceable.
7. Attorney's Fees. If either party initiates or is made a party to legal or other dispute resolution proceedings (whether judicial, administrative, declaratory, in arbitration, or otherwise) in connection with this Agreement, then the nonprevailing party in those proceedings will pay the costs and attorney's fees, including the costs and attorney's fees of appellate proceedings, incurred by the prevailing party.
8. Persons Bound. The Borrower and all co-borrowers under the Consolidated Note and the Loan Agreement will be jointly and severally liable under this Agreement.

*[signatures on next page]*



IN WITNESS WHEREOF, this Agreement has been executed as of the date stated above.

**WITNESSES:**

Signature: \_\_\_\_\_

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Print name: \_\_\_\_\_

**BRANDY WILLIAMSON**

**BORROWER:**

**ADAMS HOMES, LLC.**, an Alabama limited liability company

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

William Bryan Adams, Manager

STATE OF FLORIDA

COUNTY OF SANTA ROSA

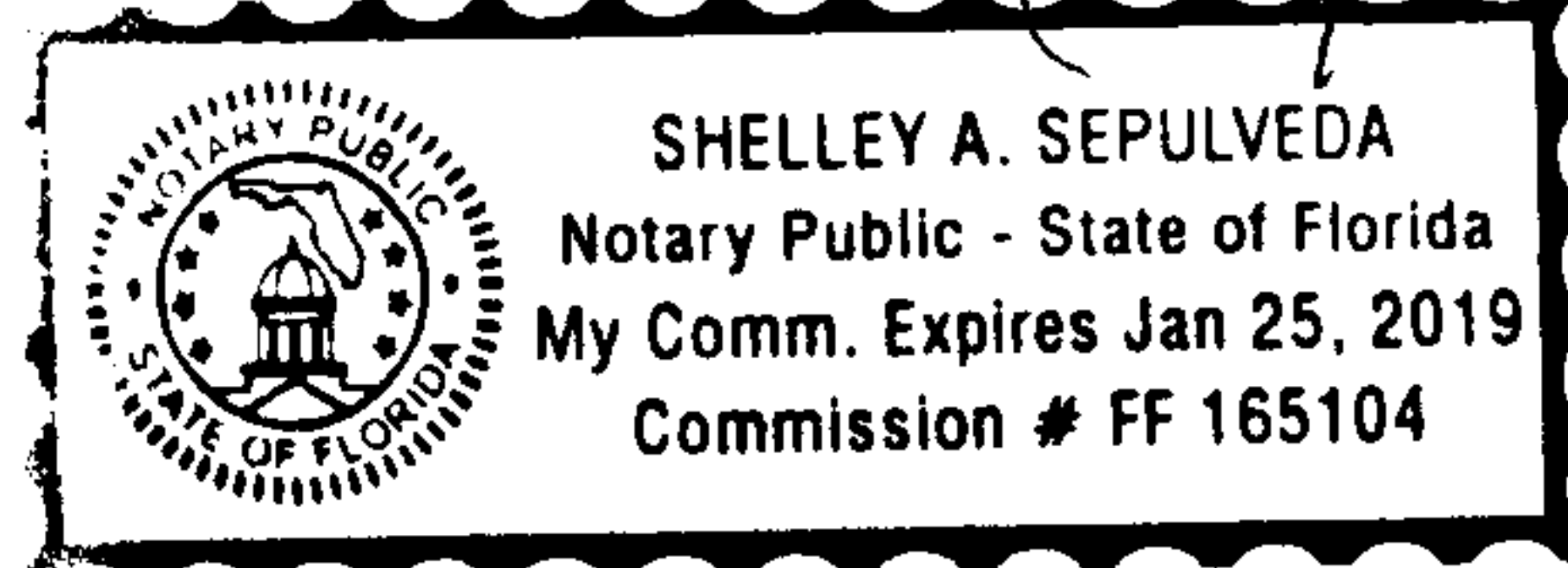
The foregoing instrument was acknowledged before me this August 23, 2016 by William Bryan Adams, as Manager of **ADAMS HOMES, LLC**, an Alabama limited liability company, and who did execute the foregoing instrument on behalf of the Company. I established his/her identity in the following way: ✓ I know him/her personally; or \_\_\_\_\_ he/she provided the following identification: \_\_\_\_\_

**NOTARY PUBLIC**

Signature: \_\_\_\_\_

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

MY COMMISSION EXPIRES: 1/25/19



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LENDER:  
AXIOM BANK

Signature: Katy Castle

Print name: Katy Castle

Signature: Jeanne Brown

Print name: Jeanne Brown

By:

Luis Garcia

As its: Senior Vice President

STATE OF FLORIDA  
COUNTY OF ORANGE

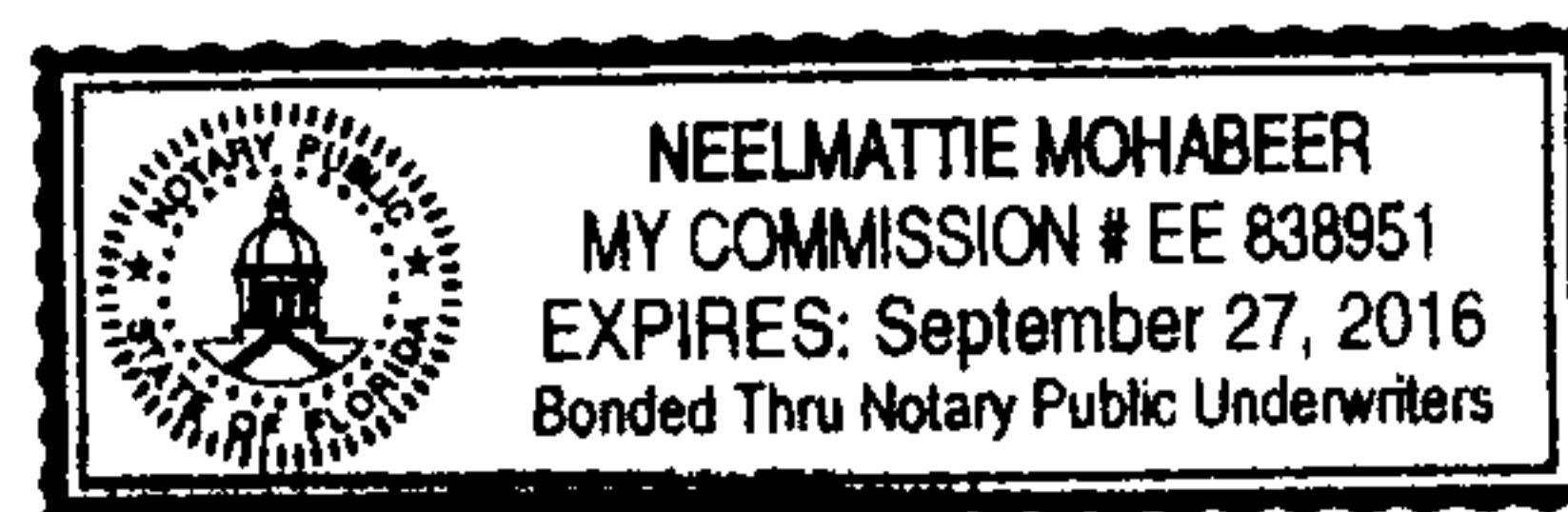
The foregoing instrument was acknowledged before me this August 25<sup>th</sup>, 2016 by Luis Garcia as Senior Vice President for Axiom Bank, on behalf of the Lender. I established his/her identity in the following way: ✓ I know him/her personally; or \_\_\_\_\_ he/she provided the following identification: \_\_\_\_\_

NOTARY PUBLIC

Signature: Neelmattie Mohabeer

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

MY COMMISSION EXPIRES: \_\_\_\_\_



20160908000325160 5/9 \$40.00  
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BEFORE THE STATE OF ALABAMA DEPARTMENT OF REVENUE

In re:  
Axiom Bank, a Federal Savings Bank  
Lender/Petitioner

A Proceeding Authorized by:  
*Alabama Code* §40-22-2(2) and (8)

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MORTGAGE PRIVILEGE TAX ORDER

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Comes Petitioner, **Axiom Bank, a Federal Savings Bank** and requests the Alabama Department of Revenue to fix and determine the amount of recording tax due, pursuant to *Alabama Code* (1975) §40-22-2(2), upon the recordation of a *modification* of a previously recorded Mortgage from **Adams Homes, LLC, an Alabama Limited Liability Company**, in favor of the Petitioner to increase the maximum indebtedness under the terms of said Mortgage from Ten Million and No/100 (\$10,000,000.00) Dollars to Fifteen Million and No/100 (\$15,000,000.00) Dollars. The said Mortgage encompasses property located in and outside the State of Alabama and in more than one county in Alabama.

Upon consideration of the Petition and evidence offered in its support, the Alabama Department of Revenue finds as follows:

1. That the maximum indebtedness owed pursuant to the Mortgage, and secured by the Mortgage *as modified* is Fifteen Million and No/100 (\$15,000,000.00) Dollars.
2. That the Petitioner desires to pay recording tax on the maximum indebtedness, allocable to the secured assets which are located in the State of Alabama.
3. That the total value of all property covered by the said Mortgage, both in and Outside the State of Alabama, is Three Million, Six Hundred Sixteen Thousand, Three Hundred Forty and No/100 (\$ 3,616,340.00) Dollars.
4. That the total value of all property located within the State of Alabama is Two Hundred Seventy-Eight Thousand, Four Hundred Eighty-Four and No/100 (\$ 278,484.00) Dollars or 7.700 % of the value of all property covered by said mortgage *as modified*.
5. That the amount of indebtedness which is allocable to Alabama, and upon which recording tax is due, is One Million, One Hundred Fifty-Five Thousand and No/100 (\$ 1,155,000.00) Dollars.



6. That the amount of recording tax to be paid at the rate of \$0.15 for each \$100.00 of indebtedness or fraction thereof, which is attributable to the property located within the State of Alabama is One Thousand Seven Hundred Thirty-Two and 50/100 (\$ 1,732.50) Dollars.

7. That the said modification is to be recorded in Baldwin, Jefferson, Shelby and Madison counties. The original Mortgage has previously been filed in the four counties under the provisions of a Mortgage Privilege Tax Order Dated March 30, 2013.

8. That the relative property values of the properties lying within the State of Alabama and providing security for the Mortgage are as follows:

<u>COUNTY</u>	<u>VALUE</u>	<u>PERCENTAGE</u>
Baldwin	\$ 87,684.00	31.486%
Jefferson	\$ 87,600.00	31.456%
Shelby	\$ 74,400.00	26.716%
Madison	<u>\$ 28,800.00</u>	<u>10.342%</u>
TOTALS	\$278,484.00	100.000%

9. That, pursuant to the provisions of the Mortgage Privilege Tax Order dated March 30, 2013, and referred to above, the Mortgagee previously paid Mortgage Privilege Tax in the amount of One Thousand Five Hundred Thirteen and 50/100 (\$1,513.50) Dollars for the purpose of recording the Mortgage and is entitled to a credit in that amount to be applied to the Mortgage Privilege Tax due for recordation of the *modification* of said Mortgage in Baldwin, Jefferson, Shelby and Madison, Counties, Alabama under the terms of the petition herein. After approving said credit, the Alabama Department of Revenue finds that there is owed **Two Hundred Nineteen and No/100 (\$219.00)** which is due to be paid for recordation of the modification increasing the maximum indebtedness under the Mortgage.

10. That the Mortgage, *as modified*, is an open-end, secures future advances and the debt is a revolving loan. Because mortgage recording tax has been paid on the maximum principal indebtedness secured by the Mortgage, *as modified* in accordance with *Alabama Code* §40-22-2 (1) (b), no bond or reporting shall be required pursuant to *Alabama Code* §40-22-2(2).

**IT IS ORDERED, THEREFORE,** that Probate Judge for Baldwin County, Alabama wherein said mortgage modification will be first recorded shall collect recording tax in the amount of **Two Hundred Nineteen and No/100 (\$219.00)** for the recordation of the mortgage modification and pursuant to *Alabama Code* §40-22-2(7) and, after deducting the 5% commission due to the Probate Court of Baldwin County, shall make distribution of such tax to the State of Alabama and to the counties named herein, in the percentages as set out in Paragraph 8 above.. Upon payment of the recording tax and upon filing of the said mortgage modification in Baldwin County, Alabama, duplicate mortgage modifications shall be acceptable for recordation in the other counties, pursuant to *Alabama Code* §40-22-2(2)(a), without the payment of any further recording tax. The Probate Judges of the other counties are, however, entitled to collect applicable recording fees pursuant to *Alabama Code* §40-22-2(5).

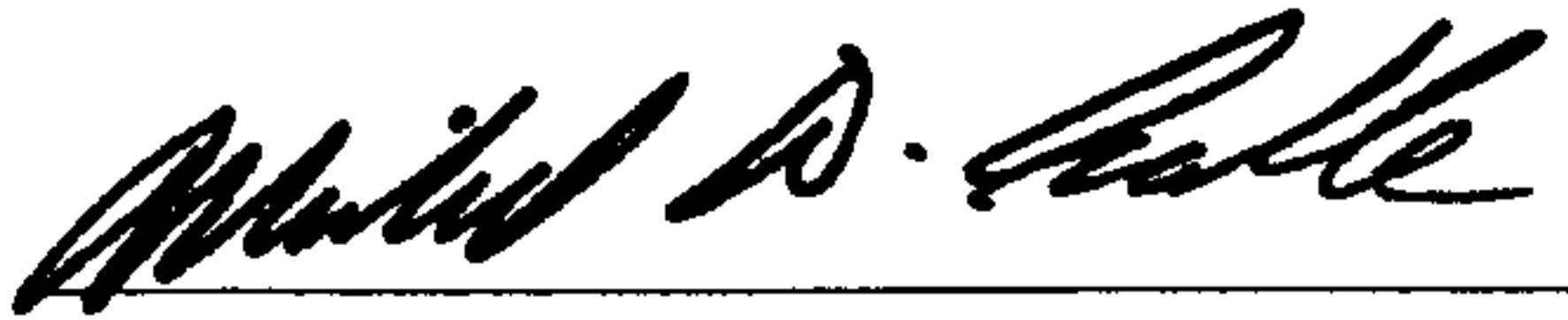
Petitioner is **ORDERED** to abide by the reporting and paying provisions of *Alabama Code* (1975) §40-22-2 (2) (b), as to any indebtedness which may be incurred or advanced in the future, relating to the Mortgage.

DONE this 24<sup>th</sup> day of AUGUST, 2016.


**ALABAMA DEPARTMENT OF REVENUE**

By:   
DEPUTY Commissioner of Revenue

ATTEST:

  
As Secretary

By:   
K. Elizabeth Jehle, Legal Division

  
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**TIM RUSSELL**  
**JUDGE OF PROBATE**  
**BALDWIN COUNTY**

220 Courthouse Square  
P. O. Box 459  
Bay Minette, AL 36507  
(251) 937-2596

August 30, 2016

STATE OF ALABAMA

BALDWIN COUNTY

I, Tim Russell, Judge of Probate in and for the County and State aforesaid, hereby certify that mortgage tax, in the amount of \$219.00 was collected by this office on August 30, 2016 on a Mortgage Modification Agreement recorded in Instrument number 1590243. Said modification agreement was between ADAMS HOMES L.L.C. as mortgagor and AXIOM BANK as mortgagee. The agreement covers property located in Baldwin, Shelby, Jefferson and Madison Counties. We have collected all the mortgage tax and will send the other Counties their proportionate share.

Tim Russell

Judge of Probate

PD



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Shelby Cnty Judge of Probate, AL  
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