

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

Form 10-Q

(Mark One)

Quarterly report pursuant to Section 13 or 15(d) of the Securities  
Exchange Act of 1934

For the quarterly period ended June 30, 2004

OR

Transition report pursuant to Section 13 or 15(d) of the Securities  
Exchange Act of 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 1-7525

The Goldfield Corporation

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State or Other Jurisdiction of  
Incorporation or Organization)

88-0031580

(IRS Employer Identification Number)

100 Rialto Place, Suite 500, Melbourne, FL  
(Address of Principal Executive Offices)

32901  
(Zip Code)

(321) 724-1700

(Registrant's Telephone Number, including Area Code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

As of August 2, 2004, 26,228,568 shares of the Registrant's common stock were outstanding.

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THE GOLDFIELD CORPORATION AND SUBSIDIARIES

QUARTERLY REPORT ON FORM 10-Q  
FOR THE QUARTER ENDED JUNE 30, 2004

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## PART I. FINANCIAL INFORMATION

### Item 1. Financial Statements.

#### THE GOLDFIELD CORPORATION AND SUBSIDIARIES CONSOLIDATED BALANCE SHEETS

	June 30, 2004 (unaudited)	December 31, 2003
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 2,995,840	\$ 5,045,463
Accounts receivable and accrued billings	4,211,529	4,043,255
Contracts receivable (Note 3)	3,589,400	3,732,867
Current portion of notes receivable	39,868	42,969
Costs and estimated earnings in excess of billings on uncompleted contracts	1,875,071	704,413
Deferred income taxes	109,566	194,492
Income taxes recoverable	41,663	37,658
Residential properties under construction	-	361,436
Prepaid expenses	563,366	514,716
Other current assets	408,457	7,132
Total current assets	<u>13,834,760</u>	<u>14,684,401</u>
Property, buildings and equipment, net	<u>7,328,527</u>	<u>5,911,013</u>
Notes receivable, less current portion	<u>554,438</u>	<u>570,061</u>
Deferred charges and other assets		
Deferred income taxes, less current portion	1,135,684	1,058,581
Land and land development costs	1,456,656	1,438,965
Cash surrender value of life insurance	303,011	309,939
Other assets	145,502	121,337
Total deferred charges and other assets	<u>3,040,853</u>	<u>2,928,822</u>
Total assets	<u>\$24,758,578</u>	<u>\$24,094,297</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities		
Accounts payable and accrued liabilities	\$ 3,203,220	\$ 2,296,085
Billings in excess of costs and estimated earnings on uncompleted contracts	-	115,520
Current portion of note payable to bank (Note 5)	307,483	1,578,923
Current liabilities of discontinued operations (Note 4)	93,283	128,380
Total current liabilities	<u>3,603,986</u>	<u>4,118,908</u>
Note payable to bank, less current portion (Note 5)	<u>922,451</u>	<u>-</u>
Total liabilities	<u>4,526,437</u>	<u>4,118,908</u>
Commitments and contingencies (Notes 4 and 6)		
Stockholders' equity		
Preferred stock, \$1 par value per share, 100,000 shares authorized, none issued	-	-

Common stock, \$.10 par value per share, 40,000,000 shares authorized; 27,736,771 and 27,570,104 shares issued at June 30, 2004 and December 31, 2003, respectively	2,773,677	2,757,010
Capital surplus	18,472,539	18,452,748
Accumulated deficit	<u>(263,007)</u>	<u>(539,704)</u>
Total	20,983,209	20,670,054
Less common stock in treasury, at cost; 1,471,635 and 1,373,327 shares at June 30, 2004 and December 31, 2003, respectively	<u>751,068</u>	<u>694,665</u>
Total stockholders' equity	<u>20,232,141</u>	<u>19,975,389</u>
Total liabilities and stockholders' equity	<u>\$24,758,578</u>	<u>\$24,094,297</u>

See accompanying notes to consolidated financial statements

THE GOLDFIELD CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	<u>2004</u>	<u>2003</u>	<u>2004</u>	<u>2003</u>
Revenue				
Electrical construction	\$ 6,685,343	\$ 8,897,680	\$15,957,277	\$15,850,579
Real estate development	876,062	1,657,762	3,864,833	2,385,207
Total revenue	<u>7,561,405</u>	<u>10,555,442</u>	<u>19,822,110</u>	<u>18,235,786</u>
Costs and expenses				
Electrical construction	6,880,757	8,010,733	14,429,031	13,760,331
Real estate development	647,912	1,286,795	2,722,941	1,931,526
Depreciation and amortization	500,815	392,512	987,335	738,109
Selling, general and administrative	659,262	696,621	1,423,756	1,276,979
Total costs and expenses	<u>8,688,746</u>	<u>10,386,661</u>	<u>19,563,063</u>	<u>17,706,945</u>
Other income, net				
Interest income	17,934	32,030	38,509	71,516
Interest expense, net	(11,502)	(6,754)	(18,001)	(13,508)
(Loss) gain on sale of property and equipment	(1,797)	12,319	(2,912)	(10,164)
Other	16,164	595	16,759	5,502
Total other income, net	<u>20,799</u>	<u>38,190</u>	<u>34,355</u>	<u>53,346</u>
(Loss) income from continuing operations before income taxes	(1,106,542)	206,971	293,402	582,187
Income taxes (benefit) (Note 7)	<u>(544,069)</u>	<u>84,292</u>	<u>16,705</u>	<u>234,546</u>
(Loss) income from continuing operations available to common stockholders	(562,473)	122,679	276,697	347,641
Income from discontinued operations (Note 4)	-	-	-	-
Net (loss) income available to common stockholders	<u>\$ (562,473)</u>	<u>\$ 122,679</u>	<u>\$ 276,697</u>	<u>\$ 347,641</u>

(Loss) earnings per share of common stock - basic and diluted (Note 8)				
Continuing operations	\$ (0.02)	\$ 0.00	\$ 0.01	\$ 0.01
Discontinued operations	0.00	0.00	0.00	0.00
Net (loss) income	\$ (0.02)	\$ 0.00	\$ 0.01	\$ 0.01
Weighted average common shares and equivalents used in the calculations of (loss) earnings per share				
Basic	26,336,064	26,613,750	26,313,124	26,771,237
Diluted	26,336,064	26,752,708	26,364,166	26,903,107

See accompanying notes to consolidated financial statements

THE GOLDFIELD CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
(Unaudited)

	Six Months Ended June 30,	
	2004	2003
Cash flows from operating activities		
Income from continuing operations available to common stockholders	\$ 276,697	\$ 347,641
Adjustments to reconcile net income to net cash provided by (used in) operating activities		
Depreciation and amortization	987,335	738,109
Deferred income taxes	7,823	188,455
Loss on sale of property and equipment	2,912	10,164
Cash (used by) provided from changes in		
Accounts receivable and accrued billings	(168,274)	(3,595,902)
Contracts receivable	143,467	(2,133,206)
Costs and estimated earnings in excess of billings on uncompleted contracts	(1,170,658)	(296,169)
Land and land development costs	(17,691)	(239,436)
Land held for sale	-	108,674
Residential properties under construction	361,436	(612,819)
Income taxes recoverable	(4,005)	16,555
Prepaid expenses and other assets	(474,140)	(330,535)
Accounts payable and accrued liabilities	907,135	2,535,722
Billings in excess of costs and estimated earnings on uncompleted contracts	(115,520)	45,959
Income taxes payable	-	24,062
Net cash provided by (used in) operating activities of continuing operations	736,517	(3,192,726)
Net cash used in operating activities of discontinued operations	(35,097)	-
Net cash provided by (used in) operating activities	701,420	(3,192,726)
Cash flows from investing activities		
Proceeds from the disposal of property and equipment	49,500	44,110
Proceeds from notes receivable	18,724	114,607
Issuance of notes receivable	-	(21,211)
Net purchases of investment securities	-	(15,351)
Purchases of property and equipment	(2,457,261)	(2,514,022)

Cash surrender value of life insurance	6,928	5,719
Net cash used in investing activities of continuing operations	<u>(2,382,109)</u>	<u>(2,386,148)</u>
Cash flows from financing activities		
Proceeds from the exercise of stock options	36,458	-
Net (repayments) borrowings on note payable to bank	(348,989)	1,154,827
Purchase of treasury stock	<u>(56,403)</u>	<u>(453,979)</u>
Net cash (used in) provided by financing activities of continuing operations	<u>(368,934)</u>	<u>700,848</u>
Net decrease in cash and cash equivalents	(2,049,623)	(4,878,026)
Cash and cash equivalents at beginning of period	<u>5,045,463</u>	<u>7,405,342</u>
Cash and cash equivalents at end of period	<u>\$ 2,995,840</u>	<u>\$2,527,316</u>
Supplemental disclosure of cash flow information		
Income taxes paid	\$ 14,126	\$ 14,500
Interest paid	2,651	2,866

See accompanying notes to consolidated financial statements

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**THE GOLDFIELD CORPORATION AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**June 30, 2004 and 2003**

**Note 1 - Basis of Financial Statement Presentation**

In the opinion of management, the accompanying unaudited interim consolidated financial statements include all adjustments necessary to present fairly the Company's financial position, results of operations and changes in cash flows for the interim periods reported. These adjustments are of a normal recurring nature. All financial statements presented herein are unaudited with the exception of the consolidated balance sheet as of December 31, 2003, which was derived from the audited consolidated financial statements. The results of operations for the interim periods shown in this report are not necessarily indicative of results to be expected for the fiscal year. These statements should be read in conjunction with the financial statements included in the Company's annual report on Form 10-K for the year ended December 31, 2003.

**Note 2 - Reclassifications**

Certain prior period amounts in the consolidated financial statements have been reclassified to conform with the current period presentation.

**Note 3 - Contracts Receivable**

Contracts receivable represent revenue recognized on a portion of the value of contracts for sale on condominium units, which establish buyers' commitments to purchase that are backed by their non-refundable earnest money deposits. As of June 30, 2004 and December 31, 2003, contracts receivable had a balance of \$3,589,400 and \$3,732,867, respectively.

The Company's real estate development operations do not extend financing to buyers and therefore, sales proceeds will be received in full upon closing.

**Note 4 - Discontinued Operations**

On December 4, 2002, effective November 30, 2002, the Company completed the sale of the capital stock of its mining subsidiaries.

**Commitments and Contingencies Related to Discontinued Operations**

On September 8, 2003, the United States Environmental Protection Agency (the "EPA") issued a special notice letter notifying the Company that it is a potentially responsible party (a "PRP"), along with three other parties, with respect to possible investigation and removal activities at the Anderson-Calhoun Mine/Mill Site (the "Site") in Stevens County, Washington, which the EPA may request that the Company, along with the other PRPs, perform or finance. The Company sold the Site property in 1964. The Company has commenced investigating the historic operations that occurred at the Site as well as the nature and scope of environmental conditions at the Site that

may present concerns to the EPA. Based upon its investigation to date, the Company has determined that its operations at the Site were primarily exploratory and that the Company never engaged in any milling or other processing activities at the Site. At some times from 1950 to 1952, the Company's records reflect that it extracted a limited amount (111,670 tons) of surface ore from the Site for off-site processing. The Site has changed owners several times since it was sold by the Company, and the Company believes that a substantial majority of the mining activities and all of the milling and related processing and process waste disposal activities likely were conducted by subsequent owners.

The Company has reached an agreement with two other PRPs at the Site (Combustion Engineering, Inc. and Blue Tee Corp.) under which the group has agreed with the EPA to undertake, finance and perform the Engineering Evaluation/Cost Analysis ("EE/CA") study at the Site, with the members of the group sharing equally the costs of this work, subject to re-allocation of such costs among group members after completion of the EE/CA. The Company believes that completion of the EE/CA process will extend until the winter of 2004-2005, whereupon the EPA will decide whether additional response action (remediation) may be necessary. Effective August 5, 2004, the Company, Blue Tee and Combustion Engineering have entered into an Administrative Order on Consent with the EPA under which the group will undertake, finance and perform the EE/CA. The group has secured bids from several contractors to perform the EE/CA work and is currently pursuing a contract with one of the bidders. Under the Comprehensive Environmental Response, Compensation and Liability Act, any of the PRPs may be jointly and severally liable to the EPA for the full amount of any response costs incurred by the EPA, including costs related to investigation and remediation, subject to a right of contribution from other PRPs. In practice, PRPs generally agree to perform such response activities, and negotiate among themselves to determine their respective contributions to any such multi-party activities based upon equitable allocation factors, including their respective contributions to the alleged contamination and their ability to pay.

It is impossible at this stage to estimate the total costs of investigation and remediation at the Site due to various factors, including the scope of the EE/CA study to be negotiated with the EPA, incomplete information regarding the Site and the other PRPs, uncertainty regarding the extent of contamination and the Company's share, if any, of liability for the contamination and the selection of alternative remedies and changes in clean-up standards. In September 2003, in accordance with Financial Accounting Standards Board Interpretation No. 14, "Reasonable Estimation of the Amount of a Loss - an interpretation of Statement of Financial Accounting Standards No. 5 (Accounting for Contingencies)", and Statement of Position 96-1, "Environmental Remediation Liabilities", the Company recognized a provision of \$210,976 (within discontinued operations) for this matter, which represents the current estimate of the Company's share of the costs associated with an emergency removal action previously undertaken by the EPA, the anticipated cost of the EE/CA study and the anticipated professional fees associated with the EE/CA study. Total actual costs to be incurred at the Site in future periods may vary from this estimate, given inherent uncertainties in evaluating environmental costs. As of June 30, 2004, the Company incurred actual investigation and professional services costs of \$117,693 and its reserve balance for the EE/CA study process is \$93,283 (accrued as a current liability within discontinued operations). The accrual will be reviewed periodically based upon facts and circumstances available at the time, which could result in changes to its amount. The EPA has indicated that it has made no determination whether any additional response action (remediation) will be required at the Site and will not do so until after completion of the EE/CA process. At this stage, the Company does not have sufficient information to determine the potential extent and nature of any necessary future response action (remediation) at the Site, or to estimate the potential additional future cost of such action or the Company's potential liability for such costs. The Company is also investigating whether any cost incurred would be covered by insurance although specific coverage has not yet been identified.

Assets and liabilities of the discontinued operations have been reflected in the accompanying consolidated balance sheets as follows:

	June 30, 2004 (unaudited)	December 31, 2003
Total assets of discontinued operations	\$ -	\$ -
Current liabilities		
Reserve for remediation	\$ 93,283	\$ 128,380
Total liabilities of discontinued operations	\$ 93,283	\$ 128,380

There were no results from discontinued operations in any of the three or six month periods ended June 30, 2004 and 2003.

#### **Note 5 - Note Payable to Bank**

In April 2002, the Company entered into a \$6,000,000 construction loan agreement, in favor of Wachovia Bank, N.A., to finance the development of condominium projects. A portion of the loan, up to \$1,500,000, may be used for the working capital needs of the Company. Under the terms of the loan, interest is payable monthly at an annual rate equal to the "Monthly LIBOR Index" plus one and nine-tenths percent (3.27% and 3.07% at June 30, 2004 and December 31, 2003, respectively). The proceeds from the sales of the condominiums are used to repay the loan. At the sole option of the lender, the outstanding principal and interest is due and payable in full within 30 days of the lender providing written notice to the Company. The loan is guaranteed by the Company's electrical construction subsidiary and is secured by an agreement not to further encumber said condominium projects. Borrowings outstanding under this agreement were \$1,578,923 as of December 31, 2003. There were no borrowings outstanding under this loan agreement as of June 30, 2004 and the full amount was available to the Company. The loan agreement contains various financial covenants including, but not limited to, minimum tangible net worth, minimum current ratio, and maximum debt to tangible net worth ratio. Other loan covenants prohibit, among other things, incurring additional indebtedness, issuing loans to other entities in excess of a certain amount, entering into a merger or consolidation, and any change in the Company's current Chief Executive Officer without prior written consent from the lender. The Company was in compliance with all such covenants as of June 30, 2004 and December 31, 2003.

Interest costs related to the construction of condominiums were capitalized. During the six month periods ended June 30, 2004 and 2003 the Company capitalized interest costs of \$41,626 and \$24,496, respectively. During the three month periods ended June 30, 2004 and 2003 the Company capitalized interest costs of \$24,078 and \$14,564, respectively.

On January 30, 2004, the Company entered into a \$2,600,000 term loan agreement, in favor of Wachovia Bank, N.A., to finance purchases of electrical construction equipment. The Company may only borrow funds under the loan during the draw period, January 30, 2004 through September 30, 2004. During the draw period, the Company is obligated to make monthly payments of accrued interest only. As of the end of the draw period, on September 30, 2004 (the "conversion date"), the loan will be payable in monthly payments of principal equal to 1/36 of the outstanding principal balance of the loan at the conversion date, plus accrued interest for 36 consecutive months. The annual interest rate is equal to the "LIBOR Market Index Rate" plus one and nine-tenths percent (3.27% at June 30, 2004). The loan is secured by the equipment purchased with the proceeds of the loan, and any replacements, accessions, or substitutions thereof and all cash and non-cash proceeds received thereof. Borrowings outstanding under this agreement were \$1,229,934 as of June 30, 2004 and the amount available for additional borrowing as of the same date was \$1,370,066. The loan agreement contains various financial covenants, including, but not limited to, minimum tangible net worth, minimum current ratio, and maximum debt to tangible net worth ratio. Other loan covenants prohibit, among other things, a change in fiscal year and any change in the Company's current Chief Executive Officer without prior written consent from the lender. The Company was in compliance with all such covenants as of June 30, 2004.

#### **Note 6 - Commitments and Contingencies**

In certain circumstances, the Company is required to provide performance bonds to secure its contractual commitments. Management is not aware of any performance bonds issued for the Company that have ever been called by a customer. As of June 30, 2004, outstanding performance bonds issued on behalf of the Company's electrical construction subsidiary amounted to approximately \$9,800,000.

#### **Note 7 - Income Taxes**

At June 30, 2004, the Company had tax net operating loss carryforwards of approximately \$2,710,000 available to offset future taxable income, which if unused will expire from 2009 through 2022. The Company has alternative minimum tax credit carryforwards of approximately \$306,000, which are available to reduce future Federal income taxes over an indefinite period.

The Company's effective tax rate for the six months ended June 30, 2004 was 5.7%, calculated based on the estimated annual operating results for the year. During the three months ended June 30, 2004, the Company recorded a tax benefit of \$544,069 to adjust the cumulative tax provision for the six months ended June 30, 2004 to reflect the estimated effective tax rate for the year.

#### **Note 8 - Earnings Per Share of Common Stock and Stock Repurchase Plan**

Basic earnings per common share is computed by dividing net income by the weighted average number of common stock shares outstanding during the period. Diluted earnings per share include additional dilution from potential common stock equivalents, such as



stock options outstanding. The following table sets forth the computation of basic and diluted earnings per share for the periods indicated:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2004	2003	2004	2003
	(unaudited)		(unaudited)	
Net (loss) income available to common stockholders	\$ (562,473)	\$ 122,679	\$ 276,697	\$ 347,641
Weighted average common shares issued	26,363,444	26,874,307	26,326,813	27,083,136
Less: Weighted average treasury stock shares	(27,380)	(260,557)	(13,689)	(311,899)
Weighted average common shares outstanding, net	26,336,064	26,613,750	26,313,124	26,771,237
Basic (loss) earnings per share of common stock	\$(0.02)	\$0.00	\$0.01	\$0.01
Weighted average dilutive shares from stock option plan	--	138,958	51,042	131,870
Weighted average common shares outstanding including dilutive shares	26,336,064	26,752,708	26,364,166	26,903,107
Diluted (loss) earnings per share of common stock	\$(0.02)	\$0.00	\$0.01	\$0.01

On September 17, 2002, the Company's Board of Directors approved a Common Stock Repurchase Plan ("the Repurchase Plan") allowing the Company to repurchase up to five percent (approximately 1.3 million shares) of its outstanding Common Stock over the twelve-month period which followed. On June 11, 2003, the Board of Directors approved a one-year extension of the repurchase period (until September 16, 2004) and increased the total number of shares purchasable under the Repurchase Plan to 2.5 million. The Company may repurchase its shares either in the open market or through private transactions. The volume of the shares to be repurchased is contingent upon market conditions and other factors. During the three month period ended June 30, 2004, the Company repurchased 98,308 shares of its Common Stock at a cost of \$56,403 (average cost of \$0.57 per share) which represents all of the shares repurchased in 2004. As of June 30, 2004, the total number of shares repurchased under the Repurchase Plan was 1,454,277 at a cost of \$732,348 (average cost of \$0.50 per share) and the remaining number of shares the Company is authorized to repurchase under the Repurchase Plan is 1,045,723. The Company currently holds the repurchased stock as Treasury Stock, reported at cost.

#### Note 9 - Business Segment Information

The Company is primarily involved in two lines of business, electrical construction and real estate development. There were no material amounts of sales or transfers between lines of business and no material amounts of foreign sales. Any intersegment sales have been eliminated.

The following table sets forth certain segment information for the six months ended June 30, as indicated:

	2004 (unaudited)	2003 (unaudited)
Sales from operations to unaffiliated customers		
Electrical construction	\$15,957,277	\$15,850,579
Real estate development	3,864,833	2,385,207
Total	\$19,822,110	\$18,235,786
Operating income		
Electrical construction	\$ 514,183	\$ 1,315,625
Real estate development	873,903	307,117
Total operating income	1,388,086	1,622,742



Other income, net	34,355	53,346
General corporate expenses	(1,129,039)	(1,093,901)
Income from continuing operations before income taxes	<u>\$ 293,402</u>	<u>\$ 582,187</u>

The following table sets forth certain segment information for the three months ended June 30, as indicated:

	2004 (unaudited)	2003 (unaudited)
Sales from operations to unaffiliated customers		
Electrical construction	\$ 6,685,343	\$ 8,897,680
Real estate development	876,062	1,657,762
Total	<u>\$ 7,561,405</u>	<u>\$10,555,442</u>
Operating (loss) income		
Electrical construction	\$ (714,330)	\$ 466,627
Real estate development	168,018	264,757
Total operating (loss) income	<u>(546,312)</u>	<u>731,384</u>
Other income, net	20,799	38,190
General corporate expenses	(581,029)	(562,603)
(Loss) income from continuing operations before income taxes	<u>\$(1,106,542)</u>	<u>\$ 206,971</u>

Operating income is total operating revenue less operating expenses inclusive of depreciation and selling, general and administrative expenses for each segment. Operating income excludes interest expense, interest income and income taxes. General corporate expenses are comprised of general and administrative expenses and corporate depreciation expense.

The following table sets forth certain segment information as of the dates indicated:

	June 30, 2004 (unaudited)	December 31, 2003
Identifiable assets:		
Electrical construction	\$14,835,471	\$11,988,779
Real estate development	5,685,842	6,157,845
Corporate	4,237,265	5,947,673
Total	<u>\$24,758,578</u>	<u>\$24,094,297</u>

#### Note 10 - The Goldfield Corporation 1998 Executive Long-term Incentive Plan

In 1998, the stockholders of the Company approved the 1998 Executive Long-term Incentive Plan (the "Plan"), which permits the granting of Nonqualified Stock Options, Incentive Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Units, Performance Shares and other awards to all officers and key employees of the Company and its subsidiaries. Shares granted pursuant to the Plan may be authorized but unissued shares of Common Stock, treasury shares or shares purchased on the open market. The exercise price under such grants, if applicable, will be based on the fair market value of the Common Stock at the date of grant. The maximum number of shares available for grant under the Plan is 1,300,000. Any options granted under the Plan must be exercised within 10 years of the date of grant. On March 9, 1999, the Company granted options to purchase 985,000 shares, exercisable at \$0.21875 per share, the fair market price of the Common Stock at the date of grant. No stock options were granted during the six month periods ended June 30, 2004 and 2003. As of June 30, 2004, 77,001 options were outstanding.

As permitted by Statement of Financial Accounting Standards ("SFAS") No. 123, "Accounting for Stock-Based Compensation", as amended by SFAS No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure - an amendment of SFAS No. 123", the Company applies the intrinsic value-based method of accounting as prescribed by Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees", in accounting for its Plan. Accordingly, no compensation cost has been recognized in the consolidated financial statements during the six month periods ended June 30, 2004 and 2003. Had the Company used the fair value-based method of accounting to determine compensation cost for its stock options at the grant date under SFAS No. 123, as amended by SFAS No. 148, the Company's net income would not have changed for the six month periods ended June 30, 2004 and 2003.

#### Note 11 - Recent Accounting Pronouncements

In January 2003, the Financial Accounting Standards Board (the "FASB") issued Interpretation No. 46 ("FIN 46"), "Consolidation of Variable Interest Entities", and a revised interpretation of FIN 46 ("FIN 46-R") was issued in December 2003. FIN 46 requires certain variable interest entities to be consolidated by the primary beneficiary of the entity if the equity investors in the entity do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. The provisions of FIN 46 are effective immediately for all arrangements entered into after January 31, 2003. Since January 31, 2003, the Company has not invested in any entities it believes are variable interest entities for which the Company is the primary beneficiary. FIN 46-R is effective for the interim periods ending March 31, 2004 or thereafter for all new or existing arrangements. The adoption of FIN 46 and FIN 46-R did not have a significant impact on the financial position or results of operations of the Company.

In March 2004, the Securities and Exchange Commission (the "SEC") released SEC Staff Accounting Bulletin ("SAB") No. 105, "Application of Accounting Principles to Loan Commitments". SAB No. 105 provides the SEC staff position regarding the application of accounting principles generally accepted in the United States of America to loan commitments that relate to the origination of mortgage loans that will be held for resale. SAB No. 105 contains specific guidance on the inputs to a valuation-recognition model to measure loan commitments accounted for at fair value. Current accounting guidance requires the commitment to be recognized on the balance sheet at fair value from its inception through its expiration or funding. SAB No. 105 requires that fair-value measurement include only differences between the guaranteed interest rate in the loan commitment and a market interest rate, excluding any expected future cash flows related to the customer relationship or loan servicing. In addition, SAB No. 105 requires the disclosure of both the accounting policy for loan commitments including the methods and assumptions used to estimate the fair value of loan commitments and any associated hedging strategies. SAB No. 105 is effective for all loan commitments accounted for as derivatives and entered into subsequent to March 31, 2004. Adoption of this SAB did not have a significant impact on the financial position or results of operations of the Company.

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In March 2004, the Emerging Issues Task Force (the "EITF") of the FASB reached a consensus on Issue No. 03-06, "Participating Securities and the Two-Class Method under FASB Statement No. 128, Earnings per Share", which determines whether a security should be considered a "participating security" for purposes of computing earnings per share ("EPS") and how earnings should be allocated to a participating security when using the two-class method for computing basic EPS. SFAS No. 128 indicates that participating securities should be included in basic EPS, if the effect is dilutive, using either the two-class method or the if-converted method. Paragraph 60 of SFAS No. 128 more fully describes participating securities through certain broad examples. This Issue is effective for reporting periods beginning after March 31, 2004. Adoption of this Issue did not have a significant impact on the financial position or results of operations of the Company.

In March 2004, the EITF of the FASB reached a consensus on Issue No. 04-3, "Mineral Assets: Impairment and Business Combinations", which states that the value attributable to the value beyond proven and probable reserves (VBPP) and the effects of anticipated fluctuations in future market prices of minerals should be considered in a manner that is consistent with the expectations of marketplace participants when an entity allocates the purchase price to assets acquired in a business combination. Additionally, the EITF reached a consensus that the value attributable to VBPP and the effects of anticipated fluctuations in future market prices of minerals should be considered in the cash flow analysis used to test mining assets for impairment under SFAS 144. This Issue should be applied prospectively to business combinations completed and impairment tests performed in reporting periods beginning after March 31, 2004. The additional consensus is effective prospectively to FAS 144 impairment tests completed after March 31, 2004. Adoption of this Issue did not have a significant impact on the financial position or results of operations of the Company.

### **Forward-Looking Statements**

We make "forward looking statements" within the "safe harbor" provision of the Private Securities Litigation Reform Act of 1995 throughout this document. You can identify these statements by forward-looking words such as "may," "will," "expect," "anticipate," "believe," "estimate," "plan," and "continue" or similar words. We have based these statements on our current expectations about future events. Although we believe that our expectations reflected in or suggested by our forward-looking statements are reasonable, we cannot assure you that these expectations will be achieved. Our actual results may differ materially from what we currently expect. Factors that may affect the results of our electrical construction operations include, among others: the level of construction activities by public utilities; the timing and duration of construction projects for which we are engaged; adverse weather; our ability to estimate accurately with respect to fixed price construction contracts; heightened competition in the electrical construction field, including intensification of price competition; and the availability of skilled construction labor. Factors that may affect the results of our real estate development operations include, among others: interest rates; ability to obtain necessary permits from regulatory agencies; ability to acquire land; ability to obtain additional construction financing; adverse weather; natural disasters; and general economic conditions, both nationally and in our region. Important factors which could cause our actual results to differ materially from the forward-looking statements in this document are also set forth in the Management's Discussion and Analysis of Financial Condition and Results of Operations section and elsewhere in this document.

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You should read this Quarterly Report on Form 10-Q completely and with the understanding that our actual future results may be materially different from what we expect. We may not update these forward-looking statements, even in the event that our situation changes in the future. All forward-looking statements attributable to us are expressly qualified by these cautionary statements.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

**Overview**

The Company's revenue from electrical construction operations increased slightly in the first six months of 2004 when compared to the same period in the prior year, while it decreased in the three months ended June 30, 2004 compared to the like period in 2003, mainly due to a decrease in demand for electrical construction services. We can not project the levels of future demand for construction services. On May 25, 2004, the Company announced the immediate future of the electrical construction business may be affected by recent operational issues with respect to two of its major customers, one of which resulted in the termination of one electrical construction contract as more fully described in the Company's Current Report on Form 8-K dated May 25, 2004. For the time being, the Company is unable to bid on future contracts with this customer. With respect to the other customer, the Company continues to receive work orders under existing contracts, but may be temporarily limited in its ability to bid on certain new contracts. Operating margins of the electrical construction operations decreased significantly for both the six months and three months ended June 30, 2004. The decrease is primarily attributable to a single electrical construction contract (now completed) on which the Company encountered unforeseen operational difficulties in the second quarter of 2004.

Revenues and operating income from the real estate development operations increased significantly in the first six months of 2004 when compared to the same period in 2003, mainly due to an increased number of higher-margin condominium units under construction. Although the Company believes the market remains strong for its condominium development projects, revenues from the real estate development operations are expected to decline in the second half of 2004 pending commencement of construction on two planned projects, Oak Park and Pineapple House, described in the Results of Operations section below, each of which is larger than any of the Company's prior condominiums. Revenues from these planned projects are expected to commence in late 2004 or early 2005. Since both projects are still in the permitting phase, there can be no assurance as to specific timing.

**Critical Accounting Policies and Estimates**

This discussion and analysis of the Company's financial condition and results of operations is based upon the Company's consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires the Company to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. On an on-going basis, the Company evaluates its estimates, including those related to fixed price electrical construction contracts, real estate development projects, deferred income tax assets and environmental remediation. The Company bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. For example, for each critical accounting estimate, a hypothetical scenario of an adverse 5% change to the estimate and its resulting affect on after-tax income is detailed below. The Company believes the following critical accounting policies affect its more significant judgments and estimates used in the preparation of its consolidated financial statements. The Company's management has discussed the selection and development of its critical accounting policies, estimates and related disclosure below with the Audit Committee of the Board of Directors.

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**Percentage of Completion - - Electrical Construction Segment**

A number of factors relating to our electrical construction segment affect the recognition of contract revenue. The Company recognizes revenue when electrical services are performed except when work is performed under a fixed price contract. Revenue from fixed price electrical construction contracts is recognized on the percentage of completion method. Under this method, estimated contract income and resulting revenue is generally accrued based on costs incurred to date as a percentage of total estimated costs. Total estimated costs, and thus contract income, are impacted by several factors including, but not limited to, changes in productivity and scheduling, and the cost of labor, subcontracts, materials and equipment. Additionally, external factors such as weather, client needs, client delays in providing approvals, labor availability and governmental regulation, may also affect the progress and estimated cost of a project's completion and thus

the timing of income and revenue recognition.

The Company believes the current assumptions and other considerations used to estimate the total costs are appropriate. However, if actual experience differs from the assumptions and other considerations used in estimating total costs, the resulting change could have an adverse effect on the Company's results of operations. For example, if a 5% unfavorable change in total estimated costs had occurred, after-tax income from continuing operations for the six months ended June 30, 2004 would have decreased \$239,904.

If a current estimate of total costs indicates a loss on a contract, the projected loss is recognized in full when determined. Revenue from change orders, extra work, variations in the scope of work and claims is recognized when realization is probable.

#### **Percentage of Completion - Real Estate Development Segment**

Given our then limited experience in condominium development, the initial condominium development project was accounted for under the deposit method, thus deferring the recognition of related revenue and expenses until the project was complete and the underlying titles were transferred to the buyers.

As of August 2002, commencing with the second condominium development project, all revenue associated with real estate development projects that meet the criteria specified by Statement of Financial Accounting Standards ("SFAS") No. 66, "Accounting for Sales of Real Estate", have been recognized using the percentage of completion method. Under this method, revenue is recognized when (1) construction is beyond a preliminary stage, (2) buyers are unable to receive refunds of down-payments except in the event of non-delivery, (3) a substantial percentage of the condominiums are under firm contracts, (4) collection of the sales price is reasonably assured and (5) sales proceeds and costs can be reasonably estimated. Revenue recognized is calculated based on the percentage of completion, as determined by the ratio of fixed price construction contract costs incurred to date to the total fixed price construction contract. A significant majority of the total estimated project costs is attributable to the fixed price construction contract; the residual estimated costs could vary from actual and the variation is recognized in the period it is determined.

Because of the general invariability of costs of fixed-price construction contracts, the Company believes that a material difference in total actual project costs versus total estimated project costs is unlikely, although possible. As of June 30, 2004, all real estate condominium projects being accounted for under the percentage of completion method of accounting were complete. As a result, after-tax income from continuing operations for the six months ended June 30, 2004 would not have changed from any adverse circumstances affecting previously estimated total project costs.

If a current estimate of total project costs indicates a loss on a project, the projected loss is recognized in full when determined. The timing of revenue and expense recognition is contingent on construction productivity. Factors possibly impeding construction productivity include, but are not limited to, supply of labor, materials and equipment, scheduling, weather, permitting and unforeseen events.

If a buyer were to default on the contract for sale, revenues and expenses recognized in prior periods would be adjusted in the period of default.

#### **Deferred Tax Assets**

The Company considers future taxable income and ongoing prudent and feasible tax planning strategies in assessing the need for a valuation allowance for deferred tax assets. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which the deferred tax assets are expected to be recovered or settled. Should the Company determine that it would not be able to realize all or part of its net deferred tax assets, a valuation allowance would be recorded to reduce its deferred tax assets to the amount that is more likely than not to be realized. In the event the Company were to subsequently determine that it would be able to realize its deferred tax assets in the future in excess of its net recorded amount, an adjustment to the previously recorded valuation allowance would increase income in the period such determination was made.

As of June 30, 2004, the deferred tax asset was largely comprised of net operating loss ("NOL") carryforwards which will expire from 2009 through 2022. Based on historical experience and other various assumptions including forecasts of future taxable income and tax planning, the Company anticipates being able to generate sufficient taxable income to utilize the NOL carryforwards prior to their respective expiration dates and therefore, did not record a valuation allowance against the deferred tax assets. Had the Company forecasted an inability to utilize 5% of the NOL carryforwards, prior to their respective expiration dates, after-tax income from continuing operations for the six months ended June 30, 2004 would have decreased \$46,070.

#### **Provision for Remediation**

In September 2003, the Company was notified by the United States Environmental Protection Agency (the "EPA") that it is a potentially responsible party (a "PRP") with respect to possible investigation and removal activities at a mine that it had formerly owned. Refer to note 4 of notes to the consolidated financial statements for a discussion on this matter.

In accordance with Financial Accounting Standards Board ("FASB") Interpretation No. 14, "Reasonable Estimation of the Amount of a Loss - an interpretation of Statement of Financial Accounting Standards No. 5 (Accounting for Contingencies)", and Statement of Position 96-1, "Environmental Remediation Liabilities", during the year ended December 31, 2003, the Company recognized a provision of \$210,976 (within discontinued operations), which represents the Company's current estimate of remediation costs for this matter. Total actual remediation costs to be incurred in future periods may vary from this estimate, given inherent uncertainties in evaluating environmental costs. In the current year, had the Company determined its estimate for the provision for remediation to be 5% in excess of its estimate recognized in the prior year, after-tax income from discontinued operations for the six months ended June 30, 2004 would have decreased \$9,948.

## Results of Operations

### SIX MONTHS ENDED JUNE 30, 2004 COMPARED TO SIX MONTHS ENDED JUNE 30, 2003

#### Segment Information

The table below shows the Company's consolidated revenue and operating income attributable to each of its ongoing lines of business for the six months ended June 30, as indicated:

	2004 (unaudited)	2003 (unaudited)
Revenue		
Electrical construction	\$15,957,277	\$15,850,579
Real estate development	3,864,833	2,385,207
Total	\$19,822,110	\$18,235,786
Operating income		
Electrical construction	\$ 514,183	\$ 1,315,625
Real estate development	873,903	307,117
Total	\$ 1,388,086	\$ 1,622,742

Operating income is total operating revenue less operating expenses inclusive of depreciation and selling, general and administrative expenses for each segment. Operating income excludes interest expense, interest income and income taxes.

#### Continuing Operations

##### Revenues

Total revenues in the six months ended June 30, 2004 increased by 8.7% to \$19,822,110, compared to \$18,235,786 in the six months ended June 30, 2003.

Electrical construction revenues increased by \$106,698, or 0.7% in the six months ended June 30, 2004 to \$15,957,277 from \$15,850,579 in the six months ended June 30, 2003.

Revenues recognized by the real estate development operations for the six months ended June 30, 2004 were \$3,864,833 compared to \$2,385,207 for the six months ended June 30, 2003, an increase of 62.0%. This increase was mainly a result of having a greater number of condominium units under construction during the six months ended June 30, 2004, when compared to the like period in 2003.

In June 2004, the real estate development operations' third project, "Cape Club", a sixteen-unit oceanfront condominium development located in Cape Canaveral, Florida was completed and nine units previously under contract for sale were closed. The remaining units closed in July 2004. Cape Club was accounted for under the percentage of completion method as described in the above Critical Accounting Policies and Estimates.

"Oak Park", a townhouse-style condominium project in Cape Canaveral, Florida is currently in the planning/permitting phase. Preliminary plans call for a forty-unit complex to be built, all of which have been reserved with refundable deposits.

The Company's most recent plans are to develop a river-view residential complex on a two-acre parcel in Melbourne, Florida, acquired in January 2003 for approximately \$1 million. Initial plans call for a multi-phase development named "Pineapple House", with the first phase comprised of a thirty-three-unit luxury river-view condominium complex. Future proposed phases adjoining the first phase include two additional buildings containing twenty-two residential units each. On June 22, 2004, the Company received site plan approval for the project from the City of Melbourne. Commencement of construction is dependent upon the receipt of required permits and approvals.

### Operating Results

Electrical construction operations had an operating income of \$514,183 in the six months ended June 30, 2004, compared to an operating income of \$1,315,625 during the six months ended June 30, 2003, a decrease of 60.9%. As a percentage of revenue, operating margins on electrical construction operations decreased to 3.2% for the six months ended June 30, 2004 from 8.3% for the six months ended June 30, 2003. This decrease in operating results is primarily attributable to a single electrical contract (now completed) on which the Company encountered unforeseen operational difficulties in the second quarter of 2004. The Company's electrical construction subsidiary is customarily involved in a limited number of projects at any one given time. Therefore, operating results can vary significantly from period to period depending upon the number of projects underway in any period and the particular operating characteristics of such projects. The varying magnitude and duration of electrical construction projects may result in substantial fluctuation in the Company's backlog from time to time. At June 30, 2004, the approximate value of uncompleted contracts was \$4,700,000 compared to \$4,900,000 at June 30, 2003.

Real estate development operations had an operating income of \$873,903 in the six months ended June 30, 2004, compared to \$307,117 in the six months ended June 30, 2003, an increase of \$566,786. As a percentage of revenue, operating margins increased to 22.6% for the six months ended June 30, 2004 from 12.9% for the six months ended June 30, 2003. The increase in operating margin was due to both an increase in the number of units under construction and an increased margin on such units. Operating margins from real estate development operations are expected to vary due to the type and number of projects under construction at any given time and each respective project's estimated operating margin.

As of June 30, 2004, the real estate development operations had no backlog (outstanding real estate contracts for sale excluding partial revenue already recognized on said contracts under the percentage of completion method) compared to approximately \$7,900,000 as of June 30, 2003. Although real estate development operations currently has no backlog, previously mentioned projects awaiting approval of construction may have a material impact on future backlog.

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### Costs and Expenses

Total costs and expenses, and the components thereof, increased to \$19,563,063 in the six months ended June 30, 2004 from \$17,706,945 in the six months ended June 30, 2003, an increase of 10.5%.

Electrical construction costs increased to \$14,429,031 in the six months ended June 30, 2004 from \$13,760,331 in the six months ended June 30, 2003, an increase of 4.9%. The increase in costs was primarily attributable to costs incurred on a single electrical contract (now completed) on which the Company encountered unforeseen operational difficulties.

Costs of the real estate development operations increased to \$2,722,941 for the six months ended June 30, 2004 from \$1,931,526 for the six months ended June 30, 2003, an increase of 41.0%. This increase was primarily due to an increase in construction costs as a result of a greater volume of condominium units under construction during the six months ended June 30, 2004, when compared to the same period in 2003.

Depreciation and amortization was \$987,335 in the six months ended June 30, 2004, compared to \$738,109 in the six months ended June 30, 2003. The increase in depreciation and amortization was primarily a result of an increase in capital expenditures made in recent years, most of which were attributed to upgrading and replacing electrical construction equipment.

The following table sets forth selling, general and administrative ("SG&A") expenses for each respective segment for the six months ended June 30, as indicated:

	2004 (unaudited)	2003 (unaudited)
Electrical construction	\$ 68,550	\$ 66,432



Real estate development	262,238	139,826
Corporate	1,092,968	1,070,721
Total	<u>\$1,423,756</u>	<u>\$1,276,979</u>

In the six months ended June 30, 2004, total SG&A expenses increased by 11.5% when compared to the like period in 2003. The increase was mainly due to an increased volume of activity in the real estate development operations during the six months ended June 30, 2004, when compared to the same period in 2003. SG&A expenses, as a percentage of revenue, increased to 7.2% in the six months ended June 30, 2004 from 7.0% in the six months ended June 30, 2003.

#### Income Taxes

The provision for income taxes was \$16,705 in the six months ended June 30, 2004, an effective tax rate of 5.7%, which is the Company's expected tax rate for the year ended December 31, 2004, as compared to \$234,546 in the six months ended June 30, 2003, an effective tax rate of 40.3%. The effective tax rate differs from the statutory rate for the six months ended June 30, 2004, largely due to estimated expenses which are non-deductible for tax purposes in proportion to the estimated operating results before taxes for the year. For the six months ended June 30, 2003, the effective tax rate differs from the statutory rate primarily due to state income taxes.

#### Discontinued Operations

On December 4, 2002, effective November 30, 2002, the Company completed the sale of the capital stock of its mining subsidiaries.

Following the sale, in September 2003, the Company was notified by the EPA that it is a PRP with respect to possible investigation and removal activities at a mine previously owned by the Company. Please see Part II, Item 1. Legal Proceedings.

There were no results from discontinued operations in each of the six month periods ended June 30, 2004 and 2003.

#### THREE MONTHS ENDED JUNE 30, 2004 COMPARED TO THREE MONTHS ENDED JUNE 30, 2003

##### Segment Information

The table below shows the Company's consolidated revenue and operating income attributable to each of its ongoing lines of business for the three months ended June 30, as indicated:

	2004 (unaudited)	2003 (unaudited)
Revenue		
Electrical construction	\$ 6,685,343	\$ 8,897,680
Real estate development	876,062	1,657,762
Total	<u>\$ 7,561,405</u>	<u>\$10,555,442</u>
Operating (loss) income		
Electrical construction	\$ (714,330)	\$ 466,627
Real estate development	168,018	264,757
Total	<u>\$ (546,312)</u>	<u>\$ 731,384</u>

Operating income is total operating revenue less operating expenses inclusive of depreciation and selling, general and administrative expenses for each segment. Operating income excludes interest expense, interest income and income taxes.

#### Continuing Operations

##### Revenues

Total revenues in the three months ended June 30, 2004 decreased by 28.4% to \$7,561,405, compared to \$10,555,442 in the three months ended June 30, 2003.

Electrical construction revenues decreased by 24.9% in the three months ended June 30, 2004 to \$6,685,343 from \$8,897,680 in the three



months ended June 30, 2003. This decrease was primarily attributable to a decrease in both transmission line construction and fiber optic projects as a result of a decline in the demand for electrical construction services and, to a significantly lesser extent, the termination of an ongoing electrical construction contract because of operational issues, as more fully described in the Company's Current Report on Form 8-K dated May 25, 2004.

Revenues recognized by the real estate development operations for the three months ended June 30, 2004 were \$876,062 compared to \$1,657,762 for the three months ended June 30, 2003, a decrease of 47.2%. This decrease was primarily due to the completion of Cape Club in the second quarter of 2004.

### Operating Results

Electrical construction operations had an operating loss of \$714,330 in the three months ended June 30, 2004, compared to operating income of \$466,627 during the three months ended June 30, 2003, a decrease of 253.1%. As a percentage of revenue, operating margins on electrical construction operations decreased to (10.7)% for the three months ended June 30, 2004 from 5.2% for the three months ended June 30, 2003. This decrease in operating results is primarily attributable to a single electrical contract (now completed) on which the Company encountered unforeseen operational difficulties in the second quarter of 2004.

Real estate development operations had operating income of \$168,018 in the three months ended June 30, 2004, compared to \$264,757 in the three months ended June 30, 2003, a decrease of 36.5%. As a percentage of revenue, operating margins increased to 19.2% for the three months ended June 30, 2004 from 16.0% for the three months ended June 30, 2003. Although the operating margin as a percentage of revenue increased, overall operating income decreased due to the completion of Cape Club in the second quarter of 2004.

### Costs and Expenses

Total costs and expenses, and the components thereof, decreased to \$8,688,746 in the three months ended June 30, 2004 from \$10,386,661 in the three months ended June 30, 2003, a decrease of 16.4%.

Electrical construction costs decreased to \$6,880,757 in the three months ended June 30, 2004 from \$8,010,733 in the three months ended June 30, 2003, a decrease of 14.1%. The decrease in costs was primarily attributable to a decrease in the volume of the work performed by the Company.

Costs of the real estate development operations decreased to \$647,912 for the three months ended June 30, 2004 from \$1,286,795 for the three months ended June 30, 2003, a decrease of 49.7%. This decrease was mainly due to the completion of Cape Club's construction during the second quarter of 2004.

Depreciation and amortization was \$500,815 in the three months ended June 30, 2004, compared to \$392,512 in the three months ended June 30, 2003. The increase in depreciation and amortization was primarily a result of an increase in capital expenditures made in recent years, most of which were attributed to upgrading and replacing electrical construction equipment.

The following table sets forth selling, general and administrative ("SG&A") expenses for each respective segment for the three months ended June 30, as indicated:

	2004 (unaudited)	2003 (unaudited)
Electrical construction	\$ 36,295	\$ 45,027
Real estate development	57,324	101,563
Corporate	565,643	550,031
Total	<u>\$659,262</u>	<u>\$696,621</u>

In the three months ended June 30, 2004, total SG&A expenses decreased by 5.4% when compared to the like period in 2003. The decrease was mainly due to lower selling costs incurred by the real estate development operations as a result of the completion of construction on Cape Club during the second quarter of 2004. SG&A expenses, as a percentage of revenue, increased to 8.7% in the three months ended June 30, 2004 from 6.6% in the three months ended June 30, 2003, largely as a result of decreased revenue.

### Income Taxes

The income tax provision (benefit) was (\$544,069) in the three months ended June 30, 2004, an effective tax (benefit) rate of (49.2)%, as compared to \$84,292 in the three months ended June 30, 2003, an effective tax rate of 40.7%. The effective tax benefit rate for the three months ended June 30, 2004 was the rate required to cause the cumulative tax provision for the six months ended June 30, 2004 to reflect

the Company's estimated effective tax rate for the year ended December 31, 2004. The effective tax rate for the three months ended June 30, 2003 differs from the statutory rate largely due to state income taxes.

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### Discontinued Operations

There were no results from discontinued operations in each of the three month periods ended June 30, 2004 and 2003.

### Liquidity and Capital Resources

#### Working Capital Analysis

Cash and cash equivalents at June 30, 2004 were \$2,995,840 as compared to \$5,045,463 at December 31, 2003. Working capital of continuing and discontinued operations at June 30, 2004 was \$10,230,774, compared to \$10,565,493 at December 31, 2003. The Company's ratio of current assets to current liabilities (including continuing and discontinued operations) increased slightly to 3.8:1 at June 30, 2004, from 3.6:1 at December 31, 2003.

#### Cash Flow Analysis

Net cash flows for each of the six month periods ended June 30 were as follows:

	2004 (unaudited)	2003 (unaudited)
Operating activities	\$ 701,420	\$(3,192,726)
Investing activities	(2,382,109)	(2,386,148)
Financing activities	(368,934)	700,848
Net decrease in cash and cash equivalents	<u>\$(2,049,623)</u>	<u>\$(4,878,026)</u>

#### Operating Activities

Cash flows from operating activities are comprised of income from continuing operations adjusted to reflect the timing of cash receipts and disbursements therefrom.

Net cash provided by operating activities during the six months ended June 30, 2004 was \$701,420, compared to \$3,192,726 of net cash used during the same period in 2003. Changes in the accounts receivable and accrued billings used \$168,274 of cash during the six months ended June 30, 2004, compared to cash used of \$3,595,902 during the six months ended June 30, 2003. This significant decrease in cash usage by accounts receivable and accrued billings in the six months ended June 30, 2004 when compared to the same period in the prior year, was primarily due to an increase of cash collected in the first six months of 2004 related to outstanding accounts receivable of the electrical construction operations when compared to cash collections in the same period of the prior year. Changes in the contracts receivable of the real estate development operations provided \$143,467 of cash in the first six months of 2004, compared to \$2,133,206 of cash used in the same period of the prior year. The significant increase in cash provided by contracts receivable was mainly due to the cash collected in the first six months of 2004 from the majority of Cape Club's contracts receivable, due to the completion of Cape Club in June 2004. There were no collections of contracts receivable in the same period of 2003. Changes in the accounts payable and accrued liabilities provided cash of \$907,135 during the first six months of 2004, compared to \$2,535,722 of cash provided during the same period in 2003, primarily due to a greater number of electrical construction projects starting construction in the first six months of 2003 when compared to the same period in 2004.

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#### Investing Activities

Net cash used by investing activities in the six months ended June 30, 2004 was \$2,382,109, compared to \$2,386,148 of cash used in the

like period of 2003. This slight decrease in cash usage by the Company's investing activities during the first six months of 2004, when compared to the same period in 2003, was primarily the result of a slight decrease of capital expenditures in the first six months of 2004 to \$2,457,261 from \$2,514,022 for the same period in 2003. The majority of capital expenditures are attributable to purchases of machinery and equipment by the Company's electrical construction segment which were prompted by an increase in the volume of work performed and an effort to reduce future equipment rental expense. Total capital expenditures in 2004 are expected to approximate \$4.5 million, which the Company anticipates funding through existing cash reserves and its new term loan with Wachovia Bank, N.A., as described in note 5 of notes to the consolidated financial statements.

### Financing Activities

Net cash used by financing activities in the six months ended June 30, 2004 was \$368,934, compared to \$700,848 of cash provided in the same period in 2003. This increase in cash used by financing activities in the first six months of 2004, relative to the comparable period in the prior year, was primarily due to the repayment of the real estate construction loan (refer to note 5 of notes to the consolidated financial statements), which was partially offset by additional borrowings on the electrical construction operations term loan (refer to note 5 of notes to the consolidated financial statements) during the six months ended June 30, 2004. Proceeds from the closing of units at Cape Club, the majority of which were received in the second quarter of 2004, were used to repay the real estate construction loan.

In the six months ended June 30, 2004 and 2003, the Company used cash in the amount of \$56,403 and \$453,979, respectively, to purchase Treasury Stock (98,308 and 857,134 shares of Common Stock at an average cost of \$0.57 and \$0.53 per share, respectively for the six months ended June 30, 2004 and 2003) pursuant to the Common Stock Repurchase Plan as described in note 8 of notes to the consolidated financial statements.

The Company has paid no cash dividends on its Common Stock since 1933, and it is not expected that the Company will pay any cash dividends on its Common Stock in the immediate future.

On January 30, 2004, the Company entered into a term loan in the amount of \$2,600,000, as described in note 5 of notes to the consolidated financial statements, to finance a portion of the electrical construction operations anticipated capital expenditures for the current year. As of August 2, 2004, draws in the amount of \$1,908,934 have been made on the aforementioned loan and \$691,066 is available for additional borrowing.

The Company currently has a real estate construction loan (see note 5 of notes to the consolidated financial statements) in favor of Wachovia Bank, N.A. As of August 2, 2004, there were no borrowings outstanding under said loan and \$6,000,000 is available for borrowing, of which \$1,500,000 can be used for the working capital needs of the Company.

The Company's credit facilities require it to comply with various covenants, including, but not limited to, minimum tangible net worth, minimum current ratio, and maximum debt to tangible net worth ratio. Other loan covenants prohibit, among other things, incurring additional indebtedness, issuing loans to other entities in excess of a certain amount, entering into a merger or consolidation, and any change in the Company's current Chief Executive Officer without prior written consent from the lender. As of June 30, 2004, the Company was in compliance with all such covenants. However, there can be no assurance that the Company will be able to sustain compliance with said covenants and therefore could risk either a reduction or elimination of its present credit facilities. The Company believes that its present ability to borrow, with the consent of its current lender, is greater than its established credit facilities in place. However, no assurance can be given as to the terms, availability or cost of any future financing the Company may need.

### Forecast

The Company anticipates its cash on hand, cash flows from operations and credit facilities will provide sufficient cash to enable the Company to meet its working capital needs, debt service requirements and planned capital expenditures for at least the next twelve months. However, the Company's revenues, results of operations and cash flows as well as its ability to seek additional financing may be negatively impacted by factors including, but not limited to, a decline in demand for electrical construction services and/or condominiums in the markets served and general economic conditions, heightened competition, availability of construction materials, increased interest rates and adverse weather conditions.

### Contractual Obligations

The following table summarizes the Company's future aggregate contractual obligations at June 30, 2004:

Total	Payments Due By Period			
	Less Than 1 Year	1-2 Years	3-5 Years	More Than 5 Years

Operating

leases <sup>(1)</sup>	\$1,084,023	\$ 170,862	\$145,134	\$425,872	\$342,155
Purchase obligations <sup>(2)</sup>	<u>5,064,231</u>	<u>4,167,321</u>	<u>423,650</u>	<u>473,260</u>	<u>--</u>
Total	<u>\$6,148,254</u>	<u>\$4,338,183</u>	<u>\$568,784</u>	<u>\$899,132</u>	<u>\$342,155</u>

(1) On June 7, 2004, the Company entered into a new lease agreement for its corporate headquarters with Hibiscus Office Park, LLC.

(2) \$1,523,180 is included in the consolidated balance sheet as of June 30, 2004 within the accounts payable and accrued liabilities section.

#### Item 4. Controls and Procedures.

##### Evaluation of disclosure controls and procedures

John H. Sottile, our Chief Executive Officer ("CEO"), and Stephen R. Wherry, our Chief Financial Officer ("CFO"), have performed an evaluation of the Company's disclosure controls and procedures, as that term is defined in Rule 13a-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of June 30, 2004 and each has concluded that such disclosure controls and procedures are sufficiently effective to provide reasonable assurance that information required to be disclosed in our periodic reports filed under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified by the Securities and Exchange Commission's rules and regulations.

##### Changes in internal controls

No changes in the Company's internal controls over financial reporting occurred during the second quarter of 2004 that have materially affected, or are reasonably likely to materially affect, the Company's internal controls over financial reporting.

##### Limitations of the effectiveness of controls

A control system, no matter how well conceived and operated, can provide only reasonable assurance, not absolute assurance that the objectives of the control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within a company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls is also based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that the design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies and procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected. Accordingly, our disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of our disclosure control system are met and, as set forth above, our CEO and CFO have concluded, based on their evaluation, that our disclosure controls and procedures were sufficiently effective as of June 30, 2004 to provide reasonable assurance that the objectives of the disclosure control system were met.

## PART II. OTHER INFORMATION

### Item 1. Legal Proceedings.

#### Environmental

On September 8, 2003, the United States Environmental Protection Agency (the "EPA") issued a special notice letter notifying the Company that it is a potentially responsible party (a "PRP"), along with three other parties, with respect to possible investigation and removal activities at the Anderson-Calhoun Mine/Mill Site (the "Site") in Stevens County, Washington, which the EPA may request that the Company, along with the other PRPs, perform or finance. The Company sold the Site property in 1964. The Company has commenced investigating the historic operations that occurred at the Site as well as the nature and scope of environmental conditions at the Site that may present concerns to the EPA. Based upon its investigation to date, the Company has determined that its operations at the Site were primarily exploratory and that the Company never engaged in any milling or other processing activities at the Site. At some times from 1950 to 1952, the Company's records reflect that it extracted a limited amount (111,670 tons) of surface ore from the Site for off-site processing. The Site has changed owners several times since it was sold by the Company, and the Company believes that a substantial

majority of the mining activities and all of the milling and related processing and process waste disposal activities likely were conducted by subsequent owners.

The Company has reached an agreement with two other PRPs at the Site (Combustion Engineering, Inc. and Blue Tee Corp.) under which the group has agreed with the EPA to undertake, finance and perform the Engineering Evaluation/Cost Analysis ("EE/CA") study at the Site, with the members of the group sharing equally the costs of this work, subject to re-allocation of such costs among group members after completion of the EE/CA. The Company believes that completion of the EE/CA process will extend until the winter of 2004-2005, whereupon the EPA will decide whether additional response action (remediation) may be necessary. Effective August 5, 2004, the Company, Blue Tee and Combustion Engineering have entered into an Administrative Order on Consent with the EPA, under which the group will undertake, finance and perform the EE/CA. The group has secured bids from several contractors to perform the EE/CA work and is currently pursuing a contract with one of the bidders. Under the Comprehensive Environmental Response, Compensation and Liability Act, any of the PRPs may be jointly and severally liable to the EPA for the full amount of any response costs incurred by the EPA, including costs related to investigation and remediation, subject to a right of contribution from other PRPs. In practice, PRPs generally agree to perform such response activities, and negotiate among themselves to determine their respective contributions to any such multi-party activities based upon equitable allocation factors, including their respective contributions to the alleged contamination and their ability to pay.

It is impossible at this stage to estimate the total costs of investigation and remediation at the Site due to various factors, including the scope of the EE/CA study to be negotiated with the EPA, incomplete information regarding the Site and the other PRPs, uncertainty regarding the extent of contamination and the Company's share, if any, of liability for the contamination and the selection of alternative remedies and changes in clean-up standards. In September 2003, in accordance with Financial Accounting Standards Board Interpretation No. 14, "Reasonable Estimation of the Amount of a Loss - an interpretation of Statement of Financial Accounting Standards No. 5 (Accounting for Contingencies)", and Statement of Position 96-1, "Environmental Remediation Liabilities", the Company recognized a provision of \$210,976 (within discontinued operations) for this matter, which represents the current estimate of the Company's share of the costs associated with an emergency removal action previously undertaken by the EPA, the anticipated cost of the EE/CA study and the anticipated professional fees associated with the EE/CA study. Total actual costs to be incurred at the Site in future periods may vary from this estimate, given inherent uncertainties in evaluating environmental costs. As of June 30, 2004, the Company incurred actual investigation and professional services costs of \$117,693 and its reserve balance for the EE/CA study process is \$93,283 (accrued as a current liability within discontinued operations). The accrual will be reviewed periodically based upon facts and circumstances available at the time, which could result in changes to its amount. The EPA has indicated that it has made no determination whether any additional response action (remediation) will be required at the Site and will not do so until after completion of the EE/CA process. At this stage, the Company does not have sufficient information to determine the potential extent and nature of any necessary future response action (remediation) at the Site, or to estimate the potential additional future cost of such action or the Company's potential liability for such costs. The Company is also investigating whether any cost incurred would be covered by insurance although specific coverage has not yet been identified.

**Item 2. Changes in Securities, Use of Proceeds and Issuer Purchases of Equity Securities.**

The following table sets forth information regarding the Company's purchases of its Common Stock on a monthly basis during the second quarter of 2004:

**Issuer Purchases of Equity Securities**

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs <sup>(1)</sup>	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs
April 1, 2004 through April 30, 2004	--	--	--	1,144,031
May 1, 2004 through May 31, 2004	64,408	\$0.57	64,408	1,079,623

June 1, 2004 through June 30, 2004	33,900	\$0.58	33,900	1,045,723
Total	<u>98,308</u>	<u>\$0.57</u>	<u>98,308</u>	<u>--</u>

(1) On September 17, 2002, the Company's Board of Directors approved a Common Stock Repurchase Plan ("the Repurchase Plan") allowing the Company to repurchase up to five percent (approximately 1.3 million shares) of its outstanding Common Stock over the twelve-month period which followed. On June 11, 2003, the Board of Directors approved a one-year extension of the repurchase period (until September 16, 2004) and increased the total number of shares purchasable under the Repurchase Plan to 2.5 million. Over the course of the Plan, through June 30, 2004, the Company has repurchased 1,454,277 shares of its Common Stock at a cost of \$732,348 (average cost of \$0.50 per share). The Company may repurchase its shares either in the open market or through private transactions. The timing of repurchases and the volume of the shares to be repurchased is contingent upon market conditions and other factors.

#### Item 4. Submission of Matters to a Vote of Security Holders.

(a) The Annual Meeting of Stockholders was held on May 25, 2004.

(b) At the Annual Meeting of Stockholders, the shareholders voted to elect the following seven directors to the Board of Directors. Set forth below are the votes cast in the election of directors:

<u>Directors</u>	<u>Votes For</u>	<u>Votes Withheld</u>
Thomas E. Dewey, Jr.	21,222,057	1,898,990
Harvey C. Eads, Jr.	21,226,807	1,894,240
John P. Fazzini	21,102,705	2,018,342
Danforth E. Leitner	21,104,635	2,016,412
Al Marino	21,419,430	1,701,617
Dwight W. Severs	21,226,857	1,894,190
John H. Sottile	20,963,034	2,158,013

(c) The shareholders also voted to ratify the appointment of KPMG LLP as Independent Certified Public Accountants for the Company for the year ending December 31, 2004 with 21,627,014 votes cast for, 1,311,696 votes cast against, 182,137 votes abstained and 0 broker non-votes.

A shareholder proposal on shareholder approval of the Company's rights plan was rejected, with 5,716,849 votes cast against, 3,782,212 cast for, 187,443 abstained and 13,434,543 broker non-votes.

#### Item 6. Exhibits and Reports on Form 8-K.

##### (a) Exhibits in accordance with the provisions of Item 601 of Regulation S-K

- 10.1 Lease agreement dated June 7, 2004 between Hibiscus Office Park, LLC and The Goldfield Corporation
- 31.1 Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. Section 7241
- 31.2 Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. Section 7241
- 32.1\* Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350
- 32.2\* Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350

\* These exhibits are intended to be furnished in accordance with Regulation S-K Item 601(b)(32)(ii) and shall not be deemed to be filed for purposes of Section 18 of the Securities Act of 1934 or incorporated by reference into

any filing under the Securities Act of 1933, except as shall be expressly set forth by specific reference.

**(b) Reports on Form 8-K**

The Registrant filed with the Commission a Current Report on Form 8-K on May 14, 2004, reporting its financial results for the three months ended March 31, 2004.

The Registrant filed with the Commission a Current Report on Form 8-K on May 25, 2004, reporting the statement made by the Company's Chairman of the Board of Directors, President and Chief Executive Officer at the 2004 Annual Meeting of Stockholders.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

THE GOLDFIELD CORPORATION  
(Registrant)

Dated: August 12, 2004

/s/John H. Sottile  
(John H. Sottile)  
Chairman of the Board of Directors,  
President, Chief Executive Officer and  
Director.

/s/Stephen R. Wherry  
(Stephen R. Wherry)  
Vice President, Treasurer,  
Assistant Secretary and Chief  
Financial Officer.

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## Net Lease

## 1. FUNDAMENTAL LEASE PROVISIONS AND EXHIBITS

DATE: June 7, 2004

## 1.1 Fundamental Lease Provisions.

**Landlord:** Hibiscus Office Park, L.L.C.  
1682 W. Hibiscus Blvd.  
Melbourne, FL 32901

**Tenant:** The Goldfield Corp.  
100 Rialto Place, Suite 500  
Melbourne, FL 32901

**Premises:**  
**Address:** 1684 W. Hibiscus Blvd.  
Melbourne, FL 32901

**Lease Term:** Seven (7) years

**Annual Minimum Rent/Base Rent: \$102,411.00** - (not including 6% FL Sales Tax)

(The Annual minimum rent is subject to the cost of living adjustment pursuant to Section 4.4 hereof and all additional rents, charges and assessments set forth herein.)

**Rentable Area:** 7,586± square feet - (5,084 ± sq. ft. finished office in 1684 W. Hibiscus Bldg. and 2,401± sq. ft. 1678 W. Hibiscus Blvd. and 101± sq. ft. atrium walk-through area finished office)

**Permitted Use:** General office purposes

**First Month's Minimum Rent: \$10,822.06** - \$8,534.25 (base rent) + \$1,675.24 (CAM - real estate taxes and insurance) = \$10,209.49 Gross Rent Amount + 6% FL Sales Tax of \$612.57 = \$10,822.06 Due upon Execution of the Lease.

**Security Deposit: \$ 0.00**

**Estimated Date for Delivery of the Premises:** September 30, 2004

(The estimated date for delivery of the Premises is subject to the provisions of Section 2.2 hereof)

**1.2 Effect of Reference to a Fundamental Lease Provision.** Each reference in the Lease to any of the Fundamental Lease Provisions contained in Section 1.1 shall be construed to incorporate all of the terms provided under each such Fundamental Lease Provision.

**1.3 Exhibits.** The exhibits listed in this Section and attached to this Lease are hereby incorporated in and made a part of this Lease:

EXHIBIT "A" --- Site Plan (to be attached)

EXHIBIT "B" --- Description of work to be performed by Landlord at Landlord's expense. (Tenant Improvements)

EXHIBIT "C" --- Form of Addendum specifying commencement and expiration dates of Lease Term.

EXHIBIT "D" --- Form of Addendum setting forth approved Space Plan, agreed cost of construction for Tenant's Work and the method of payment.

EXHIBIT "E" --- Special Provisions

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Rules & Regulations

**2.PREMISES AND TERM**

**2.1 Premises.** The Landlord hereby leases to the Tenant and the Tenant hires and takes from the Landlord the premises (hereinafter referred to as "Premises") located in the city of Melbourne, County of Brevard and State of Florida, shown on the Site Plan (Exhibit "A") extending to the exterior faces of all exterior walls or to the line shown on the Site Plan where there is no wall or to the center line of those walls separating the Premises from other leased Premises in the Building, subject to and with the benefits of the terms, covenants, conditions and provisions of this Lease, together with the appurtenances specifically granted in this Lease, but reserving to the Landlord (i) the use of (a) the exterior faces of all exterior walls, however, Landlord may not use the exterior walls for advertising or marketing purposes by placing signs or other advertising on the walls without the prior consent of Tenant, and (b) the roof; and (ii) the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires through the Premises and serving the other parts of the Building.

For the purposes of this Lease, the Premises shall be conclusively deemed to consist of the number of square feet of Leased Area as set forth in Section 1.1 hereof.

**2.2 Term.** The Term of this Lease shall commence on the earlier of (i) the expiration of the final fifteen (15) day notice (the "Final Notice") given by the Landlord to the Tenant informing the Tenant that the improvements to the Premises as provided for in Section 3.1 hereof have been substantially completed, or (ii) the day the Tenant commences its operations in the Premises, and ending at noon at the end of the Lease Term, unless sooner terminated as hereinafter provided. Landlord shall use all reasonable efforts to deliver possession of the Premises to the Tenant on or before the estimated date for delivery of the Premises as set forth in Section 1.1 hereof. However, if the Landlord cannot deliver possession of the Premises for reasons beyond his control on or before that date, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom. When the commencement and expiration dates of the Lease Term have been determined, the Landlord and the Tenant shall execute, acknowledge and deliver a written Addendum to this Lease in the form attached hereto as Exhibit "C" specifying the commencement and expiration dates of the Lease Term, that the Tenant is in possession of the premises and is paying the Fixed Minimum Rent and all other charges hereunder, and that the Tenant has no claims, defenses, set-offs or counter-claims against the Landlord (or, if so, specifying the nature and amount thereof). Such statement, when so executed, acknowledged and delivered, will be deemed to be incorporated in and become a part of this Lease.

If the premises are not ready for occupancy by the estimated date for delivery (September 30, 2004), Landlord shall have an additional sixty (60) days to complete the improvements (November 30, 2004). If said improvements are not completed by November 30, 2004, Tenant may, at its option, elect to cancel this Lease and receive a return of its deposit paid herein.

**2.3 Option to Renew.** Tenant shall have and is hereby granted **five (5)** options to extend the term of this Lease for a period of **three (3) years** for each option period upon the same covenants and conditions as herein provided, with, the exception that the Base Rent (as defined in paragraph 1.1), Adjustment of Annual Minimum Rent (as defined in paragraph 4.4), and Additional Assessments (as defined in paragraph 4.5), shall be adjusted based on the adjustment of annual minimum rent as stated in Section 4.4 of this Lease. If Tenant shall elect to exercise such option, it must do so by giving Landlord written notice at least one hundred eighty (180) days prior to the expiration of the initial term of the Lease and prior to the expiration of each **three (3) year** option period thereafter.

**3.CONSTRUCTION**

**3.1 Construction of Leasehold Improvements.** The Landlord shall, at its sole cost and expense, improve the Premises as set forth in Exhibit "B" (Landlord's Work). Any improvements to the premises other than those set forth in Exhibit "B" shall be constructed by the Landlord at the sole cost and expense of the Tenant (Tenant's Work).

No later than five (5) working days after the execution of this Lease by the Tenant: (i) Tenant shall approve a preliminary Space Plan for the premises, in form acceptable to the Tenant and Landlord's Space Planner, drawn to a scale of one-quarter inch (1/4") equals one (1) foot, or (ii) Landlord and Tenant, or their representatives, shall meet together with Landlord's Space Planner for the purpose of preparing a preliminary Space Plan for the Premises. Within twenty (20) working days from Landlord's receipt of the preliminary Space Plan, Landlord shall prepare and furnish to Tenant an estimated cost of construction of Tenant's Work, including in the estimate separate entries for labor, material and a supervisory fee. No later than five (5) working days after submission of Landlord's estimate of construction cost to Tenant, as set forth above, Tenant shall either agree to the estimate and authorize Landlord to proceed with the Work or furnish to Landlord specific objections to the estimate.

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If Landlord and Tenant agree to Landlord's estimated construction cost for Tenant's Work and to a final Space Plan, Landlord and Tenant shall execute an Addendum to this Lease, in the form attached hereto as Exhibit "D", incorporating into the Addendum the agreed-upon Space Plan for the Premises, and setting forth the agreed cost of construction.

The agreed cost of construction of Tenant's Work shall be paid by Tenant and Landlord as set forth in Exhibit "D" hereof.

**3.2 Ownership Improvements.** All improvements to the Premises shall remain the property of the Landlord. In no event shall Tenant make any improvements or alterations to the Premises, including the installation and removal of permanent fixtures, without the prior written consent of Landlord.

#### **4.RENT**

**4.1 Payment.** All Rent and other charges payable to the Landlord under any provision of this Lease shall be paid to the Landlord, or as the Landlord may otherwise designate, in lawful money of the United States at the address of the Landlord or at such other place as the Landlord in writing may designate, without any set-off or deduction whatsoever, and without any prior demand therefor. In addition to the payment of the Rent and other charges, the Tenant shall also pay to the Landlord, at the time of payment of such Rent and other charges, all sales, use or occupancy taxes payable by virtue of any of such payments. Rent for any period during the term hereof which is for less than one (1) month shall be prorated portion of the monthly installment.

**4.2 Annual Minimum Rent.** The Tenant shall pay the Annual Minimum Rent, which is subject to adjustments as hereinafter set forth, in equal monthly installments in advance on the first day of each calendar month included in the Lease Term. The first monthly installment shall be paid on the signing of this Lease if not previously delivered. Tenant acknowledges that late payment by Tenant to Landlord of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which would be extremely difficult and impractical to ascertain. Such costs include, but are not limited to processing and accounting charges, the late charges which may be imposed on Landlord by the terms of any Mortgage or Trust deed covering the premises.

**4.3 Late Rent Fees.** In the event any installment of Rent or any sum due hereunder is not paid within five (5) days after such amount is due, Tenant shall pay to Landlord as additional Rent a late charge equal to five percent (5%) of each such installment or other sum, or Twenty-five Dollars (\$25.00) per month, whichever is greater. A sum of Twenty-five Dollars (\$25.00) will be paid by Tenant to Landlord for each returned check, and Tenant shall pay a charge of Seventy-five Dollars (\$75.00) for preparation of a demand for delinquent rent.

**4.4 Adjustment of Annual Minimum Rent.** During the Initial Lease Term, the Annual Minimum Rent specified in Section 1.1 hereof (and the monthly installments thereof) will be adjusted annually on each anniversary date of the date of commencement of the Lease Term to increase the same by three percent (3%) from the prior year's Annual Minimum Rent. If Tenant exercises any renewal options, the Annual Minimum Rent specified in Section 1.1 hereof (and the monthly installments thereof) will be adjusted for changes in the Consumer Price Index on each anniversary of the commencement date of the Lease Term. The term "Index" means the U.S. Consumer Price Index, All Items, for all Urban Consumers (1982-84=100), published by the United States Bureau of Labor Statistics or other governmental agency then publishing the Index. In the event the Price Index ceases to utilize the January 88 average of 100 as the basis of calculation, or if a substantial change is made in the term of number of items included in the Index, then the Index shall be adjusted to a figure that would have resulted had the change in the manner of computing the Index not been effected. In the event such Index (or successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information theretofore used to determine the Index shall be used. The term "Base Number" means most recently published Index Number immediately preceding the commencement date of the Lease Term. The term "Current Number Applicable to a Lease Year" means the most recently published Index Number preceding the first day of the Lease Year for which adjustment is made, if the latest Current Number Applicable to a Lease Year exceeds the Base Number, then the Annual Minimum Rent shall be increased to an amount which is the product obtained by multiplying the Annual Minimum Rent set forth in Section 1.1 of this Lease by a fraction, the numerator of which fraction is the current Number Applicable to any Lease Year and the denominator of which fraction is the Base Number.

Notwithstanding the foregoing during any renewal term, annual rental adjustments will not be less than three (3%) percent annually or more than five (5%) percent annually.

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**4.5 Additional Assessments.** It is understood that, in addition to the Annual Minimum Rent and Adjustment of Annual Minimum Rent, Tenant shall pay to Landlord as Additional Rent its prorated share of all taxes, assessments, insurance premiums, operating charges, maintenance charges, and any other charges, costs and expenses which arise from the ownership, occupancy or use of the Parcel, or any part thereof, including the maintenance of air conditioning equipment, but excluding the maintenance of exterior walls, roof areas and the structural integrity of buildings located upon the Parcel, which maintenance shall be the responsibility of Landlord.

Tenant shall pay their pro-rata share of operating expenses (real estate taxes, insurance and common area maintenance). Common area maintenance shall be defined as maintenance, garbage collection, site lighting, property management. Landlord estimates operating expenses to be \$2.65 per square foot per year or \$1,675.24 per month. Tenant shall also be responsible to pay the Florida State sales tax. Tenant shall have a continuing right to review, copy, and audit all documents and information pertaining to operating expenses and real estate taxes for the Project/Building. The CAM, real estate taxes and building insurance shall be adjusted annually after the first year of occupancy based on actual cost.

For the purposes of this Lease, the term "Parcel" shall mean the contiguous property set forth in Exhibit "A" together with all site improvements located or to be located thereon.

The Tenant Agrees to pay the Additional Assessments, as set forth above, in monthly payments in advance during the Term of this Lease as may be estimated by the Landlord. At the end of each calendar year, the Landlord shall advise the Tenant of the Tenant's share of the Additional Assessments payable for such calendar year as computed based upon the cost thereof to the Landlord. If there shall have been an underpayment by the Tenant, the Tenant shall pay the difference within ten (10) days; if there shall have been an overpayment by the Tenant, the Tenant shall be given a credit towards the next due payment of its share of the Additional Assessment.

At the end of each calendar year, the Tenant shall have the right to require Landlord to substantiate, by written itemization, Landlord's computation of Tenant's Additional Assessments. Landlord shall furnish such an itemization to Tenant within thirty (30) days from receipt of Tenant's written request for itemization.

#### **4.6 Security Deposit.** N/A

Landlord and Tenant agree that Landlord's Leasing Agent shall be entitled to immediately endorse and cash Tenant's Rent Check accompanying this Lease. It is further agreed and understood that such action shall not guarantee acceptance of this Lease by Landlord, but in the event Landlord does not accept this Lease, the Deposit shall be refunded in full to Tenant.

### **5.UTILITY SERVICES**

**5.1 Water and Other Utilities.** The Landlord shall cause the necessary mains, conduits and other facilities to be provided to supply water, sanitary sewer services and electricity into the Premises. Landlord shall also provide a dumpster(s) for refuse collection. The Tenant shall pay directly all charges for electric, telephone and any other utilities used or consumed in the Premises which are separately metered to the Premises. Tenant shall pay to Landlord on a monthly basis in advance Tenant's prorated share of the water and sewer and refuse collection charges for the Building as may be estimated by the Landlord. This charge shall be Additional Rent under the Lease. In the event that Tenant shall fail or refuse to pay any utility charges individually metered to Tenant, the Landlord may but shall not be obligated to, pay such charges, and Tenant shall reimburse the Landlord on demand. If Tenant uses water or produces refuse in excess of normal office/warehouse use, Landlord, in its discretion, may allocate Tenant the increased cost for such services as measured or estimated by Landlord, and Tenant shall pay Landlord, on demand, any increased cost so measured or estimated.

### **6.INSURANCE**

**6.1 Insurance to be Maintained by Tenant.** Tenant shall maintain, at Tenant's expense, with companies acceptable to Landlord during the term of this Lease liability Insurance in the form of a Combined Single Limit Bodily Injury and Property Damage Insurance Policy insuring Landlord and Tenant against any liability arising out of the use, occupancy or maintenance of the Premises in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence. Landlord will not carry Insurance on Tenant's property. Tenant shall furnish Landlord with a certificate of all insurance policies required by this Lease evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to Landlord prior to accepting occupancy of the Premises. Renewals of such policies shall be deposited with the Landlord prior to the expiration of the term of such coverage. If the Tenant fails to comply with such requirement, the Landlord may but shall not be obligated to, obtain such insurance and keep the same in effect, and Tenant shall pay Landlord the premium cost thereof upon demand.

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**6.2 Insurance to be Maintained by Landlord.** Landlord shall obtain and keep in force during the term of this Lease, the following policies of insurance with loss payable to Landlord: (i) a policy of Combined Single Limit Bodily Injury and Property Damage Insurance, insuring Landlord, but not Tenant, against any liability arising out of the ownership, use, occupancy or maintenance of the Parcel in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence; (ii) a policy or policies of insurance covering loss or damage to the Parcel, but not Tenant's inventory, fixtures, furniture and equipment, in an amount not to exceed the full replacement value thereof, as the same exists from time to time, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils ("all risk" as such term is used in the insurance industry) and plate glass insurance; (iii) a policy of rental value insurance in an amount not less than one (1) year's gross rentals for all tenants occupying any portion of the parcel; and (iv) any other insurance the Landlord deems necessary. The cost of the above referenced insurance to be maintained by Landlord shall be considered an Additional Assessment of which the Tenant shall pay its prorated share pursuant to Section 4.5 hereof.

**6.3 Waiver of Subrogation.** As long as their respective insurers so permit, Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss incurred by fire, extended coverage and other property insurance policies existing for the benefit of the respective parties. Each party shall obtain any special endorsements, if required by their insurer, to evidence compliance with the aforementioned waiver.

## **7.TENANT'S ADDITIONAL COVENANTS**

**7.1 Affirmative Covenants.** The Tenant covenants, at its own expense, at all times during the Lease Term:

7.1.1 To perform promptly all of the obligations of the Tenant set forth in this Lease and in the Exhibits and Addenda attached hereto, and to pay when due the Rent and all other charges and Assessments which are to be paid by the Tenant.

7.1.2 To use the Premises only for the Permitted Use and to abide by and conform to all use restrictions set forth in the certificate of occupancy issued for the Premises, in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, the mortgages filed of record encumbering the Premises, and all other laws, orders, permits, rules and regulations of any governmental authority claiming jurisdiction over the Premises.

7.1.3 To keep the Premises, including equipment, facilities and fixtures therein, clean, neat and in good order, repair and condition.

7.1.4 To keep the Premises equipped with all safety appliances required by and to comply with any law, ordinance, order or regulation of any governmental authority or board of fire underwriters having jurisdiction.

7.1.5 To defend and hold the Landlord harmless and indemnified from all injury, loss, claims or damage (including attorneys' fees and disbursements) to any person or property arising from or related to the use or occupancy of the Premises, the conduct or operation of the Tenant's business, or the Tenant's work at the Premises and caused by the Tenant or the Tenant's agent, employees or guests. Should Landlord be named as a defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy of the Premises, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including reasonable attorneys' fees to the extent of Tenant's insurance coverage as described in Section 6.1 above.

7.1.6 To permit the Landlords' agents, upon prior twenty-four (24) hour notice, to enter upon the Premises at all reasonable times to examine same and to make repairs, alterations, improvements or additions to the Premises or in the Building without the same constituting an eviction of the Tenant, in whole or in part, and all rents shall in no way abate while such repairs, alterations, improvements or additions are being made by reason of loss or interruption of business of the Tenant because of the prosecution of any such work. The Landlord or the Landlord's agents shall also have the right to enter upon the Premises, upon prior twenty-four (24) hour notice, at reasonable times to show them to prospective mortgagees or purchasers of the Building. During the ninety (90) days prior to the expiration of the term of this Lease, the Landlord may show the Premises to prospective tenants, and the Landlord may also place upon the Premises the usual notices "For Rent", which notices the Tenant shall permit to remain thereon without molestation. If, during the last month of the Term, the Tenant shall have moved all or substantially all of the Tenant's property therefrom, the Landlord may immediately enter and alter, renovate and redecorate the Premises without elimination or abatement of rent, or additional rent or other compensation, and such action shall have no effect upon this Lease.

7.1.7 To pay on demand all of Landlord's expenses incurred in enforcing the obligations of the Tenant under this Lease or incurring any default by the Tenant under this Lease.

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7.1.8 Forthwith to cause to be discharged of record (by payment, bond order of a court of competent jurisdiction or otherwise) any mechanic's lien at any time filed against the Premises for any work, labor, services or materials claimed to have been performed at or furnished to the Premises at the request of and on behalf of the Tenant or anyone holding the premises through or under the Tenant. If the Tenant shall fail to cause such lien to be discharged upon demand, then, in addition to any other right or remedy of the Landlord, the Landlord may, but shall not be obligated to, discharge the same by paying the amount claimed to be due or by bonding or other proceeding deemed appropriated by the Landlord and the amount so paid by the Landlord and all costs and expenses, including reasonable attorneys' fees, incurred by the Landlord in procuring the discharge of such lien, shall be deemed to be an Additional Assessment. The Landlord's estate in the Premises shall not be subject to any Additional Assessment. The Landlord's estate in the Premises shall not be subject to any lien or liability under the Lien Laws of the State of Florida.

7.1.9 Upon the expiration or other termination of the Lease Term, to quit and surrender to the Landlord the Premises, broom cleaned, in good order and condition, ordinary wear and tear excepted, and at the Tenant's expense, to remove all property of the Tenant, to repair all damages to the Premises caused by such removal, and to restore the Premises to the condition in which they were prior to the installation of the articles so removed. All property not so removed shall be deemed to have been abandoned by the Tenant and may be retained or disposed of by the Landlord, as the Landlord shall desire.

7.1.10 To remain fully obligated under this Lease, notwithstanding any assignment or sublease or any indulgence granted by the Landlord to the Tenant or to any assignee or subtenant.

7.1.11 To fully understand and agree that the Landlord shall not be liable except for negligence or willful act for any loss or damage to the Tenant's business or personal property arising out of but not limited to the following causes: hurricanes, excessive rain, roofing defects, bursting of pipes, fire, windstorm, malfunction of sewer or water system, interruption of utility services, or any act or omission of Landlord or any of Landlord's agents on or about the Premises.

7.1.12 To keep the Premises free from all rubbish, dirt and debris, and to deposit all trash in trash receptacles to be furnished by Landlord at designated locations with the Command Area. The Tenant understands that boxes and trash shall not be stacked outside of the Premises and/or on any abutting roadway.

7.1.13 To furnish to the Landlord any documentation requested by Landlord to show the status of this Lease. Any reasonable changes to this Lease required by any Mortgagee of the Landlord to satisfy the requirements for the financing or refinancing of the project wherein the Premises are located, unless they materially alter the term and conditions of this Lease, shall be agreed to and complied with by the Landlord and the Tenant.

7.1.14 To maintain throughout the term of this Lease a sign with Tenant's name and logo thereon at or near the front entrance to the Premises at a place designated by Landlord and paid for by the Tenant. Such sign shall be of a size, design, material and specification as shall meet the standards and criteria of Landlord. No sign shall be permitted to be placed upon any window area or door without Landlord's approval. The written consent and approval of Landlord shall be obtained prior to the installation of any sign. A sign for which the written approval of Landlord has not been obtained may be removed by Landlord at Landlord's discretion. Tenant shall receive the top thirty (30%) percent of the signage area on Hibiscus Boulevard road marquee sign in front of 1678 W. Hibiscus Boulevard.

**7.2 Negative Covenants.** Tenant covenants at all times during the Lease Term and such further time as the Tenant occupied the Premises, or any part thereof:

7.2.1 Not to injure, overload, deface or otherwise harm the Premises or any part thereof or any equipment or installation therein; nor commit any waste or nuisance; nor permit the emission of any objectionable noise or odor; nor burn any trash or refuse in or about the Premises; nor make any illegal use of the Premises, or any part thereof or from time to time; nor park any vehicles so as to interfere with the use of driveways, walks, roadways, highways, streets or parking areas.

7.2.2 Not to make any alterations or additions to the Premises or to the Building, nor permit the making of any holes in the walls, ceilings or floors thereof. All alterations or improvements to the Premises shall be made by Landlord at Tenant's expense, unless Landlord and Tenant shall otherwise agree in writing.

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## **8.ASSIGNMENT, SUBLETTING AND ENCUMBRANCE.**

**8.1 Landlord's Consent Required.** Tenant shall not assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, nor sublet the Premises or any part thereof without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

**8.2 Tenant's Application (Assignment and Sublease).** In the event that Tenant desires at any time to assign this Lease or to sublet the Premises or any portion thereof, Tenant shall submit to Landlord, in writing, at least thirty (30) days prior to the proposed effective date of the assignment or sublease; (i) a Notice of Intention to Assign or Sublease, setting forth the proposed effective date, which shall be no less than thirty (30) nor more than ninety (90) days after sending of such notice; (ii) the name of the proposed subtenant or assignee; (iii) the nature of the proposed subtenant's or assignee's business to be carried on in the Premises; (iv) the terms and provisions of the proposed sublease or assignment; and (v) a current, audited financial statement of the proposed subtenant or assignee; and (vi) such additional information concerning the proposed assignment or sublease and proposed assignee or subtenant as the Landlord may reasonably request.

**8.3 Landlord's Options to Terminate.** Upon receipt from Tenant of a Notice of Intention to Assign or Sublease the entire building, Landlord shall have the right to terminate this lease and relet the Premises, such right to be exercised by giving notice to Tenant within thirty (30) days after receipt of Tenant's Notice of Intention to Assign or Sublease. If such Notice of Termination is given by Landlord, it shall serve to cancel and terminate this Lease with respect to the Premises; provided, however, that no termination of this Lease with respect to the premises shall become effective without the prior written consent of the holder of any First Mortgage or Deed of Trust encumbering the Premises.

**8.4 The granting of permission for Tenant to assign or sublease the Premises on any one or more occasions shall not constitute** ipso facto waiver of the requirement imposed hereby that the written consent of the Landlord be obtained for any subsequent or other assignment or subletting, and the acceptance of rent checks and the negotiation of same, or the acceptance of rent payments in any other fashion, from any assignee or subtenant, whether or not Landlord had knowledge of the assignment or sublease under which assignee or subtenant claims, shall not constitute ipso facto consent by Landlord to such assignment or sublease or constitute a waiver of the restrictions upon assignment and subletting imposed in this section.

## **9.DESTRUCTION AND CONDEMNATION**

**9.1 Fire or Other Casualty.** In the event of (i) a partial destruction of the Premises or the Building during the Lease Term which requires repairs to either the Premises or the Building, or (ii) the Premises or the Building being declared unsafe or unfit for occupancy by any authorized public authority for any reason other than Tenant's act, use or occupation, which declaration requires repairs to either the Premises or Building, Landlord may elect to commence repairs within twenty (20) days thereof, but partial destruction shall in no way annul or void this Lease, except that Tenant shall be entitled to a proportionate reduction of Rent while such repairs are being made. The proportionate reduction is to be based upon the extent to which the making of repairs shall interfere with the business carried on by Tenant in the Premises. Landlord agrees to proceed in good faith to complete any and all repairs it commences within sixty (60) days of commencement. If the repairs are not of a nature which can be completed within sixty (60) days, Landlord and Tenant shall agree upon a reasonable schedule for completion of the repairs. If the repairs are anticipated to take more than sixty (60) days and the Landlord and Tenant do not agree on a schedule for completion, within twenty days of the date of occurrence of the damage or destruction (the "Schedule Determination Period"), then either Landlord or Tenant shall have the right to terminate this Lease by providing the other with ten (10) days prior written notice within five (5) days of the expiration of the Schedule Determination Period. In the event that Landlord does not elect to commence repairs within twenty (20) days, or repairs cannot be made under current laws and regulations, either party may terminate this Lease upon ten (10) days written notice. A total destruction, including any destruction required by any authorized public authority, of either the Premises or the Building, shall terminate this Lease. Landlord shall not be required to repair any property installed in the Premises by Tenant nor to repair any portion of the Premises for which insurance proceeds are not paid to Landlord. To the extent Landlord receives insurance proceeds to cover all or a portion of the rent which would have been due from Tenant, the amount of rent due from Tenant shall be reduced by the amount of such insurance proceeds paid that are allocable to the Premises leased hereunder during the time period such insurance proceeds are paid to Landlord. Nothing in Section 9.1 shall authorize abatement or reduction of rent because of total or partial destruction arising out of the willful acts of omission or commission by Tenant.

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**9.2 Condemnation.** If any part of the Premises shall be taken or condemned for a public or quasipublic use, and a part thereof remains which is susceptible of occupation hereunder, this Lease shall, as to the part so taken, terminate as of the date title shall vest in a condemnor, and the Rent payable hereunder shall be adjusted so that the Tenant shall be required to pay for the remainder of the Term only such portion of such Rent as the number of square feet in the part remaining after the thereupon terminate.

Notwithstanding anything herein to the contrary, Tenant may elect to terminate this lease in the event of condemnation upon sixty (60) days written notice to Landlord.

## **10. DEFAULTS AND REMEDIES**

**10.1 Events of Default.** The following events shall be deemed to be events of default by Tenant under this Lease: (i) Tenant shall fail to pay any rent or any other sums of money due hereunder and such failure shall continue for a period of ten (10) days after the date such sum is due; (ii) Tenant shall fail to comply with any provisions of this Lease or any other agreement between Landlord and Tenant, all of which terms, provisions and covenants shall be deemed material; (iii) the leasehold hereunder demised shall be taken on execution or other process of law in any action against Tenant; (iv) Tenant shall fail to promptly move into, take possession of, and operate its business on the premises when the Premises are ready for occupancy or shall cease to do business in or abandon any substantial portion of the Premises; (v) Tenant shall become insolvent or unable to pay its debts as they become due, or Tenant notifies Landlord that it anticipates either condition; (iv) Tenant takes any action to, or notifies Landlord that Tenant intends to file a petition under any section or chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or any state thereof, or a petition shall be filed against Tenant under any such statute or Tenant or any creditor of Tenant notifies Landlord that it knows such a petition will be filed or tenant notifies Landlord that it expects such a petition to be filed; or (vii) a receiver or trustee shall be appointed for Tenant's leasehold interest in the Premises or for all or a substantial part of the assets of Tenant.

**10.2 Remedies.** In the event of any default or breach by Tenant, and if such breach is a non-monetary breach shall have continued for a period of fifteen (15) days after the Landlord shall have given written notice by certified or registered mail to the Tenant at its office address set forth in Section 1.1 hereof, then, in such event, Landlord shall have the option to pursue any one or more of the following remedies:

10.2.1 Landlord shall have the right to cancel and terminate this Lease and dispossess Tenant.

10.2.2 Landlord shall have the right without terminating or canceling this Lease to declare all amounts and rents due under this Lease for the remainder of the existing term (or any applicable extension or renewal thereof) to be immediately due and payable, and thereupon all rents and other charges due hereunder to the end of the initial term or any renewal term, if applicable, shall be accelerated, provided, however, if Landlord elects to accelerate the rental payments, Landlord shall have a duty to use its good faith efforts to mitigate its damages..

10.2.3 Landlord may elect to enter and repossess the Premises and relet the Premises for Tenant's account, holding Tenant liable in damages for all expenses incurred in any such reletting and for any difference between the amount of rent received from such reletting and that due and payable under the terms of this Lease.

10.2.4 Landlord may enter upon the Premises and do whatever Tenant is obligated to do under the terms of this Lease (and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in effecting compliance with Tenant's obligations under this Lease and Tenant further agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action.)

10.2.5 All such remedies of Landlord shall be cumulative, and, in addition, Landlord may pursue any other remedies that may be permitted by law or in equity. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to be a waiver of such default.

10.2.6 In addition to the specific remedy or remedies elected by Landlord in the event of Tenant's default, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting; all court costs and reasonable attorney's fees; and that portion of the leasing commission paid by Landlord and applicable to the unexpired term of this Lease. Unpaid installments of rent or other sums shall bear interest from the date due at the lesser of 15% per annum or the maximum lawful rate.

10.2.7 This Section 10.2 shall be enforceable to the maximum extent not prohibited by applicable law, and the unenforceability of any portion hereof shall not thereby render unenforceable any other portion.

**10.3 Abandonment of Premises.** Landlord and Tenant agree that for the purposes of this Section 10 abandonment of the demised premises shall have occurred if (i) the Landlord reasonable believes that the Tenant has been absent from the demised premises for a period of thirty (30) consecutive days, and (ii) the rent is not current and (iii) ten (10) days has elapsed since service of three (3) day notice in writing by Landlord upon Tenant requiring payment of rent or the possession of the Premises.

**10.4 Holdover by Tenant.** If Tenant should remain in possession of the Premises after the expiration of the Lease Term and without executing a new lease, then such holding over shall be construed as a tenancy at sufferance at an Annual Minimum Rent **DOUBLE** that set forth in Section 1.1 hereof, and subject to all other conditions, provisions and obligations of this Lease

insofar as the same are applicable to a tenancy at sufferance.

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**10.5 Landlord's Right to Cure Defaults.** The Landlord may, but shall not be obligated to cure at any time, without notice, any default by the Tenant under this Lease; and, whenever the Landlord so elects, all costs and expenses incurred by the Landlord in curing such default, including, without limitation, reasonable attorney's fees, together with interest on the amount of costs and expenses so incurred at the lesser of 15% per annum or the then maximum lawful rate shall be paid by the Tenant to the Landlord on demand and shall be recoverable as an Additional Assessment.

**10.6 Waiver.** The waiver by Landlord of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other or any subsequent or continuing breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

## **11. MISCELLANEOUS PROVISIONS**

**11.1 Notices.** Any notice or demand from the Landlord to the Tenant or from the Tenant to the Landlord shall be in writing and shall be deemed duly delivered if mailed by registered or certified mail, return receipt requested, addressed, if to the Tenant, at the address of the Tenant or such other address as the Tenant shall have last designated by written notice to the Landlord: if to the Landlord, at the address of the Landlord or such other address as the Landlord shall have last designated by written notice to the Tenant. Notices shall be deemed delivered when mailed in the manner prescribed above.

**11.2 Estoppel Certificates.** The Tenant agrees that it will within ten (10) days following written notice by the Landlord, execute, acknowledge and deliver to the Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been any modifications, that the same is in full force and effect as modified, stating the modifications) and the dates to which the Rent and all other payments due hereunder from the Tenant have been paid in advance, if any, and stating whether or not, to the best knowledge of the Tenant, the Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default. The failure of the Tenant to execute, acknowledge and deliver to the Landlord a statement in accordance with the provisions of this Section will constitute a breach of this Lease by the Tenant.

**11.3 Applicable Law and Construction.** The laws of the State of Florida shall govern the validity, performance and enforcement of this Lease. The covenants and undertakings contained herein are independent, not dependent covenants, and the invalidity or unenforceability of any provision of this Lease shall not affect or impair any other provision. All negotiations, considerations, representations and understandings between the parties are incorporated in this Lease. The headings of the several articles and sections contained herein are for convenience and do not define, limit or construe the contents of such articles or sections.

### **11.4 Subordination.**

11.4.1 This Lease is subject and subordinate to any ground lease, mortgage, deed or trust, or any other hypothecation for security now or hereafter placed upon the real property, of which the premises are a part, and to any and all advances made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof. In confirmation of such subordination, the Tenant shall promptly execute any certificate that the Landlord may request.

11.4.2 At the option of the Landlord, or any successor Landlord or the holder of any mortgage affecting the Premises, the Tenant agrees that neither the foreclosure of a mortgage affecting the Premises nor the institution of any suit, action, summary or other proceeding against the Landlord herein, or any successor Landlord, or any foreclosure proceeding brought by the holder of any such mortgage to recover possession of such property shall, by operation of law or otherwise, result in the cancellation or termination of this Lease or the applications of Tenant hereunder, and upon the request of any such Landlord, successor Landlord or the holder of such mortgage, Tenant covenants and agrees to execute an instrument in writing satisfactory to such Landlord, successor Landlord, or to the holder of such mortgage, or to the purchaser of the mortgaged premises in foreclosure, whereby Tenant attorns to such successor in interest. No mortgagee or purchaser at foreclosure sale shall be liable to Tenant or subject to offsets or defenses arising as a result of acts or omissions of a prior owner.

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**11.5 Landlord's Liability.** The liability under this Lease of Landlord shall be limited to Two Million and NO/100 Dollars (\$2,000,000.00); and Tenant, its successors and assigns, hereby waive all rights to proceed individually against any of Landlord's partners, officers, directors or shareholders. The term "Landlord, as used in this Section, shall mean only the owner or owners at the time in question of the fee simple title or its interest in a ground lease of the Premises, and in the event of any transfer of such title or interest Landlord (and in case of any subsequent transfers, and then grantor) shall be relieved from and after the date of such transfer of all liability with respect to Landlord's obligations under this Lease, provided that any funds in the hands of Landlord (or the then grantor at the time of such transfer) in which Tenant has an interest, shall be delivered to the grantee. The obligations to be performed by Landlord shall, subject to the foregoing, be binding on Landlord's successors and assigns only during their respective periods of ownership, and no successor Landlord shall have liability to Tenant with respect to defaults hereunder occasioned by the acts or omissions of any predecessor Landlord.

**11.6 No Oral Changes.** This Lease shall not be changed or terminated orally, but only upon an agreement in writing signed by the parties hereto.

**11.7 No Representation by Landlord.** The Landlord or the Landlord's agents have made no representations, warranties or promises with respect to the Premises or the Building, except as herein expressly set forth. This Lease specifically supersedes any prior written or oral communications between Landlord and Tenant or any of their agents.

**11.8 Parking.** The Tenant shall be entitled to park in common with other tenants of Landlord. Tenant agrees not to overburden the parking facilities and agrees to cooperate with Landlord and other tenants in the use of the parking facilities.

At the current time no parking spaces are assigned, however, if Landlord does designate parking spaces in the future, Tenant shall be assigned a sufficient number of spaces to accommodate its employees as well as a reasonable number of guest spaces in the immediate vicinity of the leases premises.

**11.9 Recording of Lease.** This Lease shall not be recorded by the Tenant. However, it may be recorded by Landlord at Landlord's option. If this Lease is recorded by the Tenant without the written consent of the Landlord, then this Lease may, at any time without notice and whenever the Landlord so elects, be declared by Landlord null and void.

**11.10 Joint Obligation.** If there is more than one tenant, the obligations hereunder imposed upon Tenant shall be joint and several.

**11.11 Time.** Time is of the essence of this Lease and each and all of its provisions in which performance is a factor.

**11.12 Quiet Possession.** Upon Tenant paying the Rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire term hereof.

**11.13 Special Provisions.**

**11.13.1 Special Provisions.** Special provisions of this Lease are attached hereto and made a part hereof as Exhibit "E". If none, so state in the following space \_\_\_\_\_.

**11.14 Premises to be Maintained.** Landlord will maintain buildings and grounds in a manner consistent with current standards at the Property.

IN WITNESS WHEREOF, the Landlord and the Tenant have hereunto executed this Lease as of the day and year first above written. Individuals signing on behalf of a principal warrant that they have the authority to bind their principals. This Lease shall be binding upon the undersigned, and the successors, heirs, executors and administrators of the undersigned, and shall insure to the benefit of the Landlord, and its successors and assigns.

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SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

**LANDLORD:**

HIBISCUS OFFICE PARK, L.L.C., a Florida limited liability company

**BY:** \_\_\_\_\_ /s/ Hugh M. Evans, Jr.  
**NAME:** \_\_\_\_\_ Hugh M. Evans, Jr.  
**TITLE:** \_\_\_\_\_ Member

**TENANT:**

THE GOLDFIELD CORP.

**BY:** \_\_\_\_\_ /s/ John H. Sottile  
**NAME:** \_\_\_\_\_ John H. Sottile  
**TITLE:** \_\_\_\_\_ President

CERTIFICATION PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002  
15 U.S.C. SECTION 7241

I, John H. Sottile, certify that:

1. I have reviewed this quarterly report on Form 10-Q of The Goldfield Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. (paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986)
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 12, 2004

/s/ John H. Sottile

John H. Sottile

Chairman of the Board of Directors,

President and Chief Executive Officer





CERTIFICATION PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002  
15 U.S.C. SECTION 7241

I, Stephen R. Wherry, certify that:

1. I have reviewed this quarterly report on Form 10-Q of The Goldfield Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. (paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986)
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 12, 2004

/s/ Stephen R. Wherry  
Stephen R. Wherry  
Vice President, Treasurer,  
Assistant Secretary and  
Chief Financial Officer



CERTIFICATION PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002  
18 U.S.C. SECTION 1350

In connection with the Quarterly Report of The Goldfield Corporation (the "Company") on Form 10-Q for the quarter ended June 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John H. Sottile, Chairman of the Board of Directors, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to The Goldfield Corporation and will be retained by The Goldfield Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

Date: August 12, 2004

/s/ John H. Sottile

John H. Sottile

Chairman of the Board of Directors,

President and Chief Executive Officer

CERTIFICATION PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002  
18 U.S.C. SECTION 1350

In connection with the Quarterly Report of The Goldfield Corporation (the "Company") on Form 10-Q for the quarter ended June 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Stephen R. Wherry, Vice President, Treasurer, Assistant Secretary and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to The Goldfield Corporation and will be retained by The Goldfield Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

Date: August 12, 2004

/s/ Stephen R. Wherry  
Stephen R. Wherry  
Vice President, Treasurer,  
Assistant Secretary and  
Chief Financial Officer