

LESCHI CENTER COOPERATION AGREEMENT

between

THE CITY OF SEATTLE

and

THE SEATTLE INDIAN SERVICES COMMISSION

Dated: August 17, 1987

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LESCHI CENTER COOPERATION AGREEMENT
between
THE CITY OF SEATTLE
and
THE SEATTLE INDIAN SERVICES COMMISSION

This Agreement is made as of the 17th day of August, 1987 between The City of Seattle, a municipality, and The Seattle Indian Services Commission, a public corporation chartered by the City, to facilitate obtaining capital funds for the purchase of the Site and the construction, management, and operation of a Public Facility on the Site and for certain other matters in connection therewith.

A. RECITALS

These facts and principles form the background of this Agreement:

1. The City, by Ordinance 113529, passed July 20, 1987 has found that there exists a need for a new Public Facility at the Site to serve the poor and infirm as well as the urban Seattle Indian community, and the City has the authority to serve the poor and infirm as well as the Indian community by facilitating the establishment of the Public Facility at the Site.
2. The City Council, by Resolution 27490, passed August 11, 1986, and the Seattle Housing Authority, by Resolution No. 2820, adopted June 2, 1986, have approved the allocation of \$1,907,553 in Senior Housing funds under the Seattle Senior Housing Bond Fund program to develop 34 units of housing for the elderly on property contiguous to the Site.
3. The Commission was chartered pursuant to the Revised Code of Washington (RCW), Chapter 35 (RCW 35.21.730, et seq.) and Seattle Municipal Code (SMC), Chapter 3.110 (Ordinance 103387, as amended) to provide effective, comprehensive, and coordinated planning, services, activities, and programs that will meet the unique needs of the many Indian residents who are scattered throughout the City.
4. The purposes of the Commission and the public interest will be served by the construction of the Public Facility.

5. By Resolution No. 118, adopted August 11, 1987, the Commission has approved the issuance and sale of a Special Obligation Bond Anticipation Note in principal amount of \$3,500,000 and the issuance of Special Obligation Bonds in an amount not-to-exceed \$4,000,000, to refund the Note, for the acquisition of the Site and construction of the Public Facility, and for the management and operation of the Public Facility on the Site and for certain other matters in connection therewith and this Agreement.
6. The Commission has secured an option from the Seattle School District to purchase the Site.
7. The City Council, in the Ordinance, has authorized the City to unconditionally guarantee the payment of the principal of and interest on not-to-exceed \$4,000,000 in Commission Bonds, the proceeds of which shall be used to refund the Note.
8. The City Council in the Ordinance has authorized the Mayor to execute this Agreement on behalf of the City.
9. Washington Mortgage Corporation, a Washington corporation, has issued a financing commitment (Attachment 5) to and is entering into a Construction Loan Agreement with the Commission for the acquisition of the Site, construction of the Public Facility thereon and purchase of the Note.
10. The Commission has applied for and been granted a Certificate of Approval from the International District Special Review Board for the Project.
11. An environmental review for the Project has been completed and a declaration of non-significance has been issued.
12. This Agreement is the culmination of negotiations and discussions between the City and the Commission regarding the terms and conditions under which the City will provide its unconditional guarantee of the Bonds and other duties and functions of each of the parties.

B. DEFINITIONS

The words hereinafter defined shall throughout this Agreement have the meanings set forth in this Section:

"Agreement" means this agreement between the City and the Commission.

"Arbitrage Earnings Amount" means the amount (determined pursuant to the Note Resolution with respect to the Note and the Bond Resolution with respect to the Bonds) that is required to be rebated to the United States under the circumstances set forth in the Resolution.

"Bond Counsel" means Preston, Thorgrimson, Ellis & Holman or any other firm of nationally recognized bond counsel selected by the Commission.

"Bond Fund" means the special fund of the Commission established by Section 14 of the Note Resolution and pursuant to this Agreement.

"Bond Resolution" means the resolution of the Commission to be adopted setting forth the financial terms and conditions of the Bonds and authorizing the issuance and sale of the Bonds.

"Bonds" means the Seattle Indian Services Commission Special Obligation Bonds, Series 1987, to be issued by the Commission pursuant to the Note Resolution, the Bond Resolution, the Ordinance and this Agreement in an aggregate principal amount not-to-exceed \$4,000,000.

"Broderick Building Revenues" means the Commission's ground lease payments received pursuant to the Commission's lease of the property located on the southwest corner of Second and Cherry Streets, Seattle, King County, Washington, the improvements on which are commonly referred to as the Broderick Building.

"Capital Costs" mean the costs of the acquisition of the Site and the development, engineering, architecture, construction, planning, financing and legal expenses, and other capital costs as lawfully incurred for and incident to the Project as budgeted in Attachment 2 hereto.

"Capital Reserve Fund" means the special fund of the Commission established by Section 14 of the Note Resolution and pursuant to this Agreement.

"Capital Reserve Amount" means the amount the Commission has budgeted in each Fiscal Year to provide for the replacement of capital facilities at the Project.

"City" means The City of Seattle, Washington, a city of the first class of the State of Washington.

"Code" means the federal Internal Revenue Code of 1986 and applicable Treasury Regulations.

"Commission" means the Seattle Indian Services Commission or its successors, created by the City pursuant to RCW Ch. 35.21 and SMC Ch. 3.110, and chartered to transact business and exercise its powers.

"Committee" means the oversight committee established pursuant to the Ordinance and this Agreement.

"Debt Service Payment Date" means the dates on which the principal of and interest on the Bonds is due and payable as provided in the Bond Resolution.

"Debt Service Reserve Account" means the special Account of the Commission established by Section 14 of the Note Resolution and pursuant to this Agreement.

"Debt Service Reserve Requirement" means one-half the maximum aggregate annual amount of principal of and interest on the Bonds.

"Debt Service Account" means the special Account of the Commission established by Section 14 of the Note Resolution and pursuant to this Agreement.

"Deed of Trust" means the Deed of Trust to be executed by the Commission in favor of the City upon issuance of the Bonds.

"Depository" means Puget Sound National Bank, a national banking association.

"Depository Agreement" means the depository agreement between the Depository and the Commission.

"Excess Earnings Fund" means the special fund of the Commission established by Section 15 of the Resolution.

"Fiscal Year" means the fiscal year of the Commission.

"General Account" means the special account of the Commission established by Section 10 of the Note Resolution and pursuant to this Agreement.

"Gross Revenues" means Project Revenues and Broderick Building Revenues.

"Lease" means the lease or leases for the use of the Public Facility between the Commission and its tenants.

"Legislative Authority" means the Mayor and the City Council of the City.

"Note" means the Seattle Indian Services Special Obligation Bond Anticipation Note, Series 1987, issued by the Commission pursuant to the Note Resolution.

"Note Proceeds Account" means the special account of the Commission established by Section 10 of the Note Resolution and pursuant of this Agreement.

"Note Resolution" means Resolution 118 of the Commission adopted August 11, 1987, authorizing the execution of this Agreement, the issuance of the Bonds, and the issuance and sale of the Note.

"Operation and Maintenance Reserve Fund" means the special fund of the Commission established by Section 14 of the Note Resolution and pursuant to this Agreement.

"Operation and Maintenance Expense" means all necessary expenses incurred by the Commission in causing the Public Facility to be operated and maintained in good repair, working order and condition. Operation and Maintenance Expenses shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs and a properly allocated share of charges for insurance and all other expenses incidental to the operation of the Public Facility, including pro rata budget charges of the Commission's administration expense where such charges represent a reasonable distribution and share of actual costs, but shall exclude depreciation, transfer of moneys to any other funds of the Commission, and the payments into the Bond Fund hereinafter provided for.

"Ordinance" means Ordinance 113529 of the City, passed July 20, 1987, authorizing the Mayor of the City to execute this Agreement and authorizing the City's unconditional guarantee of the payment of the principal of and interest on the Bond.

"Outstanding" means, with respect to the Note and the Bonds, an obligation that has not yet been paid or redeemed or for which payment has not been provided.

"Project" means the work or undertaking by the Commission, including planning, financing, design, purchase, acquisition, development, construction, or equipping of the Public Facility at the Site and all work on undertakings related thereto, pursuant to this Agreement.

"Project Fund" means the special fund of the Commission established by the Note Resolution and pursuant to this Agreement

into which the proceeds from the Note and other monies to be used for the Project shall be deposited.

"Project Revenues" means all of the Lease and other revenues paid to the Commission resulting from the operation of the Public Facility.

"Public Facility" means the completed Project as described in Attachment 4 hereto.

"Refunding Notes" means any renewal or extending of the Note or any substitute bond anticipation notes issued to refund the Note.

"Revenue Fund" means the special fund established by the Commission pursuant to Section 13 of the Note Resolution and pursuant to this Agreement.

"Site" means the real property, together with all appurtenances, as more fully described in Attachment 1 hereto.

C. OBLIGATIONS OF THE PARTIES

1. City.

- a. Guarantee. The City hereby unconditionally guarantees payment of the principal of and interest on the Bonds, the aggregate principal amount of which shall not exceed \$4,000,000.00. The City covenants and agrees, for so long as any Bonds are outstanding and unpaid, that each year it will include in its budget and levy an ad valorem tax, within and as a part of the tax levy permitted to cities without a vote of the people, upon all the property within the City subject to taxation, which together with all other moneys of the City that may legally be used and that the City may apply for such purposes, will be sufficient to satisfy its obligation to guarantee payment of the principal of and interest on the Bonds. The registered owners of the Bonds shall be express beneficiaries of this guarantee.
- b. Non-Arbitrage. The City hereby covenants that it will not make any use of the proceeds from the sale of the Note or the Bonds or any other moneys or obligations of the Commission or the City which may be deemed to be proceeds of such Note or the Bonds pursuant to Section 148(a) of the Code which will cause the Note or the Bonds to be "arbitrage bonds" within the meaning of said Section and said regulations. The City

will comply with the applicable requirements of Section 148(a) of the Code throughout the term of the Bonds. The City covenants that it will not act or fail to act in a manner which will cause the Note or the Bonds to be considered obligations not described in Section 103(a) of the Code.

The City will take no actions and will make no use of the proceeds of the Note or the Bonds, or any other funds, that would cause the Note or any Bonds to be treated as a "private activity bond" (as defined in Section 141(b) of the Code) subject to treatment under said Section 141(b) as an obligation not described in subsection (a) of said Section 103, other than a "qualified 501(c)(3) bond" within the meaning of Section 145 of the Code, unless the tax exemption thereof is not affected.

- c. Non-Impairment. The City shall not take any action which impairs the Commission's obligation to pay and redeem the Note or additional bond anticipation notes, if any, and to issue and sell Bonds pursuant to this Agreement and the Note Resolution, whether or not the Project is completed and irrespective of any other facts and circumstances. The City shall reserve and designate for purposes of providing the guarantee specified herein a portion of its general obligation debt capacity permitted without a vote in accordance with Chapter 39.36 RCW, equal to the maximum amount of Bonds and, upon issuance thereof, such reservation may be reduced to equal the outstanding principal amount thereof.
- d. Replenish Debt Service Reserve Account. In the event that the amount of funds in the Debt Service Reserve Account falls below the Debt Service Reserve Requirement, the City shall, prior to the next Debt Service Payment Date, deposit into the Debt Service Reserve Account an amount of money equal to the amount necessary to return the amount of funds in the Debt Service Reserve Account to the Debt Service Reserve Requirement.

2. Committee.

- a. Purpose. The Committee shall be established for the purpose of determining substantial progress of the Project and reporting to the Legislative Authority on the progress of the Project as provided herein.

- b. Composition. The Committee will consist of the City Budget Director, the City Council Finance Committee Chair and the Director of the Department of Community Development, or their respective designees.
- c. Obligations. The Committee shall:
- (1) Substantial Progress. Determine whether the Commission is making substantial progress on the Project, using the Project budget attached hereto as Attachment 2 and the construction schedule attached hereto as Attachment 3, as the standard against which to measure progress, and whether the Project is being constructed in substantial accordance with the plans and specifications for the Project;
 - (2) Recommendations-Substantial Progress. Recommend appropriate action to the Legislative Authority and Commission if the Committee finds that substantial progress on the Project, as described under Section C.2.c(1) above, is not being made or if the Project is not being constructed in accordance with the plans and specifications for the Project. In the event that the Committee finds that substantial progress in the Project is not being made or that the Project is not being constructed in accordance with the plans and specifications for the Project, the Committee may recommend any of the remedies provided in this Agreement or any other actions as may be appropriate to further the purposes of this Agreement.
 - (3) Recommendations-Other. Recommend to the Commission and the Legislative Authority, as necessary, any adjustments to the Project or amendments to this Agreement that would improve the Project, further its purposes or objectives, or reduce any difficulties encountered;
 - (4) Reviews. Review monthly reports from the Commission, and any additional information the Committee might reasonably request on the cost, design, and progress of the Project;
 - (5) Access. Have access, at reasonable times and subject to reasonable conditions and subject to reasonable notice to all Project records, files, personnel and the Site;

- d. Dissolution. The Committee shall be dissolved and shall have no further authority or responsibility without any action on the part of the City or the Committee immediately following filing the Certificate of Completion of the Project with the Depository pursuant to the Depository Agreement.
- e. Staffing. The City's Office of Management and Budget shall be responsible for staffing the Committee. All notices and reports to the Committee shall be sent to the attention of the Office of Management and Budget.

3. Commission.

- a. Issue Bonds. The Commission shall issue its Bonds or additional bond anticipation notes in accordance with the Note Resolution and this Agreement on or before the due date of the Note. Additional bond anticipation notes may not be issued in an amount exceeding the amount necessary to pay and redeem the principal of and interest on Note without the express written approval of the City. The Commission shall only issue Bonds in an amount not-to-exceed the amount necessary to pay and redeem the principal of and interest on the Note or subsequent bond anticipation notes and to fund the Debt Service Reserve Account to twice the Debt Service Reserve Requirement, and in no event in an amount exceeding \$4,000,000. Prior to the issuance of the Bonds or additional bond anticipation notes, the City's Debt Management Policy Advisory Committee shall have a reasonable opportunity to review the dates, terms, conditions, interest rates and other features of said financing and the Commission shall have the obligation to make any changes in the terms and conditions requested by the City.
- b. Non-Arbitrage. The Commission hereby covenants that it will not make any use of the proceeds from the sale of the Note or the Bonds or any other moneys or obligations of the Commission or the City which may be deemed to be proceeds of such Note or Bonds pursuant to Section 148(a) of the Code which will cause the Bonds or the Note to be "arbitrage bonds" within the meaning of said Section and said regulations. The Commission will comply with the applicable requirements of Section 148(a) of the Code throughout the term of the Note and the Bonds. The Commission

covenants that it will not act or fail to act in a manner which will cause the Note or the Bonds to be considered obligations not described in Section 103(a) of the Code.

The Commission will take no actions and will make no use of the proceeds of the Note or the Bonds, or any other funds, that would cause the Note or any Bonds to be treated as a "private activity bond" (as defined in Section 141(b) of the Code) other than a "qualified 501(c)(3) bond (as defined in Section 145 of the Code) subject to treatment under said Section 141(b) as an obligation not described in subsection (a) of said Section 103, unless the tax exemption thereof is not adversely affected.

c. Revenue Fund and Application of Gross Revenues.

The Commission shall authorize and establish a special fund of the Commission known as the "Series 1987 Revenue Fund" (the "Revenue Fund"). For so long as the Note is Outstanding, Project Revenues shall be deposited in the Revenue Fund as collected. Thereafter, Gross Revenue shall be deposited in the Revenue Fund as collected. The Revenue Fund shall be held separate and apart from all other funds and accounts of the Commission.

For so long as the Note is outstanding, the moneys in the Revenue Fund shall be used only for the following purposes:

First, to pay Operations and Maintenance Expenses;

Second, to make all payments required to be made into the Capital Reserve Fund for which money shall not have been provided by income from the investment of moneys in the Capital Reserve Fund;

Third, to make all payments required to be made into the Operations and Maintenance Reserve Fund for which money shall not have been provided by income from the investment of moneys in the Operations and Maintenance Reserve Fund; and

Fourth, to be deposited in the Note Fund and applied toward the payment of the principal of and interest on the Note.

Upon payment and redemption of the principal of and interest on the Note, the moneys in the Revenue Fund shall be used only for the following purposes and in the following order of priority:

First, to pay the Operation and Maintenance Expenses;

Second, to make all payments required to be made into the Debt Service Account to pay the interest on the Bonds for which moneys shall not have been provided by income from the investment of moneys in the Bond Fund;

Third, to make all payments required to be made into the Bond Fund to pay the principal of the Bonds for which moneys shall not have been provided by income from the investment of moneys in the Bond Fund;

Fourth, to make all payments required to be made into the Debt Service Reserve Account for which moneys shall not have been provided by income from the investment of moneys in the Bond Fund;

Fifth, to make all payments required to be made into the Capital Reserve Fund for which moneys shall not have been provided by income from the investment of moneys in the Capital Reserve Fund.

Sixth, to make all payments required to be made to reimburse the City for payments of the principal of and interest on the Bonds made under the City's guarantee set forth in Section C.1.a. of this Agreement and for payments made to replenish the Debt Service Reserve Account under Section C.1.d. of this Agreement;

Seventh, to make all payments required to be made into the Operations and Maintenance Reserve Account for which moneys shall not have been provided by income from the investment of moneys in the Operations and Maintenance Reserve Fund; and

Eighth, to retire by redemption or purchase in the open market any Outstanding Bonds or to make necessary additions, betterments, improvements, extraordinary repairs, extensions and replacements of the Public Facilities, or for any other lawful Commission purposes.

d. Bond Fund, Capital Reserve Fund, Operations and Maintenance Reserve Fund.

(1) Bond Fund; Debt Service Account; and Debt Service Reserve Account. The Commission shall authorize and establish a special fund of the Commission entitled the "Special Obligation Bond Fund" (the "Bond Fund"). Within the Bond Fund the Commission shall authorize and establish the following accounts: the "Debt Service Account" (the "Debt Service Account") and the "Debt Service Reserve Account" (the "Debt Service Reserve Account.")

i. Debt Service Account. Upon the issuance of the Bonds and for so long as the Bonds remain Outstanding, in each Fiscal Year, the Commission shall deposit into the Debt Service Account on or before the first business day of each month, Gross Revenues to the extent necessary, together with investment earnings on funds contained therein (except for investment earnings to be deposited in the Excess Earnings Account) and together with investment earnings on funds in the Debt Service Reserve Account to be deposited in the Debt Service Account (except for investment earnings to be deposited in the Excess Earnings Account), to pay an appropriate proportion of the principal of and interest on the Bonds due and payable on the next Debt Service Payment Date. For example, if the interest on the Bonds is payable semi-annually and the principal is payable annually, the Commission shall deposit into the Debt Service Account Gross Revenues to the extent necessary to pay one-sixth (1/6) of the interest on and one-twelfth (1/12) of the principal of the Bonds due and payable on the next Debt Service Payment Date. The Commission shall also deposit into such Account, Gross Revenues to the extent necessary to make up any deficiency in such Account resulting from the failure to pay all or any portion of a prior monthly payment since the last Debt Service Payment Date. The Commission shall draw upon funds in the Debt Service Account to make payments of the principal of, premium, if any, and interest on the Bonds.

ii. Debt Service Reserve Account. Upon the issuance of the Bonds, the Commission shall deposit funds into the Debt Service Reserve Account in an amount equal to twice the Debt Service Reserve Requirement. For so long as the Bonds remain Outstanding, the Commission shall deposit into the Debt Service Reserve Account, on or before the first business day of each month, Gross Revenues in an amount sufficient, together with other funds in such Account, to maintain the Debt Service Reserve Account at twice the Debt Service Reserve Requirement. In the event that funds in the Debt Service Account are insufficient to make any payment of the principal of or interest on the Bonds then due and payable, the Commission shall withdraw funds from the Debt Service Reserve Account to make such payment.

(2) Capital Reserve Fund. The Commission shall authorize and establish a special fund of the Commission entitled the "Leschi Center Capital Reserve Fund" (the "Capital Reserve Fund"). For so long as the Note, or any refunding notes or the Bonds remain Outstanding and upon completion of the Project, in each Fiscal Year the Commission shall deposit into the Capital Reserve Account on or before the first business day of each month, Gross Revenues to the extent necessary, to pay one-twelfth (1/12) of the Capital Reserve Amount budgeted by the Commission for that Fiscal Year. The Commission shall be authorized to withdraw funds from the Capital Reserve Account to pay appropriate capital costs associated with the Public Facility after such Facility has been completed.

(3) Operations and Maintenance Reserve Fund. The Commission shall authorize and establish a special fund of the Commission entitled the "Leschi Center Operations and Maintenance Reserve Fund" (the "Operations and Maintenance Reserve Fund"). For so long as the Note or Refunding Notes or the Bonds remain Outstanding, in each Fiscal Year the Commission shall deposit into the Operations and Maintenance Reserve Account on the

first business day of each month, Gross Revenues remaining after making payment of Operation and Maintenance Expenses and making deposits into the Bond Fund and Capital Reserve Fund to the extent necessary, to maintain funds in the Operations and Maintenance Reserve Account in an amount equal to the amount of Operation and Maintenance Expenses budgeted by the Commission in the then current Fiscal Year less the amount of Operation and Maintenance Expenses then expended in such Fiscal Year. The Commission shall draw on such funds, together with Gross Revenues, to pay Operation and Maintenance Expenses as the same become due and payable.

- (4) Investments and Earnings. The Commission may invest funds in the Revenue Fund, the Bond Fund, the Capital Reserve Fund, and the Operation and Maintenance Reserve Fund and accounts therein in such investments as it is legally authorized to make, provided no such investment adversely affects the exemption from federal income taxation under the Code of the interest on the Note or the Bonds. The investment earnings on funds in the Debt Service Reserve Account shall be deposited into the Debt Service Account except to the extent such earnings result from a rate of return in excess of the yield on the Bonds. These excess earnings shall be deposited into the Excess Earnings Fund established under this Note Resolution. Investment earnings on funds in the Debt Service Account shall remain in such account except to the extent such earnings result from a rate of return in excess of the yield on the Bonds. The Commission shall deposit such excess earnings into the Excess Earnings Fund. Investment earnings on moneys in all other Funds shall accrue to such Funds.

- e. Reimbursement-Debt Service Reserve Account. If the Commission draws upon the Debt Service Reserve Account, it shall have fifteen days to fully reimburse the Debt Service Reserve Account to twice the Debt Service Reserve Requirement. In the event the Debt Service Reserve Account is not so reimbursed within said fifteen days, the City may unilaterally impose a corrective action plan upon the Commission that may include any or all of the following conditions:

- (1) Requiring the immediate eviction of tenants who are in default on lease payments;
- (2) Leasing all or portions of the Public Facility to tenants who demonstrate an ability to pay rents sufficient for the Commission to meet its obligations on the Bonds;
- (3) Leasing portions of the Public Facility to the City for its programs or activities;
- (4) Collecting unpaid rents from tenants;
- (5) Requiring the Commission to raise/contribute additional funds from other sources to replenish the Debt Service Reserve Account; and
- (6) Imposing reasonable time limits for the performance of the above conditions.

Additional and/or different conditions may be added by the mutual agreement of the City and the Commission. The City and the Commission agree to meet and confer and exert their best efforts to formulate a corrective action plan that reimburses the Debt Service Reserve Account and minimizes the need for future draws upon said Account, while maintaining, to the extent consistent with sound financial judgment, the autonomy of the Commission. In no case, however, shall the City's unconditional guarantee or its obligation to reimburse the Debt Service Reserve Account be waived and no corrective action may in any manner whatsoever adversely affect the exemption from federal income taxation of interest on the Note or the Bonds.

If the Commission fails to comply with any condition of the corrective action plan, the City shall be entitled to any or all of the remedies set forth in Section D, entitled Remedies.

f. Project Fund. The Commission shall establish a Project Fund and monies received upon issuance of the Note and the Commission's cash contributions for the Project, as provided herein, shall be deposited in the Project Fund.

- (1) Accounts. The Commission shall establish within such Project Fund a Note Proceeds Account, a General Account and other accounts as it deems

necessary or convenient to implementing the Project.

The proceeds derived from the issuance of the Note and any interest earned from the lawful investment of such proceeds shall be placed in the Note Proceeds Account and shall be used solely to pay the cost and expense of the Project, to pay the cost of issuance and sale of the Note, and to pay the Rebate Amount, if any, to the extent that the Rebate Amount is attributable to earnings on moneys in the Note Proceeds Account. In the event that at such time as the Project is completed, the Note is Outstanding and funds remain in the Project Fund, such funds shall be deposited in the Note Fund and applied to the payment of the Note, provided, however, that the Commission may, in its sole discretion and without approval of the City, deposit funds remaining in the General Account, in an amount not exceeding \$20,000, into the Operation and Maintenance Reserve Fund. In the event that at such time as the Project is completed, the Bonds are Outstanding and funds remain in the Project Fund, such funds shall be applied to the payment of the principal of the Bonds or to the redemption of the Bonds, upon approval of the City.

- (2) Rebate of Arbitrage Earnings. The Commission covenants and agrees to calculate the Rebate Amount, and the City and the Commission covenant and agree to pay the Rebate Amount to the Internal Revenue Service in the manner and at the times required in Section 15 of the Note Resolution unless Bond Counsel delivers to the Commission its opinion that the Rebate Amount must be calculated in another manner, in which case the Commission covenants and agrees to calculate and the Commission and the City covenant and agree to pay the Rebate Amount in the manner required by law.
- (3) Reports. The Commission shall submit monthly reports on the progress of the Project to the Committee. Substantial progress on the Project shall be reported and measured against Attachment 3, the construction schedule and Attachment 2, the Project budget attached hereto.

- (4) Substantial Delay. The Commission shall immediately notify the Committee in the event that it is likely that there will be a substantial delay in the completion of the Project or an increase in the budget cost of the Project.
- (5) Corrective Action Plan. In the event the City determines that there is a substantial delay in the progress of the Project, an increase in the budgeted costs of the Project, or the Project is not being constructed in substantial accordance with the plans and specifications for the Project, the City may unilaterally impose a corrective action plan upon the Commission that may include any or all of the following conditions:
- (i) Scaling back the scope of the Project during construction, provided such does not impair the Note;
 - (ii) Raising moneys to ensure that the Project revenues meet expected costs;
 - (iii) Finding new tenants for the facility;
 - (iv) Raising the amount of rents to ensure that the debt service is paid;
 - (v) Replacing tenants with City programs or activities; or
 - (vi) Requiring construction of the Project to follow the plans and specifications.

Additional and/or different conditions may be added by the agreement of the City and the Commission. The City and the Commission agree to meet and confer and to exert their best efforts to formulate a corrective action plan that brings the Project back on schedule, back within budget, back to being constructed in accordance with the Project plans and specifications, and/or substantially decreases the risk of the City's guarantee being called, while maintaining, to the extent consistent with sound financial judgment, the autonomy of the Commission. In no case, however, shall the City's unconditional guarantee or its obligation to reimburse the Debt Service Reserve Account be waived and no corrective action may in any manner whatsoever adversely affect the exemption from federal income taxation of interest on the Note or the Bonds.

- g. Contribution. Upon completion of the Project, or prior thereto at the Commission's discretion, the Commission shall contribute a total of \$800,000 in its paid or contracted for design, architectural, engineering services and legal fees for the Project, and/or in U.S. funds (other than from Note or Bond proceeds), into the General Account of the Project Fund or towards development and completion of the 34 units of housing for the elderly as authorized by the City Council, by Resolution 27490, passed August 11, 1986, and the Seattle Housing Authority, by Resolution No. 2820, adopted June 2, 1986. The allocation of this \$800,000 between such services and fees and U.S. funds shall be made at the Commission's sole discretion. Approximately \$550,000 of the amount is allocated to the Project and approximately \$250,000 of the amount is allocated to the development and completion of said elderly housing project.
- h. Proceeding With Project. The Commission shall proceed with diligence to purchase the Site and cause to be constructed on the Site a Public Facility of approximately 43,200 square feet in accordance with the Project description as set forth in Attachment 4 hereto, and as substantially described and for the purposes and benefits provided herein and in the Ordinance, and provide for the management and operation of the Public Facility.
- i. Construction Contract. The Commission shall contract for the construction of the Project, and shall ensure that the contractor is selected pursuant to a competitive process which satisfies Washington State Law for solicitation of proposals or bids by contractors who, in the determination of the Commission, are qualified to undertake development or construction of a public facility.
- j. Inspection Contract and Bond. The Commission shall before construction of the Project begins, enter into an inspection contract with a person of its choosing who shall be qualified to and who shall issue a certification on a weekly basis during the construction of the Project and also upon completion of the Project that the Project was constructed in substantial accordance with the plans and specifications for the Project. The City shall be an express third-party beneficiary of the inspection contract. In addition, the Commission shall obtain a bond from a surety

company authorized to do business in the State of Washington which for a period of two years after substantial completion of the Public Facility provides for payment for the remedy of defects in the improvements of the Public Facility which are due to faulty materials or workmanship and for damage to other work resulting from such faulty material or workmanship.

- k. Changes. In the event the Note is paid and redeemed prior to the completion of the Project, the Commission shall have sole discretion, consistent with the Ordinance and this Agreement, to make changes with respect to unit costs, design elements, selection of contractor, change orders, and all other matters relating to the Project, without approval of the City, to the same extent previously permitted under the Construction Loan Agreement between the Commission and Washington Mortgage Corporation, otherwise only with the prior consent of the City.
- l. Ownership. The Commission shall be the owner of all property, including the Site and the Public Facility, paid for or financed from the Project Fund.
- m. Compliance. With respect to work and services funded from the Note Proceeds Account, the Commission shall be bound by and comply with requirements of the City's WME/MBE Ordinance, SMC Ch. 20.46 and include in contracts with others for work and for services for the Project, the anti-discrimination/equality of opportunity provision provided in SMC § 20.44.030 as existing or hereafter amended.
- n. Barrier-free Access. The Public Facility shall comply with applicable requirements for barrier-free access for the disabled.
- o. Monthly Reports. Until the Project is completed, the Commission shall file with the Committee a monthly written report in a form reasonably acceptable to the Committee as to the progress of the Project, including:
 - (1) Certification that the Commission is making substantial progress in the Project, indicating the extent to which the Project is in compliance with the Attachments 2 and 3 hereto; and that the Project is being constructed in substantial accordance with plans and specifications for the Project;

- (2) A description of significant events, including change orders, during the preceding month and planned activities for the next month;
 - (3) An estimate of the disbursements which will be requested from the Project Fund for the next month;
 - (4) A financial statement certified by the Commission, describing funds disbursed from the Project Fund and liabilities outstanding, if any.
- p. Recommendations. The Commission shall recommend to the City from time to time such adjustments in the Project or amendments to this Agreement, as would improve the Project, further its purpose and objectives, or obviate or reduce difficulties encountered.
- q. Staffing. The Commission shall retain such personnel, and procure such services appropriate to carry out the Project with reasonable efficiency.
- r. Accounting. The Commission shall establish accounting procedures and systems and maintain its accounting books and records in a manner satisfactory to the Auditor of the State of Washington and the City Comptroller and shall allow them access thereto for audit purposes.
- s. Management. The Commission shall be responsible for managing the Public Facility and Site, including:
- (1) Developing a lease structure which is adequate to meet the payments required by the Bonds;
 - (2) Ensuring adequate management staff, subject to City approval, and providing to the City quarterly reports on the financial and operating aspects of the Public Facility;
 - (3) Maintaining the Site as a Public Facility and paying all maintenance and utility costs;
 - (4) Assuring that not more than 5% of the Net Proceeds of the Note or Bonds be used for any Private Person Use, (as defined in Section ___ of the Code), and that not more than 5% of the principal or interest payments on the Note or Bonds in any Note or Bond year be indirectly:

(a) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use; or (b) derived from payments (whether or not made to the Commission) in respect of property, or borrowed money, used or to be used for any Private Person Use.

- (5) Operating the Project as a public facility, including making the Project available for reasonable public use; and
- (6) Submitting to the City by September 1st of each year of the term of this Agreement following completion of the Project, a facility operating budget for the Public Facility for review and approval by the City.

The Commissions may enter into a management contract for the Public Facility if, in the opinion of Bond Counsel, such contract will not adversely affect the exception from federal income tax of the interest on the Note or the Bonds.

t. Leasing. The Commission may lease the Public Facility or portions thereof and if it does so shall enter into Leases. The form of any and all Leases shall include:

- (1) Obligation of the tenants for payment of their proportionate share of the Public Facility's maintenance and utilities costs;
- (2) Restrictions on use of the Public Facility for 501(c)(3) purposes, as defined in the Code and its amendments, or for governmental purposes, as necessary, and providing for the immediate termination of the Lease and immediate removal of the tenant from the Public Facility should the tenant lose its status as a entity that fits within the definitions of 501(c)(3) of the Code;
- (3) Obligation of the tenants to quit and surrender possession of the portion of the Public Facility leased in a timely manner should utility or maintenance costs, or other Lease payments go unpaid;
- (4) Requirement that tenants, as necessary, charge fees that are reasonable, and provide a sliding fee scale to ensure that indigent persons being

served by Tenants leasing the Public Facility or portions thereof will be served at the Public Facility;

- (5) In the event of termination of any Lease, the Commission shall:
- i. Immediately notify the City of the termination of the Lease;
 - ii. Act to remove tenants whose Lease has been terminated; and
 - iii. Lease the vacant space of the Public Facility in a timely manner to ensure payments required by the Bonds;
- (6) Any Lease for the Project shall specifically reference this Agreement, and require that the lessee meet the purposes pursuant to this Agreement.

- u. PDA Report. The Commission shall include in its annual PDA report to the City on the 31st of March each year, a report on the planned and actual operations, including the Capital Reserve Fund, of the Public Facility, including all receipts and payments related to the Public Facility, by budget category, and a three-year financial projection for costs and receipts for the Public Facility.
- v. Sale. Any property constituting a part of the Site or Public Facility developed, constructed, or acquired with monies from the Project Fund may not be sold or otherwise encumbered or disposed of by the Commission without the express written permission of the City.
- w. Disbursements. If the Bonds are issued prior to the completion of the Project, any disbursements from the Project Fund shall be made only with the prior approval of the City. The Commission shall submit its disbursement schedules for the Project Fund to the City for advance approval. The disbursement schedule shall be similar in format and be accompanied with substantially the same materials as was submitted by the Commission to Washington Mortgage Corporation while the Note was outstanding. The City shall approve such disbursement schedules based upon the City's satisfaction that there is substantial progress

being made on the Project, using the Project budget attached hereto as Attachment 2 and the construction schedule attached hereto as Attachment 3, as the standard against which to measure progress, and that the Project is being constructed in substantial accordance with the plans and specifications for the Project. The City's approval of disbursement schedules shall not be unreasonably withheld. The Commission may disburse amounts from the Project Fund in accordance with approved disbursement schedules.

- x. Deed of Trust. Upon the issuance of the Bonds, the Commission shall execute a Deed of Trust in favor of the City in substantial conformance with Attachment 6 hereto, and immediately deliver the Deed of Trust to the City.

- y. Refinance. From and after the first date upon which the Bonds may be redeemed at par, the City may request the Commission to redeem the Bonds if the City reasonably determines that in order to provide funds with which to redeem the Bonds, the Commission is (i) able to issue and sell refunding bonds or to obtain other refinancing, in either case without the unconditional guarantee of the City, bearing an effective net interest rate no more than 150 basis points greater than the effective net interest rate on the Bonds, and (ii) is financially able to pay the debt service on such refunding bonds or other refinancing. If the City makes such request, the Commission shall use its best efforts to obtain a contract for the purchase of such bonds or obtain other refinancing, in either case without the unconditional guarantee of the City, bearing an effective net interest rate not more than 150 basis points greater than the effective net interest rate on the Bonds. If the Commission is able to obtain such a bond purchase contract, the Commission shall issue and sell such refunding bonds, shall call the Bonds for redemption and shall pay and redeem the Bonds.

D. REMEDIES

The Commission shall have all remedies provided at law or in equity, including the remedy of being able to specifically enforce the terms and provisions of this Agreement.

If the Commission shall fail to comply with any of its obligations under this Agreement or in any respect to

comply with a corrective action plan, the City shall be entitled to any or all of the following remedies:

- a. Take over in whole or in part the management of the Project;
- b. After the Note is paid and redeemed, require the Commission to relinquish all interest in the Site and the Project;
- c. Find new tenants, which tenants shall meet the conditions set forth in Sections 3.r and 3.s of this Agreement;
- d. After the Note is paid and redeemed, assume ownership of the Project along with all Commission obligations related to the Project;
- e. Any other remedy provided at law or in equity.

E. TERM AND MISCELLANEOUS

1. Term.

This Agreement shall be binding on the parties until the Note and the Bonds are paid.

2. Assignment.

No party shall assign any of its rights or delegate any of its duties under this Agreement without the express written approval of the other party, except as otherwise provided herein.

3. Obligation to Third Parties.

The holder of the Note shall be the express beneficiary of the Commission's, and the City's obligations under this Agreement to the extent the performance of such obligation is necessary to pay and redeem the Note in accordance with its terms and as is necessary to maintain the exemption from federal income taxation of the interest on the Note and on the Bonds. Neither the City nor the Commission shall be obligated or liable hereunder to any party other than as provided in this Agreement.

4. Indemnification.

To the extent permitted by law, the Commission shall hold the City and its officers, agents and employees, acting in their official capacity or course of employment, harmless from all suits, claims or liabilities of any nature, including costs and expenses, for or on account of injuries or damages sustained by any persons or property resulting in whole or part from activities or omissions of the Commission, its agents or employees pursuant to this Agreement, or on account of any unpaid wages or other remuneration for services. In the event that any such suit or action is brought against the City, the Commission shall, upon notice of the commencement thereof, defend the same at its sole cost and expense, and if final judgment be adverse to the City or the City and the Commission jointly, the Commission shall promptly satisfy and pay the same. The above liability shall not be diminished by the fact, if it be a fact, that any such death, injury, damage, loss contributed to in part by negligence of the City, its officers, and employees or agents provided, however, nothing contained in this section shall be construed as requiring the Commission to indemnify the City against the liability for damages arising out of the bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its officers, employees or agents.

5. Insurance.

The Commission shall procure and maintain at all times a policy of public liability insurance naming the City as an additional insured, protecting and holding the City harmless from any and all damages which may arise in connection with the services to be provided hereunder, whether or not such damages are alleged to arise or result from acts or omissions which are the sole negligence of the City, its officers, agents and/or employees or the combined negligence of the City and others, in at least the principal amount of a combined single limit of \$1 million each occurrence, personal injury and or property damage. The Commission will insure the Project and when completed the Public Facility against loss or theft in the amount of replacement costs of the Project or Public Facility, whichever is applicable, and any tenant improvements therein and shall include the City as an additional insured thereunder. No insurance which the Commission is required to maintain by this Agreement shall be reduced or cancelled without the City's prior written agreement.

6. Entire Agreement.

This Agreement and its Attachments contain the entire agreement and understanding of the City and Commission with respect to the subject matter hereof, and supersedes all prior or contemporaneous oral or written understanding, agreements, promises, or other undertakings between the parties, except as provided in the Charter of the Commission and SMC Chapter 3.110.

7. Choice of Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The venue of any suit or arbitration arising under this Agreement shall be in King County, Washington, and if a suit, in King County Superior Court.

8. Captions.

The section and paragraph captions used in this Agreement are for convenience only and shall not control and affect the meaning or construction of any of the provisions of this Agreement.

9. Amendment or Waiver.

This Agreement may not be modified nor amended except in writing. No course of dealing between the parties nor any delay in exercising any rights hereunder shall operate as a waiver of any rights of any party.

10. Notices.

Any notice, demand, document, or other communication which is required by this Agreement to be given shall be in writing and shall be deemed to have been given when delivered if delivered in person to the person to whom such is addressed, or three days after mailing if sent by registered or certified mail, return receipt requested and first-class mail prepaid, addressed to the person to whom it is addressed as follows:

a. If to the City:

Office of Management and Budget
Attn: Sarah Welch
City of Seattle
300 Municipal Building
Seattle, Washington 98104

b. If to the Commission:

Seattle Indian Services Commission
Attn: Mike Marshall
2218 Second Avenue, #5400
Seattle, Washington 98121

Such names and addresses may be changed by written notice to all other parties, pursuant to this provision.

11. Force Majeure.

Other than the Commission's obligation to issue the Note, the Bonds, to pay the principal of and interest on the Bonds, and to apply and to deposit Gross Revenues into the Revenue Fund, the Bond Fund and accounts therein, the Capital Reserve Fund, and the Operation and Maintenance Reserve Fund, and the City's unconditional guarantee of the Bonds pursuant to this Agreement, if any party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, that party shall give to the other parties prompt notice of the force majeure with reasonably full particulars concerning it; thereupon, the obligations of the party giving the notice, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The affected party shall use all possible diligence to remove the force majeure as quickly as possible.

The requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement, contrary to the wishes of the party involved, of strikes, lockouts, or other labor difficulty and any such difficulty shall be handled entirely within the discretion of the party concerned.

The term "force majeure" as here employed shall mean any act of god, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, fire, flood, explosion, failure to timely receive necessary governmental approvals, governmental restraint, unavailability of equipment, and any other cause, whether of the kind specifically numerated above or otherwise, which is not reasonably within the control of the party claiming suspension.

12. Severability.

Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and

valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without affecting or invalidating the remainder of this Agreement.

13. Counterparts.

This Agreement may be executed in counterparts, and each such counterpart shall be deemed to be an original instrument. All such counterparts together will constitute one and the same Agreement.

IN WITNESS WHEREOF, the City and the Commission have executed this Agreement this 17th day of August, 1987.

SEATTLE INDIAN SERVICES
COMMISSION

THE CITY OF SEATTLE

By _____
Its _____

Mayor

Attest: _____

Pursuant to the authority of
Ordinance _____

0026J

ATTACHMENT 1
TO
AGREEMENT

Legal Description of Site

That real property, located in King County, Washington, described as:

That portion of that tract of land designated as Syndicate Ridge in Syndicate Addition to the City of Seattle, according to plat thereof recorded in volume 2 of Plats, page 44, records of King County, Washington, described as follows:

Commencing at the northeast corner of Lot 2, Block 5, said Syndicate Addition; thence EAST along the easterly extension of the north line of said Lot 2 and along the south line of South Weller Street 133.00 feet to the True Point of Beginning; thence SOUTH, at right angles to said south line of Weller Street, 107.00 feet; thence EAST 18.00 feet; thence SOUTH 50.00 feet; thence EAST 27.00 feet; thence SOUTH 83.00 feet to the south line of said Syndicate Ridge and the north line of South Lane Street; thence N 89 59' 32" E along said north line of Lane Street 252.00 feet to the west line of 12th Avenue South; thence N 0 00' 32" E along said west line 239.96 feet to aforesaid south line of South Weller Street; thence WEST along said south line 297.04 feet to the True Point of Beginning.

(Being known as Parcel 2 after adjustment Lot Boundary Adjustment No. 8604774 recorded under Auditor's File No. 87-07200849.)

ATTACHMENT 2
TO
AGREEMENT

Construction Budget

(Begins on next page.)

Borrower's Initials: _____ Loan No.: 81-2650-TAX

EXHIBIT D
TO CONSTRUCTION LOAN AGREEMENT

COST SCHEDULE

Borrower warrants the following:

1. The total costs, direct and indirect, of the acquisition of the Property, the continued ownership during the term of the Note, and the construction of the Improvements are shown below. Certain items set forth below have been fixed by contract to the fullest extent possible; and Borrower has used all the diligence necessary, including the use of expert opinion, to estimate accurately all costs and sources of funds not fixed by contract.

	<u>Column A</u> <u>Total Costs</u>	<u>Column B</u> <u>Prepaid Items</u>
1. Land	688,210.00	18,000.00
2. Construction Hard Costs	2,879,370.00	
3. Sales Tax on Construction Costs	229,470.00	
4. Tenant Improvements	-	
5. Sales Tax on Tenant Improvements	-	
6. Project Architect Design Fee	175,500.00	175,500.00
7. Project Architect Inspection Fee	(Included in Design fee)	
8. Soils Report	5,000.00	5,000.00
9. Survey, including As-Built	1,400.00	1,400.00
10. Lender's Arch/Eng Review and Inspection Fee	5,000.00	
11. Insurance	15,000.00	
12. Real Estate Taxes	-	
13. Appraisal	7,500.00	7,500.00
14. Legal and Administrative	90,000.00	30,000.00
15. Accounting		
16. Leasing Commission	-	
_____ & @ _____ _____ years SF		
17. Permits and Fees	15,000.00	15,000.00
18. Marketing Fee	-	

19.	Interest During Construction	(Paid upon completion)		
	@ _____ months	%		
20.	Interest During Lease Up		-	
	@ _____ months	%		
21.	WMC Construction Loan Fees		52,500.00	35,000.00
22.	Permanent Loan Fees		-	
23.	Title, Recording & Endorsements & Escrow Fee		6,000.00	
24.	Contingencies		24,660.00	
25.	Developer's Overhead			
26.	Developer's Profit			
27.	Rainier Bank line of credit		5,000.00	
28.	Depository Fee		500.00	
29.	_____			
30.	_____			
31.	_____			
	TOTAL		\$ 4,200,110.00	\$ 287,400.00

2. The sources of funds (including the Loan) required to meet the costs set forth in Section 1 of this exhibit are as follows:

COST OF PROJECT (Total of Column A)	4,200,110.00
LESS Prepaid Costs (Total of Column B)	(287,400.00)
Construction Loan Amount	(3,500,000.00)
Cash to be deposited in the General Account of the Project Fund	(412,710.00)
TOTAL	(-0-)

TOTAL CASH REQUIRED FROM BORROWER OR SURPLUS OF FUNDS

SEATTLE INDIAN SERVICES COMMISSION

BY: _____
J. Michael Marshall, Executive Director

WASHINGTON MORTGAGE CORPORATION

BY: _____
Vice President

ATTACHMENT 3
TO
AGREEMENT

Construction Schedule

(Begins on next page.)

Note: The attached Construction Schedule assumed the Washington Mortgage Corporation Construction Loan would close on or about August 10, 1987. The Loan Closing is now anticipated on August 20, 1987. The Construction Schedule will be deemed to commence the first business day after the Loan Closing.

LESCHI CENTER

	8/10	8/17	8/24	8/31	9/7	9/14	9/21	9/28	10/5	10/12	10/19	10/26	11/2	11/9	11/16	11/23	11/30	12/7	12/14	12/21	12/28	1/4	1/11	1/18	
Excavate								_____	_____																
Foundation								_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Backfill																									
Frame																									
Roof																									
Sidewalls																									
Plumb																									
Electrical																									
Telephone																									
TV/Control																									
LtWt. Conc.																									
Insulate																									
Drywall																									
Elev. For CLG.																									
Paint																									
Vinyl Flr.																									
Cabs/Tops																									
Finish Carp																									
Stairs & Ralls																									
Carpet																									
Drapes - BLINDS																									
Appliances																									
Clean																									
Punch List																									
Final																									
DEMO. & ASBESTOS	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
HVAC																									
BRICKWORK	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Sewer/Water																									
Electric																									
Final Grade																									
Irrigation																									
Curbs/Walks																									
Asphalt																									
Landscape																									
Signs/Benches																									
Garbage/Fence																									

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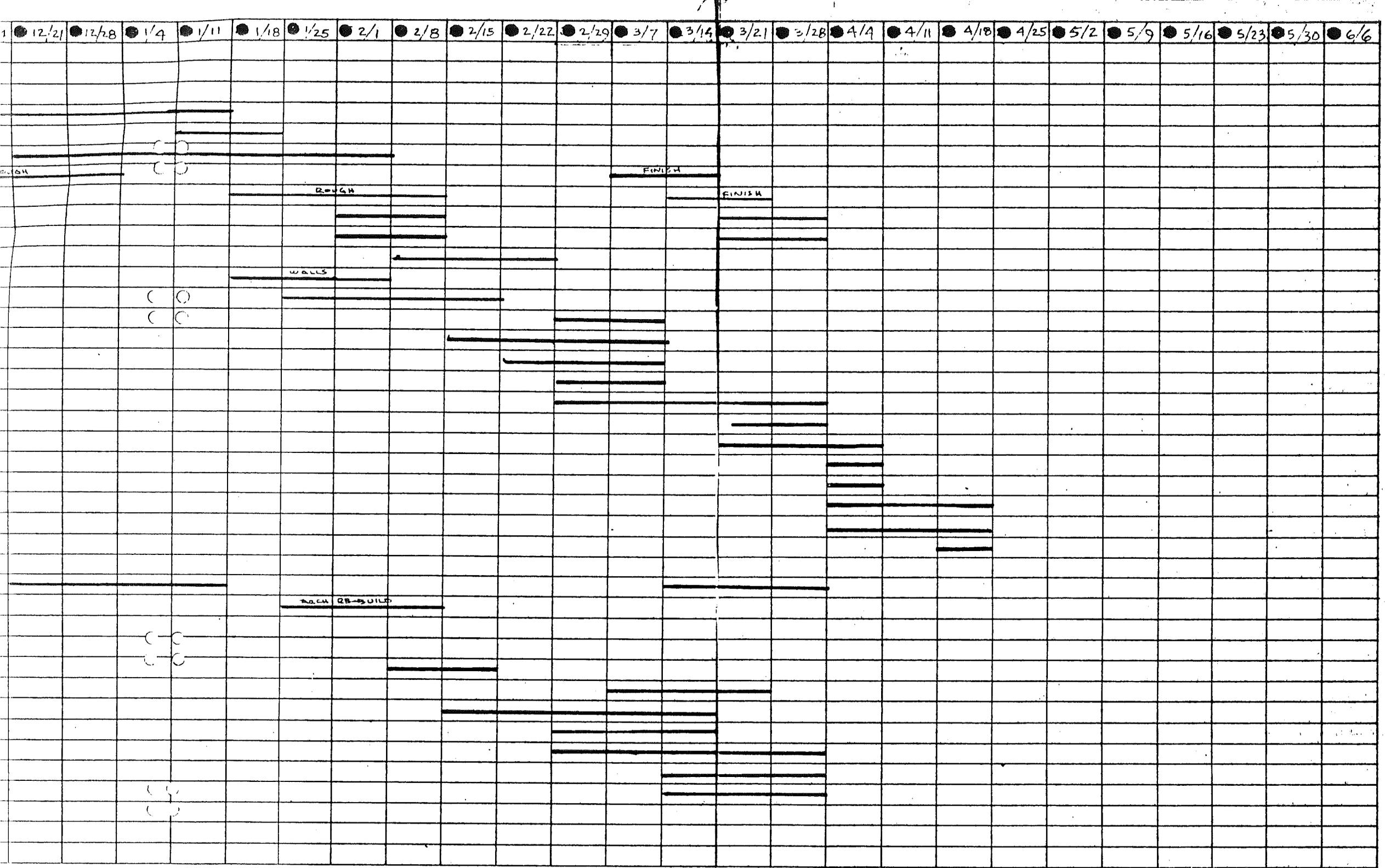
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ATTACHMENT 4
TO
AGREEMENT

Description of the Public Facility

The Public Facility will consist of an office and human services building of approximately 15,000 square feet and a medical facility of approximately 24,000 square feet which will be connected by a common entry. The majority of the office building will be leased to the Seattle Indian Commission and the medical facilities building will be leased to the Seattle Indian Health Board. The building will be of a stucco finish and have off-street parking.

ATTACHMENT 5
TO
AGREEMENT

Construction Loan Commitment

(Begins on next page.)

Washington Mortgage Corporation



FILE COPY

Date: July 2, 1987

To: Mr. J. Michael Marshall, Executive Director
Seattle Indian Services Commission
2218 Second Avenue
Seattle, Washington 98121

Subject: The Leschi Center
Loan No.: 81-2650-TAX

We have approved a financing transaction on the terms described below:

1. Borrower: The Seattle Indian Services Commission ("Borrower"), a public corporation chartered by the City of Seattle.
2. Amount: Tax Exempt Bond Anticipation Note in the amount of \$3,500,000.00.
3. Fees:
 - (a) Nonrefundable commitment fee: \$35,000.00 (1%) due on acceptance of this commitment.
 - (b) Loan fee: \$17,500.00 (1/2%) due on closing.
4. Security: First and only (except for encumbrances approved by us in writing) lien on the following property, to be owned by Borrower (unless otherwise specified):
 - (a) The land described as Parcel 2 on Exhibit "A" attached, to be improved by two two-story wood frame on and stucco buildings contained in 28,400 square foot medical office space and a 14,915 square foot office.
 - (b) All tangible and intangible personal property used or useful in connection with the ownership, development, operation or maintenance of the buildings, improvements and land.
 - (c) All leases, rents, income and profits related to the property.
5. Terms of the Note:
 - (a) The Note shall have a term of twelve (12) months.
 - (b) The Note shall bear interest at a rate equal to 95% of the rate designated by Puget Sound National Bank as its "prime rate" with the rate on the Note to be adjusted with each adjustment in the "prime rate". All accrued interest shall be due and payable in full at maturity.

[81-2650-TAX]

2720 Third Avenue • Suite 300 • Seattle, Washington 98121 • (206) 441-6540



INCOME PROPERTY DEBT AND EQUITY SPECIALISTS

(c) **The Note** may be prepaid in whole, but not in part upon thirty (30) days prior written notice to Lender.

6. Disbursements.

At closing the proceeds of the Note will be fully disbursed into the "Project Fund" to be deposited in trust at Puget Sound National Bank pursuant to a Depository Agreement. After the initial disbursements on land costs and other items approved by Lender, note proceeds will be disbursed from the Project Fund on a percentage of completion basis to pay the costs of construction of the Improvements in accordance with the budget and cost breakdown to be approved by Lender and in accordance with the terms and conditions of the Construction Loan Agreement. The proceeds in the Project Fund shall be invested in such investments as are directed by Borrower with the approval of Lender.

7. Minimum Appraisal Amount: \$4,050,000.00

8. Important Dates:

(a) Acceptance of commitment: July 10, 1987

(b) Closing, not later than: September 1, 1987

(c) Expiration of commitment: September 1, 1987

(d) Commence substantial construction not later than September 15, 1987.

(e) Completion of improvements. Not later than eight (8) months from closing. *The completion date to be entered on the certificate of completion shall be the date of completion of the improvements, not the date of closing.*

9. Loan Participation: Not required.

10. Special Conditions: See Exhibit "B" attached.

11. Holdbacks: Retainage: 5% of amounts due contractor. If there is no construction contract, 5% retainage of hard costs as determined by Lender.

12. General Terms: The printed "General Terms" attached are a part of this commitment.

13. Additional General Terms: The printed "Additional General Terms (Construction Loan)" attached are a part of this commitment.

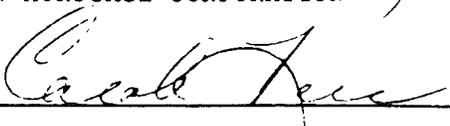
14. Acceptance: This commitment shall not be binding unless the enclosed copy of this letter is signed by Borrower and returned to us by the close of business on July 10, 1987, accompanied by payment of the non-refundable commitment fee in cash. Your acceptance constitutes your promise to close the transaction.

Mr. J. Michael Marshall
July 2, 1987
Page 3

If, after acceptance, this transaction has not closed by the date specified in Paragraph 8(b), this commitment will expire and all fees paid and due by Borrower will be forfeited. Provided, however, that if the reason this transaction does not close is the failure by the City of Seattle to pass the approving ordinance, the commitment fee, less out of pocket costs incurred by Lender (such as attorney's fees) shall be refunded to Borrower. Closing shall be deemed to take place when Borrower is eligible for and receives the first disbursement, even if the Deed of Trust is recorded earlier.

WASHINGTON MORTGAGE CORPORATION.

By



Its: Vice President

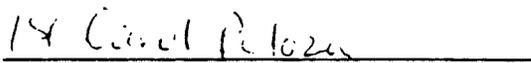
ACCEPTED AND AGREED TO THIS 18 DAY OF JULY, 1987.

"BORROWER"

BORROWER'S TAX IDENTIFYING NO. 91-0932455

THE SEATTLE INDIAN SERVICES
COMMISSION

By:



Its: President

Lot
'Section'

Block
(Township)

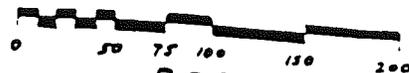
Subdivision
(Range)

Vol. Pg.

EXHIBIT "A"

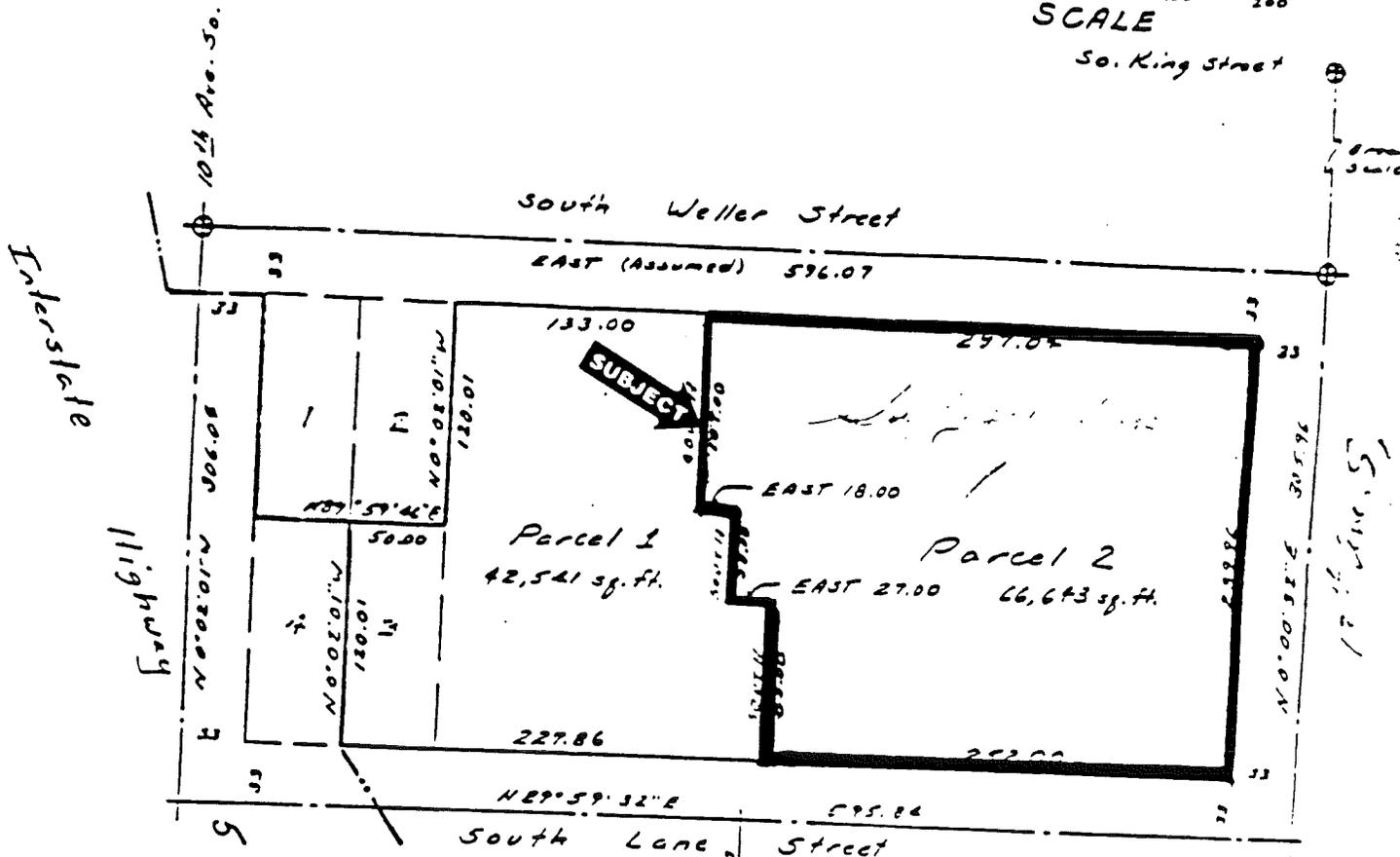
LEGEND

- Centreline
- ==== Boundary
- Platted Lot Line
- Mag. Right-of-Way
- ⊙ - Cased City Monument



SCALE

So. King Street



Prepared by
 HEBRANK & ASSOCIATES
 Professional Surveyors
 File No. B6033
 24 June 1986

See attached exhibits for easement (reciprocal) and existing site plan under this Master Use Application for improvements

SITE PLAN

EXHIBIT "B"

SPECIAL CONDITIONS

1. This Commitment is subject to the following special conditions:
 - (a) Borrower and The City of Seattle shall have entered into an agreement acceptable to Lender whereby Borrower unconditionally agrees to issue its special obligation bond or bonds in an amount sufficient to pay the Note in full by no later than the maturity date of the Note and The City of Seattle unconditionally agrees to guarantee the bond(s) and to fully cooperate with Borrower's issuance of the bond(s).
 - (b) Receipt of an opinion of bond counsel acceptable to Lender that the interest on the Note will be tax exempt.
 - (c) All legal fees and expenses of bond counsel shall be paid by Issuer.
2. If for any reason other than a default by Lender, interest on the Note becomes no longer tax exempt, the interest on the Note shall be increased retroactive to the date the interest became no longer tax exempt to a floating rate equal to 2% per annum over the rate designated by Puget Sound National Bank from time to time as its "Prime Rate" and Lender shall have the option to declare the entire principal and all accrued but unpaid interest on the Note due and payable in full six months from the date of demand.
3. Lender shall have the right to sell the Note to Puget Sound National Bank. Puget Sound National Bank shall have the right to transfer the Note in whole or in part only if it complies with all the applicable requirements of the non-public offering exemption available under federal and Washington state securities laws.
4. The General Contractor for the Project shall be Bellewood Corporation and its principal, Dean Chausee, shall personally guarantee lien free completion of the improvements in accordance with the requirements of the construction contract.
5. Notwithstanding the provisions of the General Terms and Additional General Terms attached, Lender agrees:
 - a. The requirement for reserves will be waived unless there is a default;
 - b. \$1,000,000 liability insurance coverage is adequate;
 - c. If the soils report does not contain an affirmative representation that no hazardous wastes have been stored or disposed of on the

Property, Lender shall have received such assurances as it may require that the Property is not presently contaminated by hazardous substances; and

- d. Paragraph 3 of Additional General Terms is deleted.

GENERAL TERMS

1. Form of documents. Each document and instrument required in connection with the loan shall be subject to Lender's approval as to form and substance.
2. Promissory Note. The Promissory Note evidencing the Loan shall contain the provisions set out in this commitment and shall otherwise be in form acceptable to Lender.
3. Deed of Trust. Borrower agrees that FNMA/FHLMC uniform multifamily Deed of Trust or its substantial equivalent is acceptable, as modified by the terms of the commitment. The Deed of Trust shall contain a due on sale clause, and shall contain a provision that there is to be no secondary financing placed upon the property without the express written approval of Lender.
4. Assignment of Leases. Lender may require a separate assignment of leases.
5. Guaranty. Unless otherwise specified, any required guaranty shall be a joint and several unconditional guaranty of 100% payment.
6. Reserves. If a permanent loan, the Deed of Trust shall require Borrower at Lender's election to pay concurrently with each installment of principal and/or interest such amount as in Lender's discretion will enable Lender to pay (out of money so paid to Lender) at least 30 days before due, all taxes, assessments, insurance premiums, ground rents, and similar charges affecting the property. No interest shall be payable on such deposits.
7. Late charge. The loan documents shall provide for a late charge of 5% of any payment not received within fifteen days.
8. Default rate. The loan documents shall provide for a default rate of interest equal to 150 percent (150%) of what otherwise would be the Note rate.
9. Notice of default. The loan documents shall provide for 15 days' notice of any non-monetary default, with opportunity to cure during the notice period.
10. Full Recourse. Unless otherwise specified, Borrower understands that it is fully liable to repay the loan without requiring Lender to pursue the collateral.

11. Conditions to closing. The loan will be closed only upon satisfaction of the conditions (including but not limited to those below) no later than the expiration date of the commitment. Each of the conditions is exclusively for the benefit of Lender and may be waived by Lender, but no such waiver shall be effective unless in writing.

A. Documents and Instruments. Borrower shall deliver to Lender the following:

(i) Loan Documents. A Promissory Note, Deed of Trust and all other documents required in connection with the making of the loan, each of which shall have been duly executed by the appropriate persons.

(ii) Organization and authority. Such organizational documents as are required covering the formation, registration and authority of Borrower and Guarantor.

(iii) Title insurance. An ALTA additional coverage form policy of title insurance or its equivalent issued by a company acceptable to Lender, showing only exceptions approved by Lender, and including such available endorsements as Lender may require, including but not limited to variable rate and capitalization of interest (if applicable). The policy shall be in an amount not less than 100% of the amount at any time secured by the Deed of Trust.

(iv) Hazard and liability insurance. Upon completion of the improvements, original paid-up policy of insurance in form and substance and in a company or companies satisfactory to Lender and Permanent Lender.

(a) Insuring against loss or damage by fire, vandalism, malicious mischief, and such other hazards as are presently included in so-called "extended coverage" policies. Each such policy shall contain a replacement cost endorsement (without deduction for depreciation), loss of rents or business interruption insurance coverage, and an inflation protection endorsement and such other endorsement as Lender may reasonably require. The amount of such insurance shall be no less than one hundred percent (100%) of the full replacement cost of the improvements as contemplated herein.

* replacement cost not required under the contract insurance.

(b) Public liability coverage will be provided with a combined single limit of at least \$1,000,000 or more, as required by Lender.

Each such insurance policy under Clause (a) above must contain a non-contributory standard mortgagee's clause form 438BFU or its equivalent and a waiver of any co-insurance clause.

- (v) Flood insurance. Flood insurance or a flood hazard determination certifying that the project is not located in a flood plain.
- (vi) Appraisal. A current appraisal submitted in triplicate by an MAI appraiser acceptable to Lender showing that the property has a fair market value in the required amount. The appraisal must satisfy the requirements of applicable regulatory guidelines.
- (vii) Financial data. Credit reports, financial statements, and other financial data as Lender may request with respect to the Borrower and Guarantors.
- (viii) Survey. If a permanent loan, or after construction is completed, a current as-built survey of the property in triplicate, certified by a licensed surveyor or engineer. The survey shall show the dimensions and total square footage of the property, interior lot lines, if any, the dimensions and locations of all improvements, parking areas and easements, utilities, and the location of the adjoining streets, the distance to and the name of the nearest intersecting street.
- (ix) Soils report. A soils report, prepared by a soils engineer acceptable to Lender, which contains an affirmative representation that no hazardous waste are or have been stored or disposed of on the property.
- (x) Property inspection. Inspections of the improvements shall be made by engineers/inspectors satisfactory to Lender for the purpose of determining the condition of the property, including without limitation, the structural condition, asbestos use survey, and the mechanical and electrical system. The cost of such inspections shall be paid by Borrower. As a result of such inspections, Lender may require replacement, asbestos removal, or repair work to be completed prior to the funding of the loan.

- (xi) Street dedication. If required by Lender, evidence that all streets adjoining the property have been completed, dedicated, and accepted for maintenance and public use by the appropriate governmental authorities and access in both directions therefrom will be afforded to the property and improvements.
 - (xii) Platting and zoning requirements. If requested by Lender, evidence that all platting and subdivision requirements have been met, and that the property consists of one or more legal lots. Evidence of appropriate zoning.
 - (xiii) Leases and tenant agreements. Borrower will obtain Lender's prior written approval of any lease, the tenant, and the rent. Borrower will submit, if required by Lender, a standard form lease for Lender's approval. A subordination, non-disturbance and attornment agreement with estoppel certificate with respect to each occupancy lease affecting the property, duly executed by the tenant thereof, is required by Lender. Each lease will be on a "triple net" basis or contain an "expense stop" satisfactory to Lender.
 - (xiv) Other documents and instruments. Such opinion letters, copies of contracts, subcontracts, and architect's contracts, assignments to Lender of construction contracts, subcontracts, and architect's contracts, estoppel certificates, and other documents and instruments as Lender may reasonably require in connection with the making of the loan.
 - (xv) Attorney's opinion. A legal opinion, in form and from a firm satisfactory to Lender, covering such matters relating to the transaction as Lender may reasonably request.
- B. Completion of improvements. If a permanent loan, the property shall have been improved in accordance with final plans and specifications approved by Lender, equipped and paid for to Lender's satisfaction. A certificate of occupancy and/or other evidence certifying that all improvements and their use fully comply with all applicable zoning, building and other governmental laws and requirements.

C. No adverse change. At the date of closing the loan, except as may be otherwise provided for in this commitment, the financial condition and credit of Borrower and each guarantor and all other features of this transaction shall be as represented to Lender without material adverse change. No part of the property shall have been damaged without being repaired to Lender's satisfaction, nor taken in condemnation or other like proceeding, nor shall any such proceeding be pending. In the event that there has been a condemnation or other taking, Lender shall have the option to cancel this commitment or to reduce the amount of the loan by the amount of the award received in connection with the condemnation or other taking. Any sale or encumbrance of the property, a contract to sell or encumber any part of the same, or any additional financing upon the property at the date of closing the loan, shall be automatically deemed changes of a material adverse nature.

12. Expenses. Borrower agrees that whether or not Lender makes the loan (unless failure to make the loan is a consequence of default by Lender), Borrower shall be liable for the payment of all expenses, fees, and charges incurred by Lender with respect to this commitment and the loan, including survey costs, brokerage commissions, title costs, recording charges, mortgage taxes, revenue stamps, and all Lender's legal fees, expenses, disbursements, and charges. Borrower must pay all expenses in addition to the commitment fee.

13. Damages. If, for any reason, this loan is not closed on or before the expiration date, Lender may retain the commitment fee as liquidated damages to compensate Lender for time spent, services performed, and expenses incurred in connection with this transaction.

14. Operating statements. Within one hundred twenty (120) days after the end of each calendar year and at other times as requested by Lender, Borrower shall supply Lender with operating statements and rent roll, certified as correct by Borrower. Not more than once a year, Lender may require that the operating statements be audited by a C.P.A. acceptable to Lender.

15. Survival. The provisions of this commitment shall survive the closing of the loan. Each agreement of Borrower shall be a continuing obligation. If there is any conflict, however, between this commitment and any loan document, the provisions of the loan document shall control.

16. Nonassignability. This commitment is nonassignable. In the event of bankruptcy or insolvency or adverse material change in credit worthiness of Borrower or Guarantors, this commitment shall automatically terminate, but the commitment fee will not be returned and Borrower will still be liable for payment of expenses.

17. Previous commitments. This commitment supersedes any prior commitments, offers and statements whether written or oral by any officer, employee or agent of Lender concerning this project. Any amendments to this commitment must be agreed to in writing by Borrower and an authorized officer of Lender.
18. Venue. If there is any legal dispute over this commitment, the venue of litigation shall be the King County Superior Court, Seattle, Washington. This commitment shall be construed under the laws of the State of Washington.
19. Preparation of documents. Lender selects, prepares and completes certain instruments or documents which may substantially affect Borrower's legal rights, but is doing so for Lender's own benefit and to protect Lender's interest in this transaction. Borrower should consult an attorney of its choice if there are any questions regarding its rights or such instruments or documents. Lender understands that no attorney or agent has previously been designated by Borrower. If Borrower wishes to have any of the documents or instruments selected or prepared by an attorney or other agent, Borrower should so designate in writing to Lender on or before acceptance of this commitment. Whether or not Borrower designates an attorney, Lender will, at its option, select and prepare those documents to which it is a party.

ADDITIONAL GENERAL TERMS
Construction Loan

1. Closing Conditions. Prior to closing, Borrower shall furnish the following, each of which shall be satisfactory to Lender:

A. Construction Loan Agreement. A construction loan agreement describing among other things, the manner and conditions under which the loan proceeds are to be disbursed. Proceeds of the loan will be advanced from time to time by the Lender as work progresses, but not more often than once a month, against request for advance forms submitted by the general contractor, certified to by the Borrower and independent architect and/or engineer or consultant acceptable to Lender and Permanent Lender. However, no advances will be made if, in Lender's opinion or in the opinion of the inspecting architect, there would thereafter remain insufficient funds unadvanced in the loan to fully complete the project free of liens. Funds are to be disbursed by the Lender for work in place, only against receipted bills and only upon issuance of endorsements to the title insurance policy bringing it down to date and insuring the continued first priority of the Lender's Deed of Trust. The final advance will not be made prior to receipt and approval by Lender of a filed completion certificate and an occupancy permit issued by the appropriate authority and the expiration of the lien period or receipt of an endorsement to the title policy insuring against present or potential mechanic's or materialman's liens, and written acknowledgment from the Permanent Lender that all conditions for full funding of the permanent loan have been met.

IN NO EVENT WILL LENDER BE REQUIRED TO DISBURSE FOR MATERIALS NOT INCORPORATED INTO THE STRUCTURE.

B. Plans and Specifications. Final contract plans and specifications, in triplicate, including site plan, approved by Lender and Permanent Lender and assigned to Lender as loan collateral, to which no changes are to be made without Lender's and Permanent Lender's prior written approval. They shall be certified by an independent architect and/or engineer acceptable to Lender that they are complete and accurate and contain all items required to complete the project in accordance with building codes and other applicable laws, regulations and ordinances. The certificate shall be updated on completion of construction. All costs in connection with the independent architect or engineer's review and inspection shall be paid by Borrower.

C. Cost Breakdown or Budget. Total project cost breakdown or budget signed by Borrower to be approved by Lender, showing the total cost, including but not limited to such non-construction items as interest during construction, legal, architect, and real estate agent's

leasing fees plus the amount of the construction items required to be paid to satisfactorily complete the project free of liens. If the total sum of the construction and non-construction items so determined by Lender exceeds the amount of the construction loan to be advanced, then such excess must be provided by Borrower and placed in escrow with Lender to be disbursed prior to any disbursement of the proceeds of the construction loan.

- D. Survey. Topography/Boundary survey certified by a licensed engineer or surveyor showing no state of facts objectionable to Lender. At Lender's option, a foundation survey after the foundations are in place.
- E. Construction Insurance. A prepaid All Risk Builders Risk insurance policy, Form No. ALS'72 or equivalent, issued by an insurer with a Bests-Key Rating of "A" or better. Coverage shall be in the amount of the full replacement cost and include materials stored on site. Named Insured shall include Owner/Borrower and contractors and subcontractors of all tiers. The policy shall also contain coverage for earthquake, flood (if in a flood hazard area) 80% of the estimated annual income for the project for loss of rents or business interruption, delay of opening or soft costs. Public liability coverage will be provided with a combined single limit of at least \$1,000,000.00 or more, as required by Lender. A lender's loss payable form 438BFU or equivalent and a thirty (30) day cancellation clause shall be attached in favor of the Lender. There shall be no co-insurance.
- F. Building Permit(s). Copy of the building permit(s) for the project.
- G. Construction Contract. Copy of construction contract and project completion schedule. The form of the contract and the contractor must be approved by Lender.
- H. Errors and Omissions Certificate. ^{Architect's} Structural Engineer's Errors and Omissions Certificate in favor of Lender.
- I. Utilities. Evidence confirming the availability (showing the costs, if any) of sewer, water, gas, electricity, and other necessary utilities to the improvements.
- J. Soils report. A soils report, prepared by a soils engineer acceptable to Lender, together with an opinion from a licensed engineer that the foundation design of the improvements meets the conditions of the soil and the needs of the improvements. The soils report is to contain an affirmative representation that no hazardous wastes are or have been stored or disposed of on the property.
- K. Hazardous Waste Certification. Hazardous Waste Certification executed by Borrower at the time of execution of closing documents.

2. Other Requirements.

- A. Form of Bond. Any required performance and payment bond must be in AIA form or its equivalent naming Lender as dual obligee. The dual obligee rider shall require the surety to give notice to Lender of any default and reasonable opportunity to cure.
 - B. Form of Letter of Credit. Any required letter of credit shall be unconditional, irrevocable and transferable, and shall be issued by a bank acceptable to Lender. Lender may require the letter of credit to be confirmed by a Seattle bank acceptable to Lender.
 - C. Sign. At the start of construction and thereafter until the loan has been paid in full, Borrower will erect and maintain on the site in a conspicuous location a sign to be supplied by the Lender stating that financing is being provided by the Lender.
 - D. Inspection. Lender's representative shall have the right to inspect the property and improvements during and after construction. Construction shall be subject to approval by Lender's representative. Borrower agrees to pay for reasonable costs of such inspection, if required by Lender.
 - E. Foundation Endorsement. Lender may require foundation endorsements to be made a part of the title policy as construction progresses. If required, such endorsements shall be paid for by Borrower.
3. Net Operating Income. To the extent necessary to make the monthly interest payments on the Loan, the Net Operating Income from the Property shall be paid to Lender and Borrower shall also provide to Lender a monthly accounting of the income and expenses of the Property in such detail as Lender may reasonably request. Funds will be disbursed from the interest reserve to make monthly interest payments on the Loan only to the extent the Net Operating Income is not adequate.

ATTACHMENT 6
TO
AGREEMENT

Deed of Trust

(Begins on next page.)

2512J

Attachment 6

MASTER FORM DEED OF TRUST

Recorded by Washington Mortgage Correspondents Association, a Washington corporation, pursuant to C. 148 L. 1967

The Grantor covenants and agrees as follows:

1. The following described estate, property and rights of Grantor are also included as security for the performance of each covenant and agreement of Grantor contained herein or in the Short Form Deed of Trust and the payment of all sums of money secured hereby:
 - (a) All the estate and rights of Grantor in and to said property and in and to land lying in streets and roads adjoining said premises, and all access rights and easements appertaining thereto.
 - (b) All buildings, structures, improvements, fixtures and articles of property now or hereafter attached to, or used or adapted for use in the operation of, the said premises, including but without being limited to, all heating and incinerating apparatus and equipment whatsoever, all boilers, engines, motors, dynamos, generating equipment, piping and plumbing fixtures, ranges, cooking apparatus and mechanical kitchen equipment, refrigerators, cooling, ventilating, sprinkling and vacuum cleaning systems, fire extinguishing apparatus, gas and electric fixtures, carpeting, underpadding, elevators, escalators, partitions, mantels, built-in mirrors, window shades, blinds, screens, storm sash, awnings, furnishings of public spaces, halls and lobbies, and shrubbery and plants; and including also all interest of any owner of the said premises in any of such items hereafter at any time acquired under conditional sale contract, chattel mortgage or other title retaining or security instrument, all of which property mentioned in this paragraph shall be deemed part of the realty and not severable wholly or in part without material injury to the freehold.
 - (c) All and singular the lands, tenements, privileges, water rights, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, rights, title, claim, interest and demand whatsoever of the Grantor, either in law or equity, of, in and to the bargained premises; TO HAVE AND TO HOLD said premises bargained and described, together with all and singular the lands, tenements, privileges, water rights, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all of the estate, right, title, claim and demands whatsoever of the Grantor, either in law or in equity, of, in and to the above bargained premises, forever as security for the faithful performance of the promissory note secured hereby and as security for the faithful performance of each and all of the covenants, agreements, terms and conditions of this Deed of Trust, SUBJECT, HOWEVER, to the right, power, and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.
 - (d) All of Grantor's rights further to encumber said property for debt except by such encumbrance which by its actual terms and specifically expressed intent shall be and at all times remain subject and subordinate to (i) any and all tenancies in existence when such encumbrance becomes effective and (ii) any tenancies thereafter created; Grantor hereby (i) representing as a special inducement to Beneficiary to make this loan that as of the date hereof there are no encumbrances to secure debt junior to this Deed of Trust and (ii) covenanting that there are to be none as of the date when this Deed of Trust becomes of record, except in either case encumbrances having the prior written approval of Beneficiary, and all of Grantor's rights to enter into any lease or lease agreement which would create a tenancy that is or may become subordinate in any respect to any mortgage or deed of trust other than this Deed of Trust.
2. When and if Grantor and Beneficiary shall respectively become the Debtor and Secured Party in any Uniform Commercial Code Financing Statement affecting property either referred to or described herein, or in any way connected with the use and enjoyment of these premises, this Deed of Trust shall be deemed a Security Agreement as defined in said Uniform Commercial Code and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be (i) as prescribed herein, or (ii) by general law, or (iii) as to such part of the security which is also reflected in said Financing Statement by the specific statutory consequences now or hereafter enacted and specified in the Uniform Commercial Code, all at Beneficiary's sole election. Grantor and Beneficiary agree that the filing of such a Financing Statement in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and hereby stated intention of the parties hereto, that everything used in connection with the production of income from the property that is the subject of this Deed of Trust and/or adapted for use therein and/or which is described or reflected in this Deed of Trust is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained in the short form Deed of Trust or in any list filed with the Beneficiary, (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time.
3. To pay all debts and monies secured hereby, when from any cause the same shall become due. To keep the property free from statutory and governmental liens of any kind. That the Grantor is seized in fee simple of the property and owns outright every part thereof, that there are no liens or encumbrances against or upon the same and none superior to this Deed of Trust, will be created or suffered to be created by the Grantor during the life of this Deed of Trust, that he has good right to make this Deed of Trust and that he will forever warrant and defend said property unto the Beneficiary, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. The Grantor upon request by mail will furnish a written statement duly acknowledged of the amount due on this Deed of Trust and whether any offsets or defenses exist against the debt secured hereby.
4. To pay to Beneficiary, if Beneficiary so requires, together with and in addition to the monthly payments of principal and interest payable under the terms of the said note, on the date set forth therein for the making of monthly payments each month, until said note is fully paid, a sum, as estimated by the Beneficiary, equal to the ground rents, if any, and the taxes and special assessments next due on the premises covered by this Deed of Trust, plus the premiums that will next become due and payable on insurance policies as may be required under paragraph 10 hereof, Grantor agreeing to deliver promptly to Beneficiary all bills and notices thereof, less all sums already paid therefor, divided by the number of months to elapse before two (2) months prior to the date when such ground rents, premiums, taxes and special assessments will become delinquent, such sums to be held by the Beneficiary in trust to pay said ground rents, premiums, taxes and special assessments. All payments mentioned in this paragraph and all payments to be made under said note shall be added together and the aggregate amount thereof shall be paid by the Grantor each month in a single payment to be applied by Beneficiary to the following items in the order set forth: (1) ground rents, if any, taxes, special assessments, fire and other hazard insurance premiums; (2) interest on the note secured hereby; and, (3) amortization of the principal of said note. The arrangement provided for in this paragraph 4 is solely for the added protection of the Beneficiary and entails no responsibility on the Beneficiary's part beyond the allowing of due credit, without interest, for the sums actually received by it. Upon assignment of this Deed of Trust by the Beneficiary, any funds on hand shall be turned over to the assignee and any responsibility of the assignor with respect thereto shall terminate. Each transfer of the property that is the subject of this Deed of Trust shall automatically transfer to the grantee all rights of the grantor with respect to any funds accumulated hereunder.
5. In the event that any payment or portion thereof is not paid within fifteen (15) days commencing with the date it is due, Beneficiary may collect, and the Grantor agrees to pay with such payment, a "late charge" of two cents (\$.02) for each dollar so overdue as liquidated damages for the additional expense of handling such delinquent payments.
6. If the total of the payments (herein called reserves) made under paragraph 4 hereof relating to reserves for ground rents, taxes, special assessments, and premiums on insurance policies, shall exceed the amount of payments actually made by Beneficiary for the purposes set forth in paragraph 4, plus such amounts as have been reasonably accumulated in such reserves toward payments therefrom next to become due, such excess may, provided no default then exists under the terms of this instrument nor under the terms of the promissory note hereby secured, but not otherwise, be applied by Beneficiary in payment of subsequent aggregate, but not partial, payments to be made by Grantor or, at the option of the Beneficiary, refunded to the Grantor or his successor in interest as may appear upon the records of the Beneficiary. If, however, the monthly payments accumulating such reserves shall not be sufficient to pay the sums required when the same shall become due and payable, the Grantor shall pay to Beneficiary any amount necessary to make up the deficiency within thirty (30) days after written notice to Grantor stating the amount of the deficiency. If there shall be a default under any of the provisions of this Deed of Trust and thereafter a sale of the property in accordance with the provisions hereof, or if the Beneficiary acquires the property otherwise after default, the Beneficiary shall apply, at the time of the commencement of such proceedings or at the time the property is otherwise acquired, the balance then remaining in the funds accumulated under paragraph 4, less such sums as will become due and payable during the pendency of the proceedings, as a credit against the amounts secured hereby.

7. To maintain the buildings and other improvements on the property in a rentable and tenantable condition and state of repair, to neither commit nor suffer any waste, to promptly comply with all requirements of the Federal, State and Municipal authorities and all other laws, ordinances, regulations, covenants, conditions and restrictions respecting said property or the use thereof, and pay all fees or charges of any kind in connection therewith. The Beneficiary may recover as damages for any breach of this covenant the amount it would cost to put the property in the condition called for herein. In the event of breach of any requirement of this paragraph, the Beneficiary may, in addition to any other rights or remedies, at any time thereafter declare the whole of said principal sum immediately due and payable. Proof of impairment of security shall be unnecessary in any suit or proceeding under this paragraph. Grantor shall permit Beneficiary or its agents the opportunity to inspect the property, including the interior of any structures, at reasonable times and after reasonable notice.

8. To complete or restore promptly and in good workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor, and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on said property, Grantor further agrees:

(a) To commence construction promptly and in any event within thirty (30) days from the date of this instrument, and complete the same in accordance with any agreements relating to construction and plans and specifications satisfactory to Beneficiary within eight (8) months of the date of this instrument.

(b) To allow Beneficiary to inspect said property at all times during construction.

(c) To replace any work or materials unsatisfactory to Beneficiary, within fifteen (15) calendar days after written notice to Grantor of such fact.

(d) That work shall not cease on the construction of such improvements for any reason whatsoever for a period of fifteen (15) consecutive days.

The Trustee, upon presentation to it of an affidavit signed by Beneficiary setting forth facts showing a default by Grantor under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

9. No building or other improvement on the property shall be structurally altered, removed or demolished, without the Beneficiary's prior written consent, nor shall any fixture or chattel covered by this Deed of Trust and adapted to the proper use and enjoyment of the premises be removed at any time without like consent unless actually replaced by an article of equal suitability, owned by the Grantor, free and clear of any lien or security interest except such as may be approved in writing by the Beneficiary.

10. To provide to the Beneficiary, at least thirty (30) days prior to expiration of existing insurance, and maintain unceasingly, insurance, with premiums prepaid, on all of the property that is the subject of this Deed of Trust, or hereafter becoming part of said property, against loss by fire and other hazards, casualties and contingencies, including war damage, as may be required from time to time by the Beneficiary in such amounts and for such period of time, with loss payable clauses (without contribution) in favor of and in form satisfactory to the Beneficiary, and to deliver all policies to Beneficiary, which delivery shall constitute an assignment to Beneficiary of all return premiums. All insurance shall be carried in companies approved by Beneficiary. Beneficiary may at its option require Grantor to maintain said required policies in Grantor's possession in lieu of delivering said policies to Beneficiary, in which event said policies shall be kept available by Grantor at all times for return to the Beneficiary or for inspection by Beneficiary, its agents or insurers, and said requirement may be withdrawn by Beneficiary at any time. In event of foreclosure of this Deed of Trust or other transfer of title to the subject property in extinguishment of some or all of the indebtedness secured hereby, all interest of the Grantor in any insurance policies in force shall pass to the purchaser or Grantee. To pay to Beneficiary as Beneficiary may require a reasonable fee to cover costs of substituting policies in the event the Grantor replaces any policy prior to its expiration. Grantor will reimburse Beneficiary for any premiums paid for such insurance by the Beneficiary upon the Grantor's default in so insuring the buildings or other improvements or default in assigning and delivering of such policies to the Beneficiary so endorsed.

11. To appear in and defend any suit, action or proceeding that might affect the value of this security instrument or the security itself or the rights and powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect also to appear in or defend any such action or proceeding, be made a party to such by reason of this Deed of Trust, or elect to prosecute such action as appears necessary to preserve said value, the Grantor will, at all times, indemnify from, and, on demand reimburse Beneficiary or Trustee for any and all loss, damage, expense or cost, including cost of evidence of title and attorney's fees, arising out of or incurred in connection with any such suit, action or proceeding, and the sum of such expenditures shall be secured by this Deed of Trust with interest as provided in the note secured hereby and shall be due and payable on demand. To pay costs of suit, cost of evidence of title and a reasonable attorney's fee in any proceeding or suit brought by Beneficiary to foreclose this Deed of Trust.

12. To pay in full at least thirty (30) days before delinquent all rents, taxes, assessments and encumbrances, charges or liens with interest, that may now or hereafter be levied, assessed or claimed upon the property that is the subject of this Deed of Trust or any part thereof, which at any time appear to be prior or superior hereto for which provision has not been made heretofore, and upon request will exhibit to Beneficiary official receipts therefor, and to pay all taxes imposed upon, reasonable costs, fees and expenses of this Trust. On default under this paragraph Beneficiary may, at its option, pay, or pay out of reserves accumulated under paragraph 4, any such sums, without waiver of any other right of Beneficiary by reason of such default of Grantor, and Beneficiary shall not be liable to Grantor for a failure to exercise any such option.

13. To repay immediately on written notice to Grantor all sums expended or advanced hereunder by or on behalf of Beneficiary or Trustee, with interest from the date of such advance or expenditure at the rate of ten per cent (10%) per annum until paid, and the repayment thereof shall be secured hereby. Failure to repay such expenditure or advance and interest thereon within ten (10) days of the mailing of such notice will, at Beneficiary's option, constitute an event of default hereunder; or, Beneficiary may, at its option, commence an action against Grantor for the recovery of such expenditure or advance and interest thereon, and in such event Grantor agrees to pay, in addition to the amount of such expenditure or advance, all costs and expenses incurred in such action, together with a reasonable attorney's fee.

14. Should Grantor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such power, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor including cost of evidence of title, employ counsel, and pay his reasonable fees.

15. (a) To fully comply with all of the terms, conditions and provisions of all leases on said property so that the same shall not become in default and to do all that is needful to preserve all said leases in force.

(b) To permit no assignment of any lease, or any subletting thereunder unless the right to assign or sublet is expressly reserved by the lessee under such lease.

(c) That save and except for taxes and assessments provided to be paid by Grantor as specified in Paragraph 12 hereof, Grantor will not create or suffer or permit to be created, subsequent to the date of the execution and delivery of this Deed of Trust, any lien or encumbrance which may be or become superior to any lease affecting said property.

(d) That if any part of the automobile parking areas included within said property is taken by condemnation, or before said areas are otherwise reduced, Grantor will provide parking facilities in kind, size and location to comply with all leases, and before making any contract for such substitute parking facilities, Grantor will furnish to Beneficiary satisfactory assurance of completion thereof free of liens and in conformity with all governmental zoning and regulations.

16. Should the property or any part or appurtenance thereof or right or interest therein be taken or damaged by reason of any public or private improvement, condemnation proceeding (including change of grade), fire, earthquake or other casualty, or in any other manner, Beneficiary may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any compromise or settlement, in connection with such taking or damage, and obtain all compensation, awards or other relief therefor. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies or insurance affecting the property, are hereby assigned to Beneficiary, which may, after deducting therefrom all its expenses, including attorney's fees, release any monies so received by it, or apply the same on any indebtedness secured hereby or apply the same to the repair or restoration of the property, as it may elect. Grantor further assigns to Beneficiary any return premiums or other repayments upon any insurance at any time provided for the benefit of the Beneficiary, refunds or rebates made of taxes or assessments on said property, and Beneficiary may at any time collect said return premiums, repayments, refunds, rebates, etc., notwith-

standing that no sum secured hereby be overdue when such right to collection be asserted. Grantor also agrees to execute such further assignments of any such compensation, award, damages, rebates, return of premiums, repayments, rights of action and proceeds as Beneficiary or Trustee may require.

17. Time is of the essence hereof in connection with all obligations of the Grantor herein or in said note. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

18. At any time upon written request of Beneficiary, payment of its fees and presentation of this Deed and said note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the property. The Grantee in any reconveyance may be described as the "person or persons legally entitled thereto", and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Grantor agrees to pay a reasonable Trustee's fee for full or partial reconveyance, together with a recording fee if Trustee, at its option, elects to record said reconveyance.

19. In case of a sale under this Deed of Trust, the said property, real, personal and mixed, may be sold in one parcel.

20. The Grantor shall not, without first obtaining the Beneficiary's written consent, assign any of the rents or profits of the property or collect any rent for more than one month in advance or change the general nature of the occupancy or initiate or acquiesce in any zoning reclassification, or do or suffer any act or thing which would impair the security for said debt or the Beneficiary's lien upon said property or the rents thereof. In the event of breach of any requirement of this paragraph, the Beneficiary may, in addition to any other rights or remedies, at any time thereafter declare the whole of said principal sum immediately due and payable.

21. The holder of this Deed of Trust, in any action to foreclose it, shall be entitled (without notice and without regard to the adequacy of any security for said debt) to the appointment of a receiver of the rents and profits of the property and such receiver shall have, in addition to all the rights and powers customarily given to and exercised by such receiver, all the rights and powers granted to the Beneficiary by the covenants contained in paragraph 23 hereof.

22. As further security for the payment of all indebtedness herein mentioned, all Grantor's rents and profits of said property and the right, title and interest of the Grantor in and under all leases now or hereafter affecting said property, are hereby assigned and transferred to the Beneficiary. So long as no default shall exist in compliance with any requirement hereof or of any further instrument at any time executed with respect to this Deed of Trust the Grantor may collect assigned rents and profits as the same fall due, but upon the occurrence of any such default, or at such later time as the Beneficiary in its sole discretion may fix by written notice, all right of the Grantor to collect or receive rents or profits shall wholly terminate. All rents or profits of Grantor receivable from or in respect to said property which it shall be permitted to collect hereunder shall be received by it in trust to pay the usual and reasonable operating expenses of, and the taxes upon, said property and the sums owing the Beneficiary as they become due and payable as provided in this Deed of Trust or in the said note or in any modification of either. The balance of such rents and profits after payment of such operating expenses, taxes and sums due the Beneficiary, and after the setting aside of accruals to date of such expenses, taxes and sums, including amortization, shall be Grantor's absolute property. No lease of the whole or any part of the property involving an initial term of more than three years shall be modified or terminated without the written consent of the Beneficiary, nor shall the surrender of any such lease be accepted nor any rental thereunder be collected for more than two months in advance without like written consent. In the event of any default hereunder and the exercise by the Beneficiary of its rights hereby granted, Grantor agrees that payments made by tenants or occupants to the Beneficiary shall, as to such tenants, be considered as though made to Grantor and in discharge of tenants' obligations as such to Grantor. Nothing herein contained shall be construed as obliging the Beneficiary to perform any of Grantor's covenants under any lease or rental arrangement. Grantor shall execute and deliver to the Beneficiary upon demand any further or supplemental assignments necessary to effectuate the intentions of this paragraph and upon failure of the Grantor so to comply, Beneficiary may, in addition to any other right or remedy it has, declare the maturity of the indebtedness hereby secured.

23. In the event of default in compliance with any requirement of this Deed of Trust or of any further instrument at any time executed with respect to this Deed of Trust, and the continuance thereof for such period as would entitle the Beneficiary to declare said debt due and payable, or for ten days if no such period be applicable the Beneficiary may, at its option, enter upon and take possession of the said property and let the same or any part thereof, making therefor such alterations as it finds necessary, and may terminate in any lawful manner any tenancy or occupancy of said property, exercising with respect thereto any right or option available to the Grantor. From and after the occurrence of any such default, if any owner of said property shall occupy said property or part thereof such owner shall pay to the Beneficiary in advance on the first day of each month a reasonable rental for the space so occupied, and upon failure so to do the Beneficiary shall be entitled to remove such owner from the property by any appropriate action or proceeding.

24. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

25. All sums secured hereby shall become immediately due and payable, at the option of the Beneficiary without demand or notice, after any of the following occur, each of which shall be an event of default: (a) default by Grantor in the payment of any indebtedness secured hereby or in the performance or observance of any agreement contained herein; or (b) any assignment made by Grantor or the then owner of said property for the benefit of creditors; or (c) any transfer of title made by the Grantor or the then owner of said property to a Grantee or successor in interest without the assumption of all of the terms and conditions herein contained; or (d) any of the following shall occur, with respect to the property, the Grantor or the then owner of said property: (i) the appointment of a receiver, liquidator, or Trustee; (ii) the adjudication as a bankrupt or insolvent; (iii) the filing of any Petition for Bankruptcy or reorganization; (iv) the institution of any proceeding for dissolution or liquidation; (v) if Grantor be unable, or admit in writing an inability to pay his debts when due; or (vi) a default in any provision of any other instrument which may be held by Beneficiary as security for said note, including the loan agreement and related documents, the terms and covenants of which are incorporated herein by reference as though fully set forth herein. No waiver by Beneficiary of any default on the part of Grantor shall be construed as a waiver of any subsequent default hereunder. In event of such default and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington (RCW Chapter 61.24 as existing now, or hereafter amended) and the Uniform Commercial Code of the State of Washington where applicable, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligation secured by this Deed of Trust; (3) the surplus, if any, shall be distributed in accordance with said Deed of Trust Act. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value. The Power of Sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy and when not exercised, Beneficiary may foreclose this Deed of Trust as a mortgage. At any time Beneficiary may appoint in writing a successor trustee, or discharge and appoint a new Trustee in the place of any Trustee named herein, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the Original Trustee. The Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party, unless such action or proceeding is brought by the Trustee.

26. The property which is the subject of this Deed of Trust is not used principally or primarily for agricultural or farming purposes.

27. In the event of the passage after the date of this Deed of Trust of any Federal, State or local law, deducting from the value of real property for the purpose of taxation any lien thereon, or changing in any way the laws now in force for the taxation of mortgages, deeds of trust, or debts secured thereby, for Federal, State or local purposes, or the manner of the collection of any such taxes so as to affect the interest of Beneficiary, then and in such event, Grantor shall bear and pay the full amount of such taxes, provided that if for any reason payment by Grantor of any such new or additional taxes would be unlawful or if the payment thereof would constitute usury or render the loan or indebtedness secured hereby wholly or partially usurious under any of the terms or provisions of the note, or the within Deed of Trust or otherwise, Beneficiary may, at its option, without demand or notice,

declare the whole sum secured by this Deed of Trust with interest thereon to be immediately due and payable, or Beneficiary may, at its option, pay that amount or portion of such taxes as renders the loan or indebtedness secured hereby unlawful or usurious, in which event Grantor shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said taxes.

28. If from any circumstances whatever fulfillment of any provision of this Deed of Trust or said note at the time performance of such provision shall be due shall involve transcending the limit of validity prescribed by the usury statute or any other law, then ipso facto the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Deed of Trust or under said note that is in excess of the limit of such validity; but such obligation shall be fulfilled to the limit of such validity. The provisions of this paragraph shall control every other provision of this Deed of Trust and said note.

29. In the event that this Deed of Trust is foreclosed as a mortgage and the property sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on said property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the highest lawful rate shall be added to and become a part of the amount required to be paid for redemption from such sale.

30. Grantor shall deliver to the Beneficiary within twenty days after written demand therefor a detailed operating statement in form satisfactory to the Beneficiary covering the subject property and certified as correct by the Grantor. Grantor shall permit the Beneficiary or its representative to examine all books and records pertaining to the said property, upon prior written demand of not less than ten days. In default thereof Beneficiary shall, in addition to all other remedies, have the option of maturing the indebtedness hereby secured. The Beneficiary shall demand not more than one statement in any calendar year.

31. Beneficiary shall have the right at its option to foreclose this Deed of Trust subject to the rights of any tenant or tenants of the said property and the failure to make any such tenant or tenants a party defendant to any such suit or action or to foreclose their rights will not be asserted by the Grantor as a defense in any action or suit instituted to collect the indebtedness secured hereby or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the said property, any statute or rule of law at any time existing to the contrary notwithstanding.

32. Upon any default by Grantor and following the acceleration of maturity as herein provided, a tender of payment of the amount necessary to satisfy the entire indebtedness secured hereby made at any time prior to foreclosure sale (including sale under power of sale) by the Grantor, its successors or assigns or by anyone in behalf of the Grantor, its successors or assigns, shall constitute an evasion of the prepayment terms of said note and be deemed to be a voluntary prepayment thereunder and any such payment to the extent permitted by law, will, therefore, include the additional payment required under the prepayment privilege, if any, contained in said note or if at that time there be no prepayment privilege then such payment, will to the extent permitted by law include an additional payment of five (5%) per cent of the then principal balance.

33. The Beneficiary shall be subrogated for further security to the lien, although released of record, of any and all encumbrances paid out of the proceeds of the loan secured by this Deed of Trust.

34. Grantor, from time to time, within 15 days after request by Beneficiary, shall execute, acknowledge and deliver to Beneficiary, such chattel mortgages, security agreements or other similar security instruments, in form and substance satisfactory to Beneficiary, covering all property of any kind whatsoever owned by Grantor or in which Grantor has any interest which, in the sole opinion of Beneficiary, is essential to the operation of the said property covered by this Deed of Trust. Grantor shall further, from time to time, within 15 days after request by Beneficiary, execute, acknowledge and deliver any financing statement, renewal, affidavit, certificate, continuation statement or other document as Beneficiary may request in order to perfect, preserve, continue, extend or maintain the security interest under, and the priority of, this Deed of Trust and the priority of such chattel mortgage or other security instrument as a first lien. Grantor further agrees to pay to Beneficiary on demand all costs and expenses incurred by Beneficiary in connection with the preparation, execution, recording, filing and refiling of any such instrument or document including the charges for examining title and the attorney's fee for rendering an opinion as to the priority of this Deed of Trust and of such chattel mortgage or other security instrument as a valid first and subsisting lien. However, neither a request so made by Beneficiary nor the failure of Beneficiary to make such request shall be construed as a release of such property, or any part thereof, from the conveyance of title by this Deed of Trust, it being understood and agreed that this covenant and any such chattel mortgage, security agreement or other similar security instrument, delivered to Beneficiary, are cumulative and given as additional security.

35. All Beneficiary's rights and remedies herein specified are intended to be cumulative and not in substitution for any right or remedy otherwise available and no requirement whatsoever may be waived at any time except by a writing signed by the Beneficiary, nor shall any waiver be operative upon other than a single occasion. This Deed of Trust cannot be changed or terminated orally. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors, successors and assigns. All obligations of Grantor hereunder are joint and several. The term "Beneficiary" shall mean the holder and owner, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. Without affecting the liability of any other person for the payment of any obligation herein mentioned (including Grantor should he convey said property) and without affecting the lien hereof upon any property not released, Beneficiary may, without notice, release any person so liable, extend the maturity or modify the terms of any such obligation, or grant other indulgences, release or reconvey or cause to be released or reconveyed at any time all or part of the said property described herein, take or release any other security or make compositions or other arrangements with debtors. Beneficiary may also accept additional security, either concurrently herewith or thereafter, and sell same or otherwise realize thereon, either before, concurrently with, or after sale hereunder. This Deed of Trust shall be so construed that wherever applicable, the use of the singular number shall include the plural number, the use of the plural number shall include the singular number, the use of any gender shall be applicable to all genders and shall likewise be so construed as applicable to and including a corporation. The word "note" shall include all notes evidencing the indebtedness secured hereby. If any of the provisions hereof shall be determined to contravene or be invalid under the laws of the State of Washington, such contravention or invalidity shall not invalidate any other provisions of this agreement, but it shall be construed as if not containing the particular provision or provisions held to be invalid, and all rights and obligations of the parties shall be construed and enforced accordingly. Any notices to be given to Grantor by Beneficiary hereunder shall be sufficient if mailed postage prepaid, to the address of the Grantor stated in the Short Form Deed of Trust, or to such other address as Grantor has requested in writing to the Beneficiary, that such notices be sent. Any time period provided in the giving of any notice hereunder, shall commence upon the date such notice is deposited in the mail.