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WHEN RECORDED MAIL TO:

Linda Grant Williams, Esq.  
JONES, DAY, REAVIS & POGUE  
333 South Grand Avenue, Suite 1400  
Los Angeles, California 90071

*Patricia R. Brown*  
PATRICIA R. BROWN

ASSOCIATED TITLE CO.  
DEPT. 100

SEP 19 3 42 PM '85

RECORDS DIVISION  
SALT LAKE COUNTY,  
UTAH

ESTOPPEL CERTIFICATE

AND

ACKNOWLEDGMENT OF PRIORITY

This Estoppel Certificate and Acknowledgment of Priority is dated this 18th day of September, 1985, by SMITH'S FOOD KING PROPERTIES, INC., a Utah corporation ("Smith's").

RECITALS:

A. Smith's and Boyer 7800 South Associates, a Utah limited partnership ("Boyer") have heretofore entered into a certain Development Agreement dated January 31, 1985 (the "Development Agreement") which was recorded February 7, 1985, as Entry No. 4048237, in Book 5628, at Page 686 with the Salt Lake County, Utah Recorder.

B. Smith's and Boyer also entered into a certain Declaration of Easements dated February 1, 1985 (the "Declaration") which was recorded February 7, 1985, as Entry No. 4048238, in Book 5628, at Page 707 with the Salt Lake County, Utah Recorder.

C. The Development Agreement and the Declaration relate to real property located in Salt Lake County, Utah part of which is a certain tract of real property owned by Boyer described on Exhibit "A" (the "Property") attached hereto and incorporated herein by this reference and part of which is a certain tract of real property owned by Smith's described on Exhibit "B" attached hereto and incorporated herein by this reference.

D. Boyer has executed a certain Deed of Trust, as trustor, in favor of Associated Title Company, as trustee, securing a certain construction loan made by Farwest Mortgage to Boyer (the "Construction Loan Trust Deed"). The Construction Loan Trust Deed is recorded March 29, 1985, as Entry No. 4067331, in Book 5641, at Page 464 in the official records of Salt Lake County, Utah.

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E. Boyer proposes to issue two additional trust deeds and related security instruments to secure permanent industrial revenue bond financing and the entity providing credit enhancement with respect thereto, such trust deeds being referred to herein as the "Permanent Trust Deeds" and being more fully described in the commitment letter dated August 20, 1985, issued by California Federal Savings & Loan Association. A copy of the commitment letter is attached hereto as Exhibit "C" and incorporated herein by this reference.

F. Smith's has agreed to acknowledge that certain obligations of Boyer have been performed, identify those obligations which have not been performed and subordinate any lien now existing or hereafter created by the Declaration or the Development Agreement to the Permanent Trust Deeds.

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Smith's acknowledges that the availability of funds secured by the Permanent Trust Deeds is necessary to complete the development of the shopping center of which the Property is a part. Smith's owns the other portion of the shopping center and will benefit as a result of the recordation of the Permanent Trust Deeds and the availability of funds pursuant to the loans which are secured thereby.

2. The Declaration and the Development Agreement are in full force and effect and have not been modified, supplemented or amended except as reflected in the records of the Salt Lake County, Utah Recorder.

3. All conditions and obligations imposed upon Boyer under the Declaration or the Development Agreement have been performed by Boyer to the satisfaction of Smith's except that certain sidewalks, service drives, parking aisles, driveways, curbs and parking areas have not, as of the date hereof, been paved with concrete or asphalt and marked for the orderly distribution of automobiles as required by Section 5 of the Development Agreement in accordance with plans and specifications that have been approved by the parties to the Development Agreement. Although the Development Agreement provides that these obligations of Boyer should have been performed by September 1, 1985, Smith's agrees that if Boyer satisfies these obligations by \_\_\_\_\_, Smith's will not pursue any remedies otherwise available to it under the Development Agreement.

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4. There are no defenses or offsets against the enforcement of the Declaration or the Development Agreement by Boyer.

5. Any and all liens now existing or hereafter created by the Declaration or the Development Agreement shall be and are hereby subordinated to the liens created by the Permanent Trust Deeds, notwithstanding any language to the contrary in the Declaration or the Development Agreement. The subordination provided for in this paragraph shall be effective as to all liens, whether now existing or hereafter arising under the Declaration or the Development Agreement, and shall not require the execution or recording of any further subordination by Smith's or any successor in interest of Smith's.

6. In paragraph 1D of the Development Agreement, Smith's has agreed to construct and open a grocery and drug store of 47,025 square feet on or before December 31, 1985, and Boyer has agreed to construct 26,873 square feet of additional retail stores to be available to open simultaneously with Smith's. Smith's has no reason to believe that either Smith's or Boyer will fail to satisfy its obligations under paragraph 1D by December 31, 1985.

7. Without limiting the general application of paragraph 3 above, Smith's specifically agrees that all buildings as to which construction has been commenced by Boyer or Smith's conform to the site plan attached as Exhibit B to the Development Agreement. All such buildings are located entirely within the designated building perimeters outlined on the site plan, except for encroachments or overhangs not exceeding four (4) feet that are specifically permitted by the Development Agreement.

8. Smith's agrees that until the Permanent Deeds of Trust have been completely released, neither the Declaration nor the Development Agreement will be modified, supplemented, amended or terminated without the prior written consent of the beneficiaries under the Permanent Deeds of Trust, which consent shall not be unreasonably withheld.

9. Smith's acknowledges that the beneficiaries under the Permanent Deeds of Trust are relying upon this Estoppel Certificate and Acknowledgment of Priority in providing the financing described in paragraph E of the above Recitals.

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IN WITNESS WHEREOF, the undersigned has executed this Estoppel Certificate and Acknowledgment of Priority on the date first set forth above.

"SMITH'S"

SMITH'S FOOD KING PROPERTIES,  
INC., a Utah corporation

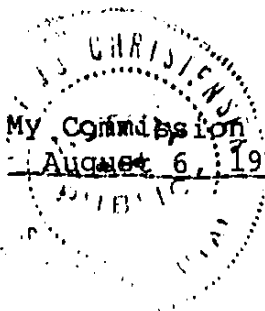
By Tom Welch  
Its Vice President

Address:

1550 South Redwood Road  
Salt Lake City, Utah 84104

STATE OF UTAH                    )  
  :    ss.  
COUNTY OF SALT LAKE        )

On this 18th day of September, 1985, personally appeared before me Tom Welch, who being by me duly sworn did say, that he is the Vice President of SMITH'S FOOD KING PROPERTIES, INC., a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of its bylaws (or of a resolution of its board of directors as the case may be) and said Tom Welch duly acknowledged to me that said corporation executed the same.

 My Commission Expires:  
August 6, 1988

Mary Q. Christensen  
NOTARY PUBLIC  
Residing at: Salt Lake City, Utah

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EXHIBIT "A"

OFFICE PARCEL

Beginning at a point on the West line of 3500 East Street and the Northeasterly boundary of Southampton No. 2, a subdivision in the Northeast Quarter of Section 35, Township 2 South, Range 1 East, Salt Lake Base and Meridian, said point being South  $00^{\circ}08'25''$  West along the Section line 1119.99 feet and North  $38^{\circ}52'44''$  West along said Northeasterly boundary 46.06 feet from the Northeast corner of said Section 35; and running thence North  $38^{\circ}52'44''$  West along said Northeasterly boundary 594.37 feet; thence North  $89^{\circ}56'20''$  East 374.20 feet to the West line of 3500 East Street; thence South  $00^{\circ}08'25''$  West along said West line 463.10 feet to the point of beginning. Contains 1.989 Acres.

SHOPPING CENTER PARCEL

TRACT 2 (OWNED BY BOYER):

Beginning at a point being South  $00^{\circ}08'25''$  West along the Section line 621.00 feet and South  $89^{\circ}56'20''$  West 391.50 feet from the Northeast corner of Section 35, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence North  $00^{\circ}08'25''$  East 219.00 feet; thence South  $89^{\circ}51'35''$  East 22.50 feet; thence North  $00^{\circ}08'25''$  East 213.00 feet; thence North  $89^{\circ}51'35''$  West 195.00 feet; thence North  $00^{\circ}08'25''$  East 155.39 feet to the South line of 7800 South Street; thence South  $89^{\circ}56'20''$  West along said South line 314.33 feet to the Northeasterly boundary of Southampton No. 2, a subdivision in the Northeast Quarter of said Section 35; thence South  $38^{\circ}52'44''$  East along said Northeasterly boundary 754.67 feet; thence North  $89^{\circ}56'20''$  East 11.70 feet to the point of beginning. Contains 2.858 Acres.

TRACT 3 (OWNED BY BOYER):

Beginning at a point at the intersection of the South line of 7800 South Street and the West line of 3500 East Street, said point being South  $00^{\circ}08'25''$  West along the Section line 33.00 feet and South  $89^{\circ}56'20''$  West 29.00 feet from the Northeast corner of Section 35, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence South  $00^{\circ}08'25''$  West along the West line of 3500 East Street 100.00 feet; thence South  $89^{\circ}56'20''$  West 170.00 feet; thence North  $00^{\circ}08'25''$  East 100.00 feet to the South line of 7800 South Street; thence North  $89^{\circ}56'20''$  East along said South line 170.00 feet to the point of beginning. Contains 0.390 Acres.

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EXHIBIT "B"

TRACT 1 (OWNED BY SMITH'S):

Beginning at a point on the West line of 3500 East Street, said point being South 00°08'25" West along the Section line 621.00 feet and South 89°56'20" West 29.00 feet from the Northeast corner of Section 35, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 89°56'20" West 362.50 feet; thence North 00°08'25" East 219.00 feet; thence South 89°51'35" East 22.50 feet; thence North 00°08'25" East 213.00 feet; thence North 89°51'35" West 195.00 feet; thence North 00°08'25" East 155.39 feet to the South line of 7800 South Street; thence North 89°56'20" East along said South line 365.00 feet to a point being South 89°56'20" West 170.00 feet from the West line of 3500 East Street; thence South 00°08'25" West 100.00 feet; thence North 89°56'20" East 170.00 feet to a point on the West line of 3500 East Street, said point being South 00°08'25" West 100.00 feet from the South line of 7800 South Street; thence South 00°08'25" West along said West line of 3500 East Street 488.00 feet to the point of beginning. Contains 5.010 Acres.

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EXHIBIT "C"



5670 Wilshire Boulevard  
Los Angeles, California 90036  
Telephone 213 930 4321

August 20, 1985

Boyer 7800 South Associates  
c/o H. Roger Boyer  
675 East 500 South, Suite 600  
Salt Lake City, Utah 84102

Re: Issuance of a Letter of Credit (the  
"Letter of Credit") to Support Salt  
Lake County, Utah Floating Rate Demand  
Industrial Development Revenue Bonds  
(Brighton Point Project) Series 1985  
(the "Bonds")

Gentlemen:

Based upon the information and representations made in connection with your Letter of Credit application, California Federal Savings and Loan Association (sometimes referred to herein as the "Lender") is pleased to advise you that it has approved the issuance of a Letter of Credit to support the Bonds issued by Salt Lake County, Utah (the "Issuer") to provide permanent financing for the Brighton Point Shopping Center, Salt Lake City, Utah (the "Project") on the following terms and conditions:

1. AMOUNT AND PURPOSE: Letter of Credit to be issued for the account of Boyer 7800 South Associates, a Utah limited partnership, in an aggregate principal amount not to exceed \$3,870,000.00 in favor of the trustee for holders of the Bonds (the "Trustee") to support repayment of principal in the approximate amount of \$3,770,000.00 and interest in the approximate amount of \$100,000.00 due on such Bonds and the obligation to purchase the Bonds upon demand. Lender's obligation to honor the drafts drawn under the Letter of Credit shall at all times be guaranteed by a surety bond in like amount and term (the "Surety

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Bond"), issued by a surety company acceptable to us. Funds raised through the sale of these Bonds will provide permanent takeout financing for the Project.

2. DISBURSEMENT OF BOND PROCEEDS:

Proceeds of the Bonds will be disbursed by the Trustee under an Indenture of Trust between the Issuer and the Trustee (the "Indenture") and in accordance with a Letter of Credit Reimbursement Agreement (the "Reimbursement Agreement"). The proceeds from the sale of the Bonds will be held by the Trustee under the Indenture until construction of the shopping center improvements is completed as evidenced by the issuance of a Certificate of Occupancy, the Project is 70% leased under leases satisfactory to Lender and its counsel and occupied by tenants approved by Lender, Lender has received satisfactory estoppel certificates from all tenants under the Leases and all escrow closing conditions are met; provided however that (i) the Trustee shall retain a tenant finish and lease commission holdback equal to \$18.00 per square foot for all unleased and unoccupied office space and \$7.00 per square foot for unleased and unoccupied retail space, and (ii) an amount equal to \$300,000.00 shall be retained by the Trustee until such time as Lender approves the construction contract and the Lease of the portion of the Project real property identified as the "Bank Pad." If the proforma rentals under the Lease are less than Lender requires, the amount funded to you for finance of the Bank Pad shall be reduced and such excess funds shall be applied to redemption of the Bonds. No disbursements of Bond proceeds shall be permitted without our prior written approval.

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3. INTEREST:

Your obligations to us will be evidenced by the Reimbursement Agreement. Except as described in Section 15 hereof, such obligations and interest thereon will be due and payable upon demand. Except as provided in Section 15 hereof, interest on your obligations under the Reimbursement Agreement and related documents to be entered into in form and substance satisfactory to the Lender (the "Related Documents"), will accrue at the rate of four (4) percentage points in excess of the Wall Street Journal's prime rate, to move with such prime rate, computed on a 360-day basis and the actual number of days elapsed.

4. TERM:

Five years, and thereafter, provided there has not occurred an Event of Default (as defined in the Reimbursement Agreement), you may, with our consent, which consent may be withheld in our sole discretion, renew the Letter of Credit for five (5) additional one (1) year terms. Advance written notice to Lender, given sixty (60) days prior to the then applicable Letter of Credit term, will be required for each of the five (5) one year options to renew.

5. LETTER OF CREDIT FEES:

For the first year of the Letter of Credit term, an initial fee of 2.75% per annum of the initial face-amount of the Letter of Credit (up to \$106,425.00) and 2.00% per annum of the initial face amount of the Letter of Credit (up to \$77,400.00) for each subsequent year thereafter. Such fees are to be payable as follows: the first year initial Letter of Credit fee shall be paid upon your execution of this commitment letter, 1.75% of this fee may be paid in the form of an irrevocable letter of credit for our benefit expiring November 30, 1985

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issued by a financial institution acceptable to us; thereafter the annual fee of 2.00% shall be paid annually thirty (30) days in advance of the anniversary of the date of issuance of the Letter of Credit (the "Closing Date") until expiration or cancellation of the Letter of Credit.

6. SURETY BOND FEES:

You shall pay all premiums for the Surety Bond to the surety company selected by Lender on or before the Closing Date.

If you elect to extend the Letter of Credit and we approve of such extension in our sole discretion, the surety bond premium for any extension term shall be payable annually in advance by you. You will bear the cost of any annual increases in the surety company's fees and any decreases will inure to your sole benefit.

7. LETTER OF CREDIT CANCELLATION FEE:

In the event you cancel the Letter of Credit, you shall pay us a cancellation fee, the amount of which shall vary in accordance with the year in which you elect to cancel, as follows:

<u>Year in Which You Cancel Measured From the Closing Date</u>	<u>Percentage of Initial Amount of Letter of Credit Due as Cancellation Fee</u>
Prior to First Anniversary Date	4%
Prior to Second Anniversary Date	3%
Prior to Third Anniversary Date	2%
Prior to Fourth Anniversary Date	1%
Prior to Fifth Anniversary Date and thereafter	0%

8. LOAN TO VALUE RATIO:

Aggregate principal amount of the Letter of Credit on the Closing Date shall not exceed 83% of the appraised value, as determined by us, of the Project real property security for your obligations under the Reimbursement Agreement and Related Documents, on such date.

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9. ASSIGNMENT:

This Commitment, your obligations to us under the Reimbursement Agreement, and your fee simple title to the Project property may not be assigned, sold, transferred or encumbered without our prior written consent; provided however, any sale of limited partnership interests is permissible so long as Kem C. Gardner and H. Roger Boyer at all times remain managing general partners and retain, in the aggregate, a five (5%) percent ownership interest in Boyer 7800 South Associates, and the Project real property. Any transfer in violation of this provision shall be null and void and shall constitute an Event of Default under the Reimbursement Agreement.

10. SECURITY:

The Lender will require as security for the issuance of the Letter of Credit:

a. First lien Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") in favor of Trustee and the Lender, pari passu, on your marketable fee simple absolute title to the project real property, which shall also be a first lien on all equipment and on personal property necessary in Lender's judgment to the operation of the Project together with a second lien deed of trust (the "Second Deed of Trust") on the same real and personal property in favor of Lender alone. You will provide the Lender with a legal description of the Project real property satisfactory to the Lender prior to the Closing Date.

b. A first lien Assignment of Lessor's Interest in Leases in favor of Trustee and Lender, pari passu, in form and substance satisfactory to Lender, covering all leases of the Project, and a second lien Assignment of Lessor's Interest in Leases in favor of Lender alone.

11. GUARANTIES:

H. Roger Boyer and Kem C. Gardner shall each execute a Guaranty in form and substance satisfactory to Lender. The Guaranties shall provide that Messrs. Gardner and Boyer shall be jointly and severally liable for all sums owed to Lender

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under the Reimbursement Agreement. The Guaranties shall terminate upon Lender's written acknowledgement that the Project has for six consecutive months achieved 90% of its proforma income projection pursuant to leases satisfactory to Lender and its counsel.

12. CONDITIONS OF  
ISSUANCE OF  
LETTER OF  
CREDIT:

Issuance of the Letter of Credit will be subject to your fulfillment of the following conditions to the satisfaction of the Lender:

a. A surety bond guaranteeing the Lender's obligations under the Letter of Credit must be issued by a surety company selected by Lender assuring that the Bonds will be rated "AAA" by Standard & Poor's Corporation or Moody's Investors Service, Inc.

b. All documentation pertaining to the issuance of the Bonds and the Letter of Credit must be satisfactory to the Lender. The Bond documents must include provisions that (i) in no event shall the Lender be obligated to purchase the Bonds, (ii) Lender's consent shall be required to fix any interest rate ceiling on the Bonds, (iii) no amendment or supplement to any Related Documents may be made without Lender's prior written consent and (iv) no events of default may be declared by the Trustee nor shall the Bonds be accelerated without the written approval of Lender except upon the occurrence of bankruptcy of you or Lender, your failure to timely renew the Letter of Credit or timely obtain a substitute Letter of Credit, or such other noncurable defaults as Lender may approve prior to the Closing Date.

c. You will deliver a limited partnership agreement, partnership resolutions and such other evidence of your authority to execute and carry out the terms of the Letter of Credit and Bond documents as Lender's counsel may require, including an opinion of counsel satisfactory to the Lender.

d. All questions concerning your right, title and interest in the Project property, your capacity and authority to enter into this transaction, and the security of the lien to be created in connection with the contemplated Letter of Credit, shall be resolved to the satisfaction of the Lender. The Lender may require written opinions of your counsel (who shall be satisfactory to Lender) addressing such matters relating to the Letter of Credit, the Bonds and the security therefor, as Lender may elect. The form

and substance of all documents and instruments required by this commitment or by Lender or its counsel relative to this transaction shall be subject to the approval of Lender and its counsel.

e. You shall furnish Lender and Trustee an ALTA Lender's Policy of Title Insurance (Additional Coverage Form) in the principal amount of the Letter of Credit, issued by a title insurance company acceptable to Lender, insuring the Deed of Trust as a first and valid lien against the Project property, and the Second Deed of Trust as a valid second lien, including insurance against mechanic's and materialmen's liens, and containing no exceptions other than those specifically approved by Lender. Said policy shall contain such indorsements as Lender may require.

f. You shall furnish Lender, prior to the Closing Date, with a satisfactory "as built" survey of the Project real property (dated not more than two months prior to issuance of the Letter of Credit) made "on the ground" showing all improvements thereon to be free from violations of zoning and recorded restrictions and questions of encroachment. This survey must be prepared after the completion of all improvements, show dimensions and total square footage of the site, parking spaces, and improvements thereon, all easements, and rights of way, contain the written legal description, and certified to Lender and Trustee by a licensed surveyor. In addition, Lender shall be furnished with satisfactory evidence of completion of construction of all improvements on the Project property in accordance with plans and specifications and landscaping plans approved by Lender, that the improvements are structurally sound, and are in full compliance with all laws and governmental requirements relating to the construction, use, operation and occupancy of the Project property, including without limitation, zoning and environmental requirements, and will all covenants, conditions and restrictions affecting the Project property.

g. Lender shall be furnished fire and extended coverage insurance on all improvements in an amount necessary to meet applicable co-insurance requirements but in any event not less than the amount normally required for projects of this nature located in the vicinity of the Project, with companies approved by Lender. The form and coverage of such insurance shall be satisfactory to Lender. Business or rental interruption insurance and public liability insurance shall also be provided prior to the Closing Date in amounts and coverage and issued by companies acceptable to Lender. Lender and Trustee shall be named as the loss payees under all hazard insurance and business or rental interruption insurance pursuant to a standard mortgagee's clause acceptable to Lender.

h. This commitment shall be subject to all pertinent provisions of any governmental regulations which may apply, including applicable zoning and building laws, ordinances, and regulations, and any other federal, state and municipal laws and requirements.

i. Whether or not the Letter of Credit is issued, you agree to pay all costs of documentation and closing of the Letter of Credit financing and fulfillment of all conditions of this commitment, including, but not limited to, Letter of Credit fees, Surety Bond fees, title insurance policies, taxes of any nature, appraisal fees, if any, survey costs, recording and filing charges, release of lien charges, escrow charges, insurance premiums, and legal fees and disbursements of our California and Utah counsel incident to preparation and review of documentation. Lender shall not be required to pay any premium, charge, brokerage fee, commission or similar compensation in connection with the Letter of Credit or this commitment, and you agree to indemnify and hold Lender harmless from and against any and all liabilities, claims, costs and expenses (including without limitation reasonable attorneys' fees) arising therefrom or relating thereto.

j. The Deed of Trust will provide that, without Lender's prior written consent, you agree not to create or suffer any lien or encumbrance upon the Project property or any improvements thereon which would be prior to the lien of the Deed of Trust (other than the Second Deed of Trust).

k. You agree to deliver to Lender, prior to the Closing Date, a balance sheet and statement of annual income and expenses in detail satisfactory to Lender covering the operation of the Project within sixty (60) days after the expiration of each fiscal year, such statements to be prepared by a certified public accountant acceptable to Lender, and to include, without limitation; current rent roll, gross rental income, other income, real estate taxes, operating expenses, depreciation deduction, and federal income taxes. Lender reserves the right to require monthly operating statements on the property at any time during the term of the Letter of Credit.

l. You agree to furnish evidence satisfactory to Lender showing that there has been no material adverse change in your financial condition or in the financial condition of any of your constituent general partners or in the physical condition of the Project property, since the date of your application for the Letter of Credit. As used above, a "material adverse change" refers to any event or occurrence

which, in the reasonable judgment of Lender, might materially impair your ability, or the ability of any guarantor of your obligations, to repay your obligations under the Reimbursement Agreement and Related Documents in accordance with their terms. Lender shall have the right to review your partnership books and records concerning the Project, at your expense.

m. You must provide Lender with a Certificate of Occupancy and copies of all signed leases, a current rent roll, certified as to its accuracy by you, and estoppel certificates from all tenants satisfactory in form and substance to Lender. The Lender must approve the form and substance of all existing and future leases of the Project and reserves the right to require monthly reports of leasing activity. Lender shall have the right to approve or disapprove any future tenants of the Project. All leases must be subordinated to the Deed of Trust and the Second Deed of Trust.

n. You must additionally obtain the Lender's approval of all operating agreements, utility agreements, access rights, easements, and other arrangements necessary in the judgment of the Lender for the uninterrupted and orderly operation of the Project.

13. CIRCUMSTANCES UNDER WHICH THE LETTER OF CREDIT MAY BE DRAWN UPON:

Subject to the specific terms of the Letter of Credit, which specific terms shall govern payment under the Letter of Credit, drafts may be presented thereunder (i) in an Event of Default (as defined in the Reimbursement Agreement), (ii) in the event the Bonds are not successfully remarketed within specified time periods (as described in the Indenture) and (iii) in the event of any events of mandatory redemption (as described in the Indenture). The proceeds of such drawings shall be applied to the payment of the purchase price of Bonds and accrued interest thereon, and principal and interest due on the Bonds. Events of Default include, but are not limited to, the following:

- (i) Failure to pay the Letter of Credit fees and Surety Bond fees and any other expenses when due;

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- (ii) Failure to pay principal and interest on the Bonds when due;
- (iii) Upon a breach of any covenants, conditions or terms of the Reimbursement Agreement or Related Documents;
- (iv) Upon a breach of any covenants, terms or conditions of the Financing Agreement between you and the Issuer;
- (v) Failure to timely renew the Letter of Credit or to timely obtain a satisfactory substitute letter of credit;
- (vi) Upon the occurrence of your bankruptcy or the bankruptcy of any of your constituent general partners; and
- (vii) Failure by the remarketing agent to remarket the Bonds within ninety (90) days from the date such Bonds are purchased with Letter of Credit proceeds.

14. REMEDIES:

If an Event of Default is declared under the Reimbursement Agreement, then pursuant to the terms of the Financing Agreement and the terms of the Indenture, Lender shall have the option to cure the default, maintain the Bonds outstanding by paying interest and any principal due on the Bonds to the Trustee, to foreclose the Second Deed of Trust on the Project, and to pursue any other remedies available to it. If the Lender does not exercise this option, then pursuant to the terms of the Indenture, the Trustee shall accelerate repayment of the Bonds and shall draw under the Letter of Credit in an amount equal to the amount of all principal and interest accrued on outstanding Bonds. In this event, the Trustee shall assign

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all its security interest in your assets to the Lender and the Lender may foreclose the Deed of Trust and pursue any and all other remedies available to it.

15. CONVENTIONAL LOAN:

In the event the Bonds are not remarketed by the designated purchase date and payment is made under the Letter of Credit as described in Section 13 above, you will not be obligated to immediately repay such sum, upon demand, but may repay it pursuant to the terms of a short term conventional loan as outlined below:

Loan Amount: The amount of principal and accrued interest paid for unremarketed Bonds under the Letter of Credit, to be evidenced by a Term Promissory Note.

Interest Rate: Two percentage points (2%) in excess of the prime rate as listed in the Wall Street Journal on the date of payment under the Letter of Credit (inclusive of the interest rate borne by the Bonds) to move with such prime rate, computed on a 360-day basis and the actual number of days elapsed, payable monthly.

Loan Term: Ninety Days from the date of the unreimbursed payment under the Letter of Credit.

Prepayment Provision: You may prepay this sum at any time without penalty.

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Security: The Term Promissory Note evidencing the conventional loan shall also be secured by the first lien security interests described in Section 10 above.

Default: You shall be in default under the Term Promissory Note and Reimbursement Agreement if interest is not timely paid or if the principal amount is not paid within ninety (90) days, whether repayment is made by the successful remarketing of the Bonds or otherwise.

16. COMMITMENT  
TERMINATION:

Lender may terminate this Commitment by written notice or telegraphic notice to you in the event that:

- a. You shall fail to comply with any term or condition herewith provided, or
- b. You shall
  - i. apply for or consent to the appointment of a receiver, trustee or liquidator for you or any of your property;
  - ii. admit in writing of an inability to pay your debts as they mature;
  - iii. make a general assignment for the benefit of creditors;
  - iv. be adjudicated as bankrupt or insolvent; or
  - v. file a voluntary petition in bankruptcy, or a petition or answer seeking reorganization or an arrangement with creditors or to take

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advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against you in any proceeding under such law, or

- c. any representation, warranty, statement, certificate, schedule or report made in connection herewith to Lender is false or misleading in any material respect as of the date made or furnished, or
- d. the Project property shall be materially damaged by fire or other casualty; provided, however, that Lender will not terminate this agreement by reason of any such casualty if provision satisfactory to Lender shall have been made:
  - i. to repair the damage resulting therefrom and
  - ii. for the performance of your obligations hereunder.

This commitment must be accepted by you no later than September 2, 1985, or it will expire. Acceptance is evidenced by return of an executed copy along with the Letter of Credit Fee of two and three quarters percent (2.75%) of the face amount of the Letter of Credit, (1.25% of which Letter of Credit Fee may be paid in the form of an irrevocable Letter of Credit in favor of Lender issued by a financial institution acceptable to Lender, with an expiration date of November 30, 1985.) The Letter of Credit must be issued on or before November 30, 1985, or this commitment will terminate. Further extensions of this commitment will be at our sole option and must be in writing.

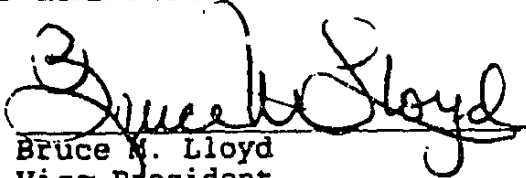
Any modifications of this commitment must be in writing and signed by Lender and you.

We are pleased to be able to provide you with this commitment and look forward to working with you in the

financing of your Project. If the terms and conditions of this commitment are satisfactory, please execute the original copy and return it to J. Jeffrey Riggs, no later than September 2, 1985.

Sincerely,

CALIFORNIA FEDERAL SAVINGS  
AND LOAN ASSOCIATION

By   
Bruce N. Lloyd  
Vice President

Accepted and agreed to on the  
above terms and conditions. \*\*

BOYER 7800 SOUTH ASSOCIATES,  
a Utah limited partnership

By   
General Partner

Date: Sept 3, 1985

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\*\* Subject to the attached addendum

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ADDENDUM TO COMMITMENT DATED AUGUST 20, 1985 TO BOYER 7800  
SOUTH ASSOCIATES REGARDING BRIGHTON POINT SHOPPING CENTER

The attached commitment is made subject to the following  
changes and modifications:

The original commitment speaks of a partial collateralization  
by Cal Fed, and, an outside Surety Company. In lieu of the  
aforementioned structure this addendum accepts the Cal Fed  
commitment subject to 100% "direct collateralization" that  
would result in a rating of "AAA" from Standard and Poor's  
or Moody's.

Under Item 2(ii) of the commitment referenced above, the  
decrease in funding for the pad will be, (if any decrease is  
necessary), proportional to the total proforma income contemplated  
in the appraisal. For example - the gross income projected for  
the pad rental is \$43,000 annually; a proportional decrease in  
loan funding is \$6.98 of loan funds subtracted from the \$300,000  
for every \$1.00 of annualized gross income less than \$43,000.

BOYER 7800 SOUTH ASSOCIATES,  
a Utah limited partnership

By: 

General Partner

Date: Sept 3, 1985

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