

COMPARED

INST # 8278
RECORDING FEE 20.00
AUDITOR FEE 1.00
RMA FEE 1.00

FILED FOR RECORD
POTTAWATTAMIE CO. IA.

96 NOV 20 AM 11:07

JOHN SCIORTINO
RECORDER

THIS DOCUMENT PREPARED BY
AND

When recorded return to: Karen D. Dike
Ameritas Life Insurance Corp.
5900 "O" Street
Lincoln, NE 68510-2252

Property Address: 2101 South 35th Street
Council Bluffs, Iowa

AGREEMENT TO EXTEND AND AMEND PROMISSORY NOTE AND FIRST MORTGAGE

THIS AGREEMENT is made this 20TH day of November, 1996, between Ameritas Life Insurance Corp. (formerly Bankers Life Insurance Company of Nebraska), a Nebraska corporation (herein the "Holder"), V & R Joint Venture, a Nebraska general partnership (hereinafter "Maker") and Milo P. Vacanti and Charles J. Vacanti, individually as Guarantors.

WHEREAS, Ameritas is the holder of a certain Promissory Note (hereinafter the "Note") executed on September 10, 1986, by Vacanti and Randazzo Construction Company, in the amount of Eight Hundred Thousand 00/100 Dollars (\$800,000.00); V & R Joint Venture has assumed all obligations under the Note; and such Note is secured by a FIRST MORTGAGE (herein "Mortgage") covering certain real property situated in Pottawattamie County, Iowa, more particularly described as follows:

See attached Exhibit A
which is incorporated herein by this reference

and said Mortgage was recorded in the official records of the County Clerk of Pottawattamie County, Iowa, on September 10, 1986, in Book 87, Page 6485; and

WHEREAS, by the original terms of the Note referenced above, the principal and all accrued, but unpaid interest, was due and payable in full on October 1, 1996; and

WHEREAS, Milo P. Vacanti and Charles J. Vacanti executed a Guaranty Agreement for all amounts due and owing under the Note; and

WHEREAS, Ameritas, V & R Joint Venture and Guarantors have agreed to extend the maturity date of the Note and amend the Note and Mortgage as set out below.

NOW, THEREFORE, for the reasons set forth above and for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree to amend and extend said Note and Mortgage pursuant to the following terms:

PROMISSORY NOTE

1. The principal amount of the Note shall be Seven Hundred Thousand and 00/100 Dollars (\$700,000.00) whereby Lender shall, at closing, advance all sums necessary to bring the principal balance of the existing Note to that sum.

2. Following closing, interest shall accrue on the principal balance of the Note at the rate of eight and five-eighths percent (8.625%) per annum (the "Note Rate") unless and until an Event of Default occurs at which time it will accrue at the default rate set out in the Note.

3. Principal and interest shall be due and payable on the first day of the month following the closing hereof in an amount equal to principal of \$3,694.61 plus interest calculated on a pro rata basis with interest accruing at the previous rate of ten percent (10%) up to and including the day of closing and interest at the new rate of Eight and five-eighths (8.625%) until the end of the month. Thereafter, principal and interest shall be due and payable in one hundred-eighteen (118) equal monthly installments of Eight Thousand Seven Hundred Twenty-Five and 86/100 Dollars (\$8,725.86) due on the first day of each subsequent month.

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4. The final installment consisting of remaining principal and accrued, but unpaid interest, will be due and payable on October 1, 2006, unless said Note has matured earlier due to acceleration upon default or otherwise.

5. The prepayment provisions of the Note beginning with the last full paragraph on page 3, including subsequent subparagraphs A, B, C and D, are hereby deleted and any prepayment of the Note shall be made in accordance with "Exhibit B" attached hereto.

6. The last partial paragraph on page 5 which continues onto page 6 is deleted in its entirety.

FIRST MORTGAGE

All references to Vacanti & Randazzo Construction Company ("Vacanti") shall now refer to V & R Joint Venture and all references to Bankers Life Insurance Company of Nebraska ("Bankers") shall refer to Ameritas Life Insurance Corp.

In all other respects, the Note and Mortgage are unaffected, unchanged, and unimpaired by reason of the foregoing Agreement to Extend and Amend and by executing this Agreement, Borrower is affirming the indebtedness. The property described in the Mortgage shall remain subject to the lien, charge, or encumbrance of said Mortgage and nothing herein contained or done pursuant to this Agreement shall affect or be construed to affect the lien, charge, or encumbrance of said Mortgage, or the priority thereof over all other liens, charges, or encumbrances. Maker/Mortgagor accepts the foregoing and in consideration therefore, agrees to pay the indebtedness evidenced by the Note according to the terms thereof as extended and amended hereby and further agrees to perform its obligations under the Mortgage as amended hereby.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

HOLDER:

AMERITAS LIFE INSURANCE CORP. (formerly Bankers Life Insurance Company of Nebraska)

By: 

~~Jon B. Weinberg~~ James S. Sackett
Asst. Vice President - Mortgage Loans and Real Estate
5900 "O" Street
Lincoln, Nebraska 68510-2252

MAKER:

V & R JOINT VENTURE

By: V & R Company, a Nebraska general partnership,
its general partner

By: 

Milo P. Vacanti, general partner

By: 

Charles J. Vacanti, general partner

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GUARANTORS

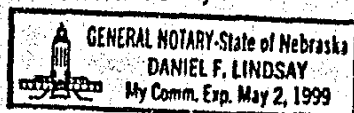
Milo P. Vacanti, individually

Charles J. Vacanti, individually

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.
DE

On this 18 day of NOVEMBER, 1996, before me, the undersigned, a Notary Public in and for the State, personally appeared MILLO P. VACANTI, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

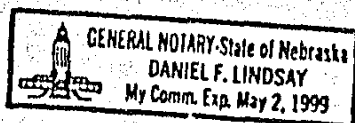


Daniel F. Lindsay
Notary Public

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.

On this 18 day of NOVEMBER, 1996, before me, the undersigned, a Notary Public in and for the State, personally appeared CHARLES J. VACANTI, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

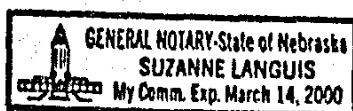


Daniel F. Lindsay
Notary Public

STATE OF Nebraska)
COUNTY OF Lancaster) ss.

On this 20th day of November, 1996, before me, the undersigned, a Notary Public in and for the State, personally appeared James S. Sackett, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.



Suzanne Languis
Notary Public

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EXHIBIT A

LEGAL DESCRIPTION

Part of the West Half of the Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$) of Section 3, and Part of the East Half of the northwest Quarter ($E\frac{1}{2}NE\frac{1}{4}$) of Section 4, in Township 74 North, Range 44 West of the 5th P.M., in the City of Council Bluffs, Pottawattamie County, Iowa, as more particularly described as follows:

Commencing at the West $\frac{1}{2}$ corner of said Section 3; thence West 346.40 feet; thence North 1154.61 feet to the point of beginning; thence N $53^{\circ}12'15''$ E, 456.32 feet; thence S $89^{\circ}37'00''$ E, 12.55 feet; thence southwesterly 55.19 feet along a 316.48 foot radius curve to the left; thence S $53^{\circ}12'15''$ W, 319.85 feet; thence S $74^{\circ}37'40''$ W, 41.07 feet; thence N $81^{\circ}47'45''$ W, 21.21 feet; thence N $44^{\circ}14'50''$ W, 38.56 feet; thence along the northeasterly right-of-way line of 35th Street Diagonal N $36^{\circ}47'45''$ W, 276.62 feet to the point of beginning.

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