

Instrument No. 025325
State of Iowa, Boone County, SS
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This 15 day of Aug, 2002
Sheryl J. Thul, Recorder, Fees \$ 31.00 due
Number of Pages 6

Bill Ret - First Nebraska Title and Escrow Company 2425 S 120th St Omaha NE 68144

MORTGAGE

STATE OF ~~IOWA~~ NEBRASKA

COUNTY OF DOUGLAS

KNOW ALL MEN BY THESE PRESENTS, That 203 Harrison Street Limited Partnership, a limited partnership organized and existing under the laws of Nebraska, and authorized to do business in Iowa under the laws of Iowa (hereinafter with its successors and assigns referred to as Mortgagor), having its principal place of business at 11912 Elm Street, Suite 23, Omaha, Nebraska, 68144, for and in consideration of the sum of One Million Three Hundred Seventy-Five Thousand Dollars (\$1,375,000.00) to it in hand paid by Gershman Investment Corp., a corporation organized and existing under the laws of Arkansas (hereinafter with its successors and assigns referred to as Mortgagee), having its principal place of business at 7 North Bemiston, St. Louis, Missouri, 63105, the receipt of which is hereby acknowledged, does by these presents grant, bargain, sell, and convey unto the Mortgagee, its successors and assigns, forever, all of the following described real property situated in the City of Boone, County of Boone and State of Iowa, to wit:

SOUTH 32 FEET OF LOT 4, AND ALL OF LOTS 5 AND 6 IN BLOCK 161, IN FOURTH ADDITION TO BOONE, IOWA; ALSO WEST 77 FEET OF BLOCK 186 IN SEVENTH ADDITION TO BOONE, IOWA; AND THAT PART OF LOT 4, LYING EASTERLY OF THE RAILROAD RIGHT-OF-WAY AND LOT 5 IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 84 NORTH, RANGE 26 WEST OF THE 5TH P.M., IN THE CITY OF BOONE, BOONE COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF FIRST STREET AND THE EAST LINE OF THE FORMER RIGHT-OF-WAY OF THE C&NW RAILWAY COMPANY, WHICH POINT IS 35.00 FEET NORTH OF THE SOUTH LINE OF SAID NW ¼ AND 523.50 FEET EAST OF THE WEST LINE OF SAID NW ¼; THENCE NORTHERLY ALONG A 1,859.88 FOOT RADIUS CURVE WHICH IS CONCAVE EASTERLY FOR 461.80 FEET, THE LONG CHORD OF WHICH BEARS N02°37'30"E FOR 460.62 FEET; THENCE S89°58'E 240.20 FEET ALONG THE NORTH LINE OF THE SOUTH 32.00 FEET OF SAID LOT 4 TO THE WEST LINE OF HARRISON STREET; THENCE S00°09'E 160.80 FEET TO THE SOUTH LINE OF SECOND STREET; THENCE N89°39'E 310.00 FEET TO THE EAST LINE OF THE WEST 77.00 FEET OF SAID BLOCK 186, WHICH POINT IS ALSO 150.00 FEET WEST OF THE WEST LINE OF MONONA STREET; THENCE S00°09'E 301.10 FEET TO THE NORTH LINE OF FIRST STREET; THENCE S90°00'W 572.50 FEET TO THE POINT OF BEGINNING, CONTAINING 4.892 ACRES.

TOGETHER WITH all and singular the privileges, tenements, hereditaments, and appurtenances thereunto in anywise appertaining or belonging, and all mineral rights and water rights thereunto appertaining; all the rents, issues, and profits which may arise or be had therefrom; and all rights of homestead, dower, curtesy, and distributive shares, if any, whether contingent or otherwise, the same being hereby released, relinquished, waived, and conveyed;

TOGETHER WITH all and singular the buildings and improvements of every kind and description now or hereafter erected or placed thereon, and all fixtures, including but not limited to all gas and electrical fixtures, engines and machinery, radiators, heaters, furnaces, heating, laundry, air-conditioning and incinerating equipment, all steam and hot water boilers, stoves, ranges, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets, and other plumbing and heating fixtures, mantels, refrigerating plants and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, furniture, shades, awnings, screens, blinds, and other furnishings; and

TOGETHER WITH all articles of personal property owned by the Mortgagor and now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands herein described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all goods and chattels and personal property as are ever used or furnished in operating a building or buildings or the activities conducted therein similar to the ones herein described and referred to, and all renewals or replacements thereof or articles in substitution therefore, whether or not the same are, or shall be, attached to said building buildings in any manner; and together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein. It is hereby agreed that to the extent permitted by law all of the foregoing property and fixtures are to be deemed and held to be a part of and affixed to the above-described real property.

TO HAVE AND TO HOLD the above described premises, with all the privileges, tenements, hereditaments, appurtenances and fixtures, unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

MORTGAGOR does hereby covenant with the Mortgagee, (1) that is lawfully seised of all the above described real property in fee simple absolute, (2) that it is in peaceable possession of said real property and has good and lawful right and authority to grant, bargain, sell and convey the same, (3) that said real property is free, clear and unencumbered, except for taxes which are not yet due and payable, and (4) that will warrant and defend the same against the claims and demand of all parties whomsoever.

PROVIDED, ALWAYS, and these presents are upon the express condition, that if the Mortgagor shall pay or cause to be paid to the Mortgagee the principal sum of One Million Three Hundred Seventy Five Thousand Dollars (\$1,375,000.00), with interest thereon from date at the rate of six and three quarters per centum (6.75%) per annum on said principal sum, or so much thereof as is unpaid, said principal and interest being payable in monthly installments at the office of the mortgagee, Gershman Investment Corp., 7 North Bemiston, St. Louis, Missouri, 63105, or at such other place as the Mortgagee may designate in writing according to the tenor and effect of that certain Mortgage Note of even date herewith, made by the

Mortgagor, payable to the order of the Mortgagee, with a final maturity date of August 1, 2032, which Mortgage Note is identified by a certificate thereon that the same is described in and secured by this Mortgage;


AND IF the Mortgagor shall keep and perform each and every covenant, term, condition, and agreement herein contained, then these presents shall be void, and this Mortgage shall be released and cancelled at the expense of the Mortgagor otherwise to remain in full force and effect.

SAID Mortgage Note and all its terms are incorporated herein by reference, and this Mortgage shall secure the payment of said Mortgage Note and the indebtedness evidenced thereby, or any part thereof, and any additional advance or advances, and any and all extensions thereof, however evidenced.

THIS conveyance is also given to secure performance of every covenant, term, condition and agreement herein contained.

THE MORTGAGOR COVENANTS AND AGREES with the Mortgagee as follows:

1. Mortgagor will pay the Mortgage Note at the times and in the manner provided therein. Prepayments may be made only as set forth in said Mortgage Note.
2. In order more fully to protect the security of this Mortgage, together with, and in addition to, the monthly payments of principal and interest payable under the terms of the Mortgage Note secured hereby, the Mortgagor agrees to deposit with the Mortgagee concurrently with payments of interest or of interest and principal, on the first day of each month after the date hereof until the said Mortgage Note is fully paid, the following sums:
 - (a) An amount sufficient to provide the Mortgagee with funds to pay the next mortgage premium if this Mortgage and the Mortgage Note secured hereby are insured, or a monthly service charge if they are held, by the Secretary of Housing and Urban Development, as follows:
 - (i) If and so long as said Mortgage Note of even date and this Mortgage are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the Mortgagee one month prior to its due date the annual mortgage insurance premium in order to provide such Mortgagee with funds to pay such premium to the Secretary of Housing and Urban Development pursuant to the National Housing Act, as amended, and applicable Regulations thereunder, or
 - (ii) If and so long as said Mortgage Note of even date and this Mortgage are held by the Secretary of Housing and Urban Development, a monthly service charge in an amount equal to 1/12 of 1/2% of the average outstanding principal balance due on the Mortgage Note computed for each successive year beginning with the first day of the month following the date of this Mortgage, if the Secretary of Housing and Urban Development is the Mortgagee named herein, or the first day of the month following assignment if the Mortgage Note and this Mortgage are assigned to the Secretary of Housing and Urban Development, without taking into account delinquencies or prepayment;
 - (b) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (*all as estimated by the Mortgagee*), less all sums already paid therefor, divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by Mortgagee in trust to pay said ground rents, premiums, water rates, taxes and special assessments;
 - (c) All payments mentioned in subsection 2(a) and 2(b) and all payments to be made under the Mortgage Note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by Mortgagee to the following items in the order set forth:
 - (i) premium charges under the Contract of Mortgage Insurance with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, or service charge;
 - (ii) ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;
 - (iii) interest on the Mortgage Note secured hereby;
 - (iv) amortization of the principal of said Mortgage Note;
 - (d) Any excess funds accumulated under subsection 2(b) remaining after payment of the items therein mentioned shall be credited to subsequent monthly payments of the same nature required thereunder; but if any such item shall exceed the estimate therefor, the Mortgagor shall without demand forthwith make good the deficiency. Failure to do so before the same become delinquent or subject to interest or penalties shall be a default hereunder. In case of termination of the Contract of Mortgage Insurance by prepayment of the Mortgage in full, or otherwise (*except as hereinafter provided*), accumulations under 2(a), not required to meet payments due under the Contract of Mortgage Insurance, shall be credited to the Mortgagor. If the property is sold under foreclosure or is otherwise acquired by the Mortgagee after default, any remaining balance of the accumulations under subsection 2(b) shall be credited to the principal of the Mortgage as of the date of commencement of foreclosure proceedings or as of the date the property is otherwise acquired; and accumulations under subsection 2(a) shall be likewise credited unless required to

- (e) pay sums due the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, under the Contract of Mortgage Insurance.
3. The Mortgagor will pay all ground rents, taxes, assessments, water rates and other governmental or municipal charges, fines or impositions for which provision has not been made by monthly payments as hereinbefore provided before the same become delinquent or subject to interest or penalties, and in default thereof the Mortgagee may pay the same; and the Mortgagor will promptly deliver the official receipts therefor to the Mortgagee. If the Mortgagor should fail to make any such payment or should fail to provide funds to meet hazard or mortgage insurance premiums, the Mortgagee may pay the same and may pay any sum or sums necessary to perfect or preserve title to the mortgaged premises. Any sums so paid by the Mortgagee shall be added to the principal of the debt secured hereby, shall bear interest from the date of advance at 6.75 per centum (6.75 %) per annum and shall be due and payable on demand; or the Mortgagee, at its option, shall be entitled to be subrogated to any lien, claim or demand paid by it or discharge with any advance by it and secured by this Mortgage.
 4. The Regulatory Agreement, if any, executed by the Mortgagor and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, which is being recorded simultaneously herewith, is incorporated in and made a part of this Mortgage. Upon default under the Regulatory Agreement and upon the request of the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, the Mortgagee, at its option, may declare the whole of the indebtedness secured hereby to be immediately due and payable.
 5.  ~~This Mortgage and the Mortgage Note secured hereby were executed and delivered to secure money advanced or to be advanced and to be used in the construction of certain improvements on the real property herein described in accordance with a Building Loan Agreement between the Mortgagor and Mortgagee, dated , 20 , which Building Loan Agreement (except such part or parts thereof as may be inconsistent herewith) is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Mortgage; and if the construction of the improvements to be made pursuant to said Building Loan Agreement shall not be carried on with reasonable diligence, or shall of the Mortgagor to keep and perform any of the covenants, conditions, and agreements of said Building Loan Agreement. This covenant shall be terminated upon the completion of the improvements to the satisfaction of the Mortgagee and the making of the final advance as provided in said Building Loan Agreement.~~
 6. The Mortgagor will keep the improvements now existing or hereafter erected on the mortgaged property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, upon the insurance of the Mortgage, and such other hazards as may be stipulated from time to time by the Mortgagee, and all such insurance shall be evidenced by standard Fire and Extended Coverage Insurance Policy or policies, in amounts not less than necessary to comply with the applicable Coinsurance Clause percentage, but in no event shall the amounts of coverage be less than 80% of the Insurable Values or than the unpaid balance of the insured Mortgage, whichever is the lesser, and in default thereof the Mortgagee shall have the right to effect insurance. Such policies shall be endorsed with standard Mortgagee clause with loss payable to the Mortgagee and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, as their interest may appear, and shall be deposited with the Mortgagee.

If the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held as hereinabove provided, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid shall be paid to the Mortgagee and, at its option, may be applied to the debt or released for the repairing or rebuilding of the premises.

The Mortgagor will give immediate notice by mail to the Mortgagee and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, of fire or other damage to the premises.
 7. That all awards of compensation in connection with condemnation for public use of or a taking of any of that property, shall be paid to the Mortgagee to be applied to the amount due under the Note secured hereby in (1) amounts equal to the next maturing installment or installments of principal and (2) with any balance to be credited to the next payment due under the Note. That all awards of damages in connection with any condemnation for public use of or injury to any residue of that property, shall be paid to the Mortgagee to be applied to a fund held for and on behalf of the Mortgagor which fund shall, at the option of the Mortgagee, and with the prior approval of the Secretary of Housing and Urban Development, either be applied to the amount due under the Note as specified in the preceding sentence, or be disbursed for the restoration or repair of the damage to the residue. No amount applied to the reduction of the principal amount due in accordance with (1) shall be considered an optional prepayment as the term is used in this Mortgage and the Note secured hereby, nor relieve the Mortgagor from making regular monthly payments commencing on the first day of the first month following the date of receipt of the award. The Mortgagee is hereby authorized in the name of the Mortgagor to execute and deliver valid acquittances for such awards and to appeal from such awards.
 8. At the option of the Mortgagor the principal balance secured hereby may be reamortized on terms acceptable to the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, if a partial prepayment results from an award in condemnation or damages

- received in accordance with provisions of Paragraph 7 herein or from an insurance payment made in accordance with provisions of Paragraph 6 herein, where there is a resulting loss of project income.
9. The improvements to be made upon the premises above described and all plans and specifications comply with all municipal ordinances and regulations made or promulgated by lawful authority, and the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the fire rating or inspection organization, bureau, association or office which are now or may hereafter become applicable to the premises above described.
 10. The Mortgagor will not voluntarily create or permit to be created against the property subject to this Mortgage any lien or liens inferior or superior to the lien of this Mortgage and further it will keep and maintain the same free from the claims of all suppliers of labor or materials which will enter into the construction of any and all buildings now erected or to be erected on said premises; and if the Mortgagee is made or becomes a party to any suit or action, by reason of default hereunder, the Mortgagor will pay all expenses incurred by the Mortgagee therein, including a reasonable attorney's fee.
 11. The Mortgagor will not permit or suffer the use of any of the property for any purpose other than that for which the same is now agreed upon to be used.
 12. The Mortgagor will not demolish, alter, or remove any building now or hereafter erected on said property without the written consent of the Mortgagee and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner.
 13. The Mortgagor will not commit, permit, or suffer any waste, impairment, or deterioration of the mortgaged property, or any part thereof, and the Mortgagor will maintain all of said property in good repair and condition. In the event of the failure of the Mortgagor to save from waste and to keep in good repair the mortgaged premises, or any part thereof as herein provided, the Mortgagee may, at its option, and in such form as the Mortgagee may in its discretion deem appropriate, enjoin waste and make all necessary and proper repairs and replacements, and for all such purposes the Mortgagee and its agents are expressly given the right to enter upon said premises. All charges and expenses of any kind incurred or paid by the Mortgagee for such purposes shall be immediately due and payable by the Mortgagor and shall be secured by the lien of this Mortgage.
 14. The Mortgagor covenants and agrees that so long as this Mortgage and the Mortgage Note secured hereby are insured or held by the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, under the provisions of the National Housing Act, it will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, color, sex, creed, or national Origin.
 15. All rents, profits, and income from the property conveyed by this Mortgage are hereby assigned to the Mortgagee for the purpose of discharging the debt secured hereby and the conditions and agreements herein contained. Permission is hereby given to the Mortgagor so long as no default exists hereunder to collect such rents, profits, and income for use in accordance with the provisions of the Regulatory Agreement.
 16. Upon any default by the Mortgagor in the compliance with, or performance of, any of the terms, covenants, or conditions of this Mortgage or of the Mortgage Note secured hereby, the Mortgagee may at its option perform the same and all expenditures made by the Mortgagee in so doing shall draw interest at the rate specified in the Mortgage Note and shall be repayable by the Mortgagor to the Mortgagee on demand and, together with interest and costs accruing thereon, shall be secured by this Mortgage. Upon such a default by the Mortgagor, the Mortgagee shall also have the right to enter into and upon the premises hereinbefore conveyed and take possession thereof or to appoint an agent or trustee for collection of the rents, issues, and profits thereof; and the net income after allowing a reasonable fee for the collection thereof and for the management of the property may be applied to the payment of taxes, insurance premiums and other charges against the property and in reduction of the debt or other sums secured hereby. It is agreed that any taking of possession shall in no manner prevent or retard the collection of said sums by foreclosure or otherwise.
 17. Upon default by the Mortgagor in the payment of any installment of interest or of principal and interest under the Mortgage Note secured hereby, or any part thereof, or in the payment of any other sum due hereunder, and such default is not remedied within thirty (30) days, or upon any failure to comply with any covenant or condition of this Mortgage, then the Mortgage Note and the whole of the indebtedness secured hereby shall, at the option of the Mortgagee, become immediately due and payable, without notice of broken conditions and without notice to any party. The same being hereby expressly does hereby authorize and fully empower the Mortgagee to commence suit immediately for the collection of the debt hereby secured, or any part thereof, or for the foreclosure of this Mortgage, or to pursue or obtain any other remedy available to the Mortgagee. At any time after the commencement of an action in foreclosure or any judicial proceedings to enforce any right under this Mortgage, or during the period of redemption, the court having jurisdiction of the case shall, upon application of the Mortgagee and production of this Mortgage, without other evidence and without notice or hearing of such application, appoint a receiver to take immediate possession of said property and of the rents and profits accruing therefrom, and to rent the same as he may deem best for the interest of all parties concerned, and shall be liable to account to the Mortgagor only for the net profits, after application of rents, issues and profits to the costs of receivership and foreclosure and to the indebtedness, charges and expenses hereby secured and herein mentioned. Any failure by the Mortgagee to exercise said option shall not constitute a waiver of the right to exercise the same at any other time.

18. If the Mortgage Note or Mortgage shall be placed in the hands of an attorney for collection or foreclosure, or for protection on the lien hereof, or for other legal proceedings, the Mortgagor will pay a reasonable attorney's fee for any service rendered by an attorney in connection therewith, and all expenses incurred in procuring abstracts of the title for purposes of the foreclosure or other suit, and all other expenses incurred for such purposes, and such attorney's fees and expenses shall be considered as part of the indebtedness secured by this Mortgage.
19. In the event of foreclosure and sale of the mortgaged premises, said premises may be sold in one parcel or several at the election of the Mortgagee. If the proceeds of the sale should be insufficient to pay all costs and expenses of the sale, Attorney's fees and all charges, and the principal and interest on the debt secured hereby including any and all advances made hereunder by or for the account of the Mortgagee, and all other charges as herein provided, the Mortgagee shall be entitled to a judgment for the deficiency.
20. The rights and remedies provided for herein shall be held to be in addition to and not in limitation of those provided by law.
21. No waiver of any covenant herein or of the Mortgage Note secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the Mortgage Note secured hereby.

The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the Mortgagor has caused these presents to be duly executed in its behalf.

Dated: 8/16/02

203 Harrison Street Limited Partnership
By Central States Development, its general partner

By: John C. Foley
John C. Foley, Managing Member

STATE OF IOWA: COUNTY OF

ss:

On this 14 day of August A.D., 2002, before me, the undersigned, a Notary Public in and for said County and State, personally appeared John C. Foley to me personally known, who being by me duly sworn did say he is the managing member of Central States Development, LLC, which is the general partner of 203 Harrison Street Limited Partnership, and that said instrument was signed on behalf of the said Limited Partnership by authority of its general partner, and John C. Foley as managing member of the general partner for the Limited Partnership acknowledged the execution of said instrument to be the voluntary act and deed of said Limited Partnership, by it voluntarily executed.

Daniel D. Walsh
(Notary Public)

