

eligible to receive an offer under that paragraph and are purchasing such Additional Notes in the same proportion as the principal amount of the Notes then held by such eligible holders of the then outstanding Notes is to the aggregate principal amount of all the Notes outstanding under the Mortgage held by all such eligible holders, that the Company has made the irrevocable offer or offers specified in that paragraph.

(3) The documents specified in clauses (b) through (d) and (f) and (g) of Section 6.2 of the Assigned Lease.

(4) The documents specified in clauses (iii) through (viii) of Section 6.2 of the Assigned Lease.

(5) An Officers' Certificate, dated the date of execution and delivery of said supplemental mortgage and a similar Certificate of the same date of the Lessee to the effect that there exists no event or condition which at such time, or after notice or lapse of time or both, would constitute a default under the Assigned Lease, any of the Ground Leases, the Assignment, the Tenesco Agreement or this Mortgage, that the construction in respect of which said Construction Costs have been incurred and any liability of the Company or the Lessee in connection therewith have been insured as required by the Assigned Lease and this Mortgage, that there has been no material adverse change in the financial condition of the Company or the Lessee (as the case may be) since the date of this Mortgage, and that the construction in respect of which said Construction Costs have been incurred is or will be part of the realty subject to the Assigned Lease and this Mortgage, and that no part of such Construction Costs includes the cost of anything not subject to the lien of this Mortgage.

(6) The mortgages, deeds, conveyances, assignments, transfers and instruments of further assurance and the certificate or certificates and other evidence, if any, specified in the opinion of counsel as provided by paragraph (7) of this Section 9.04.

(7) An Opinion or Opinions of Counsel, dated the date of execution and delivery of said supplemental mortgage,

(a) stating that the instruments which have been or are therewith delivered to the Trustee conform to the requirements of this Mortgage and the Assigned Lease and con-

stitute sufficient authority under this Mortgage for the Company to issue said Additional Notes and for the Trustee and the Company to execute and deliver said supplemental mortgage;

(b)(i) specifying the mortgages, deeds, conveyances, assignments, transfers and instruments of further assurance which will be sufficient to subject to the direct lien of this Mortgage and the Assignment, the construction in respect of which the said Construction Costs have been incurred, and stating that upon the recordation or filing in the manner specified in such opinion or opinions of the instruments so specified, no further recording or re-recording or filing or refiling of this Mortgage, the Assigned Lease or the Assignment or any other instrument is required to maintain the lien of this Mortgage and the Assignment upon the Trust Estate as affected by such construction or (ii) stating that no further recordation or filing of this Mortgage, the Assigned Lease or the Assignment or any other instrument is or will be necessary for that purpose, and that the Trust Estate as affected by such construction is then subject to the direct lien of this Mortgage and the Assignment and that no such mortgage, deed, conveyance, transfer or instrument of further assurance is necessary for such purpose;

(c) stating that the Company has a good and valid legal title to the subject Property and that said Property and every part thereof are free and clear of all liens, charges and encumbrances prior to the lien of this Mortgage, except Permitted Encumbrances;

(d) specifying the certificate or other evidence which will be sufficient to show compliance with the requirements, if any, of any mortgage recording tax law or other tax law applicable to the issuance of the said Additional Notes and the execution, delivery, recording and filing of said supplemental mortgage and other instruments referred to above, or stating that there are no such legal requirements;

(e) specifying the certificate or other evidence which will be sufficient to show the authorization, approval or consent, of or to the issuance by the Company of the Additional Notes then applied for, by any federal, state or other govern-