

Insurance Policy to the Co-Mortgagees alone, and not to the Co-Mortgagees and Developer jointly.

(b) Unless the Indebtedness Hereby Secured has been paid in full and whether or not sufficient insurance proceeds are made available to the Developer, the Developer hereby covenants to restore, repair, replace or rebuild the Premises, to be of at least equal value, and of substantially the same character, as prior to such loss or damage, all to be effected in accordance with plans, specifications and procedures to be first submitted to and approved by the Surety, and the Developer shall pay all costs of such restoring, repairing, replacing or rebuilding not covered by insurance proceeds.

SECTION 10. DISBURSEMENT OF INSURANCE PROCEEDS.

Insurance proceeds shall be deposited with the Trustee and invested in Eligible Investments (as defined in the Indenture). If no Default shall then exist hereunder, the Developer, with the consent of the Surety, may elect to prepay the First Secured Note and redeem the Bonds in whole from the proceeds of insurance in accordance with Section 4.06(a)(1) of the Loan Agreement. The Surety hereby agrees to respond to the Developer's request for such consent within 15 days of its receipt of such request. If the First Secured Note is not prepaid in whole the proceeds of insurance shall be held and applied to the restoration, repairing, replacement or rebuilding of the Project as hereinafter in this Section 10 provided. Insurance proceeds which are to be applied for restoration, repairing, replacement or rebuilding of the Premises shall be disbursed from time to time under the terms of a construction escrow agreement acceptable to the Developer, the Trustee and the Co-Mortgagees upon the Surety being furnished with (i) evidence reasonably satisfactory to it of the estimated cost of the restoration, repair, replacement and rebuilding, (ii) funds (or assurances reasonably satisfactory to the Surety that such funds are available) sufficient in addition to the proceeds of insurance, to complete and fully pay for the restoration, repair, replacement and rebuilding, and (iii) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and such other evidences of cost, payment and performance as the Surety may reasonably require and approve. No payment made prior to the final completion of the restoration, repair, replacement and rebuilding shall exceed 95% of the value of the work performed from time to time, as such value shall be determined by the Surety in its sole and exclusive judgment; and at all times the undisbursed balance of such proceeds remaining in the hands of the Trustee, together with funds deposited or irrevocably committed to the satisfaction of the Surety by or on behalf of the Developer to pay the cost of such repair, restoration, replacement or rebuilding, shall be sufficient in the reasonable judgment of the Surety to pay the entire unpaid cost of the restoration, repair, replacement or rebuilding, free and clear of all liens or claims for lien. So long as no Default shall then exist hereunder, any surplus which may remain out of insurance proceeds held by the Trustee after payment of such costs of restoration, repair, replacement or rebuilding shall either be applied to the prepayment of the First Secured Note or paid to the Developer, as the Developer shall direct. If a Default shall then exist hereunder the proceeds of insurance shall be applied in accordance with the provisions of Section 22 hereof. Any proceeds of insurance or other funds held by the Trustee pending disbursement may be invested at the written direction of the Developer in Eligible Investments and all investment earnings shall be deemed to be a part of the insurance proceeds to be deposited with and held by the Trustee and disbursed in accordance with the foregoing provisions.

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