

685492

FHA Form No. 4119-B
(CORPORATE)
(Revised April 1963)

MORTGAGE

*Ret. To Wilcox
EM 112209-82*

4

THIS MORTGAGE, made this -----27th----- day of -----October-----, 1982,
by BROOKHAVEN ASSOCIATES LIMITED PARTNERSHIP, a limited partnership-----
----- of the State of -----Maryland-----, with its principal place of business at 21 West Road,
Towson, Maryland 21204----- (hereinafter referred to as the "Mortgagor"), and
PULLER MORTGAGE ASSOCIATES, INC.-----
a corporation organized and existing under the laws of the State of -----Indiana-----, with its principal
place of business at 8604 Allisonville Road, Indianapolis, Indiana 46250-----
(hereinafter referred to as the "Mortgagee");

WITNESSETH: That Mortgagor hereby mortgages and warrants to Mortgagee the real property situated in the
-----Town of Dyer-----, County of -----Lake-----
State of Indiana, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

685496

For assignment see doc #

PIONEER NAT'L TITLE INS. CO.

STATE OF INDIANA, S. NO
LAKE COUNTY
FILED FOR RECORD IN
OCT 27 2 42 PM '82
WILLIAM STELSKI JR
RECORDER

TOGETHER WITH all rents and other revenues thereof and all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, including any after-acquired title, franchise, licenses or easements and also with all right, title and interest of the Mortgagor from time to time in and to any and all buildings and improvements thereon and all heating, lighting, plumbing, cooking, incinerating, ventilating, air-conditioning, laundry and refrigerating equipment, and all elevators and motors, engines and machinery, sprinkler systems, ice boxes, storm and screen doors, screens, awnings, window shades, blinds, floor coverings, fixtures, equipment and other property now or hereafter owned by Mortgagor, or any successor in title, and attached to or used in connection with the real estate hereinabove described, AND ALSO all furnishings and articles of personal property now or hereafter attached to or 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, chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner (the Mortgagor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty); all of which property, together with all and any replacements thereof, shall be deemed a portion of the security for the indebtedness herein mentioned and secured by this Mortgage, and all of the property hereinbefore mentioned is hereinafter designated as "mortgaged property"; and

Together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein.

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TO HAVE AND TO HOLD the mortgaged property together with all and singular the privileges and appurtenances, tenements, hereditaments, easements and rights-of-way thereunto belonging or usually enjoyed with said mortgaged property or any part thereof and the reversions, remainder and remainders unto the Mortgagee and its successors and assigns forever.

THIS MORTGAGE is given to secure:

FIRST, payment of the indebtedness evidenced by one Promissory Note in the principal amount of THREE MILLION THREE HUNDRED FORTY-SIX THOUSAND SEVEN HUNDRED AND NO/100-----
-----Dollars (\$3,346,700.00) of even date herewith executed by the Mortgagor payable to the Mortgagee, or order, bearing interest from date on outstanding balances at Fifteen per centum (15%) per annum,* said principal and interest being payable in-----360-----monthly installments beginning on the first day of the 20th month following the date hereof with a final maturity of May 1, 2014, which Note is identified as being secured hereby by a certificate thereon. Said Note and all of its terms are incorporated herein by reference and this conveyance shall secure any and all extensions thereof, however evidenced.

SECOND, payment by Mortgagor to Mortgagee as herein provided, of all sums expended or advanced by Mortgagee pursuant to any term or provision of this Mortgage; and

THIRD, performance of each covenant and agreement of Mortgagor herein contained.

The Mortgagor covenants with the Mortgagee that Mortgagor is lawfully seized in fee simple of the mortgaged property; that said property is free from all encumbrances and liens whatsoever, that Mortgagor has a good and legal right to mortgage and warrant the same to Mortgagee; and that Mortgagor will warrant and defend the title to said property to Mortgagee forever against the claims and demands of any person or persons whomsoever; and Mortgagor will execute, acknowledge and deliver all and every such further assurances unto Mortgagee of all and singular the mortgaged property hereby mortgaged and conveyed and intended so to be, or which Mortgagor may be or become hereinafter bound so to do.

FOR THE CONSIDERATION AFORESAID, it is hereby covenanted and agreed by the Mortgagor to and with the Mortgagee:

1. That Mortgagor will pay the Note at the times and in the manner provided therein;
 2. That Mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Mortgage was executed;
 3. That the Regulatory Agreement, if any, executed by the Mortgagor and 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 Federal Housing Commissioner, the Mortgagee, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;
 4. That all rents, profits and income from the property covered by this Mortgage are hereby assigned to the Mortgagee for the purpose of discharging the debt hereby secured. Permission is hereby given to 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;
 5. That upon default hereunder Mortgagee shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;
 6. That at the option of the Mortgagor the principal balance secured hereby may be reamortized on terms acceptable to the Federal Housing Commissioner if a partial prepayment results from an award in condemnation in accordance with provisions of paragraph 8 herein, or from an insurance payment made in accordance with provisions of paragraph 7 herein, where there is a resulting loss of project income;
 7. That 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 Federal Housing Commissioner upon the insurance of the Mortgage and other hazards as may be required 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 eighty per centum (80%) of the Insurable Values or not less 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 Federal Housing Commissioner as interest may appear, and shall be deposited with the Mortgagee;
- That 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;
8. That all awards of damages in connection with any condemnation for public use of or injury to any of said property are hereby assigned and shall be paid to Mortgagee, who may apply the same to payment of the installments last due under said Note, and Mortgagee is hereby authorized, in the name of Mortgagor, to execute and deliver valid acquittances thereof and to appeal from any such award;
 9. That concurrently with payments of interest or principal and interest, the Mortgagor will pay monthly on the first day of each month after the date hereof until said Note is fully paid to the Mortgagee the following sums:
 - (a) An amount sufficient to provide the Mortgagee with funds to pay the next mortgage insurance premium if this instrument and the Note secured hereby are insured, or a monthly service charge, if they are held by the Federal Housing Commissioner, as follows:
 - (i) If and so long as said Note of even date and this instrument 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 Federal Housing Commissioner pursuant to the National Housing Act, as amended, and applicable Regulations, thereunder, or
 - (ii) If and so long as said Note of even date and this instrument are held by the Federal Housing Commissioner, a monthly service charge in an amount equal to $\frac{1}{2}$ of $\frac{1}{2}\%$ of the average outstanding principal balance due on the Note computed for each successive year beginning with the first day of the month following the date of this instrument, if the Federal Housing Commissioner is the Mortgagee named herein, or the first day of the month following assignment, if the Note and this instrument are assigned to the Federal Housing Commissioner, without taking into account delinquencies or prepayment;

*up to and including December 31, 1983; commencing January 1, 1984, interest shall be payable at the rate of 11.85% per annum.

(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 the two preceding subsections of this paragraph and all payments to be made under the 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 Insurance with 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 Note secured hereby;
- (iv) amortization of the principal of said Note;

10. Any excess funds accumulated under (b) of the preceding paragraph 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, or if the Mortgagor shall fail to pay any other governmental or municipal charge, the Mortgagor shall forthwith make good the deficiency or pay the charge before the same become delinquent or subject to interest or penalties and in default thereof the Mortgagee may pay the same. All such sums so paid by the Mortgagee and any sums which the Mortgagee may be required to advance to pay mortgage insurance premiums shall be added to the principal of the debt secured hereby and shall bear interest from the date of payment at the rate specified in the Note and shall be due and payable on demand. 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 (a) of the preceding paragraph hereof 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 (b) of the preceding paragraph shall be credited to the principal of the Mortgage as of the date of the commencement of foreclosure proceedings or as of the date the property is otherwise acquired; and accumulations under (a) thereof shall be likewise credited unless required to pay sums due the Federal Housing Commissioner under the Contract of Mortgage Insurance;

11. That Mortgagor will take reasonable care of the mortgaged premises and the buildings thereon, and will maintain the same in as good repair and condition as at the original date of this Mortgage, ordinary depreciation excepted; and that it will commit or permit no waste or nuisance of any kind, and will not make any structural alterations in the buildings without the written consent of the Mortgagee, and will do no act which would unduly impair or depreciate the value of the property as security, and on the failure of the Mortgagor to perform these covenants, or any part thereof, the Mortgagee may make such repairs as in its discretion it may deem necessary for the proper preservation thereof, and any sums paid for such repairs shall bear interest from the date of payment at the rate specified in the Note, shall be due and payable on demand and shall be fully secured by this Mortgage;

12. That so long as this Mortgage and the said Note secured hereby are insured or held by 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 or creed;

13. That the funds to be advanced herein are to be used in the construction of certain improvements on the lands herein described, in accordance with a building loan agreement between the Mortgagor and the Mortgagee, and dated September 23, 1982, 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 be discontinued at any time for any reason other than strikes or lock-outs, the Mortgagee, after due notice to the Mortgagor or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depredation or injury and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings; to make and enter into any contracts and obligations wherever necessary, either in its own name or in the name of the Mortgagor, or other owner, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by the Mortgagee (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this Mortgage and shall be due and payable on demand with interest at the rate specified in the Note, but no such advances shall be insured unless same are specifically approved by the Federal Housing Commissioner prior to the making thereof. The principal sum and other charges provided for herein shall, at the option of the Mortgagee or holder of this Mortgage and the Note secured hereby, become due and payable on the failure of the Mortgagor, or other owner, 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;

14. The Mortgagor covenants that it 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 that it will keep and maintain the same free from the claim of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises;

15. The Mortgagor covenants and warrants that the improvements about 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 that 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 having jurisdiction which may now or hereafter become applicable;

16. That the Mortgagee shall have the right to inspect the mortgaged premises at any reasonable time;

17. No sale of the premises hereby mortgaged and no forbearance on the part of the Mortgagee or its assigns and no extension of the time for the payment of the debt hereby secured given by the Mortgagee or its assigns shall operate to release, discharge, modify, change or affect the original liability of the Mortgagor herein either in whole or in part;

18. That in the event of default in making any monthly payment provided for herein or in the Note secured hereby, and if such default is not made good prior to the due date of the next such installment or in the event of a breach of any other stipulation, agreement, condition and covenant of this Mortgage, then in any such case, the whole principal sum of said Note shall, at the option of the Mortgagee, be deemed to have become immediately due, and the same with interest thereon and with all other costs and charges, shall thereupon be collectible by foreclosure of this Mortgage;

19. That no waiver of any covenant herein or of the Note secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the Note secured hereby;

20. That in case of foreclosure of this Mortgage in any court of law or equity and whether or not any order or decree shall have been entered therein, a reasonable sum shall be allowed for attorneys' fees of the plaintiff in such proceeding, and in addition thereto a reasonable sum for stenographers' fees and for all moneys expended for documentary evidence and the cost of a complete abstract of title and title report for the purpose of such foreclosure, such sums to be secured by the lien hereunder; and there shall be included in any judgment or decree foreclosing this Mortgage and be paid out of said rents or the proceeds of any sale made in pursuance of any such judgment or decree: (1) All costs and expenses of such suit or suits, advertising, sale and conveyance, including attorneys', solicitors' and stenographers' fees, outlays for documentary evidence and cost of said abstract, examination of title and title report; (2) all moneys advanced by Mortgagee, if any, for any purpose authorized in this Mortgage, with interest as herein provided; (3) all the accrued interest remaining unpaid on the indebtedness hereby secured; (4) all the said principal money remaining unpaid. The overplus of the proceeds, if any, shall be paid to the said Mortgagor on reasonable request, or as the court may direct. If the proceeds are insufficient to pay the total indebtedness, the Mortgagee will be entitled to a deficiency judgment. The sale of the mortgaged premises may be made either as a whole or in parcels;

21. That Mortgagor hereby waives, to the extent permitted by law, the benefits of all valuation, appraisalment, homestead, exemption, stay, redemption and moratorium laws, now in force or which may hereafter become laws.

This Mortgage and all the covenants and agreements herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto; and to the extent permitted by law, shall bind any subsequent owner of the mortgaged premises or any part thereof. The term "Mortgagee" shall include any lawful owner or holder of the mortgage debt. Whenever used the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

PROVIDED ALWAYS, that if the Mortgagor shall well and truly perform all the terms, conditions, and covenants of this Mortgage and of the Note secured hereby, then this Mortgage and the Note secured hereby shall cease, and become void and of no effect.

22. See Rider I attached hereto and made a part hereof.

IN WITNESS WHEREOF, the Mortgagor has caused this instrument to be duly executed in its behalf by its General Partner the day and year first above written.

WITNESS:

BROOKHAVEN ASSOCIATES LIMITED PARTNERSHIP

[Signature]
/s/ William S. Tennant
William S. Tennant

[Signature]
By: /s/ Michael J. Batza, Jr.
Michael J. Batza, Jr., General Partner

The form of this instrument was prepared by the Office of the General Counsel of the Federal Housing Administration, and the material in the blank space in the form was inserted by or under the direction of William S. Tennant, Esq., Krooth & Altman, 2101 L Street, N.W., Washington, D.C. 20037.

STATE OF INDIANA

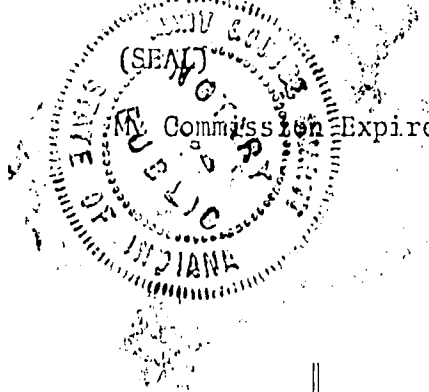
} ss:

Before me, Mary Louise Smartt, a Notary Public, this 27th day of October, 1982, personally appeared BROOKHAVEN ASSOCIATES LIMITED PARTNERSHIP by MICHAEL J. BATZA, JR., its General Partner, and acknowledged the execution of the foregoing Mortgage.

[Signature]
Notary Public

Commission Expires: June 26, 1984

Resides in Marion County,



STATE OF INDIANA

Loan No. 073-43070-PM/IC

Mortgage

BROOKHAVEN ASSOCIATES LIMITED PARTNERSHIP

TO

PULLER MORTGAGE ASSOCIATES, INC.

Received for record this _____ day

of _____, 19____,

at _____ o'clock _____ M., and recorded in

Mortgage Record _____ at pages _____

of the records of _____ County,

Indiana.

Recorder of _____ County, Indiana.

GPO 938-650

RIDER I

to

Mortgage dated October 27, 1982

21. The covenant of the Mortgagor to pay principal and interest is included in the Note secured hereby for the purpose of establishing and continuing the existence of the indebtedness. However, it is a condition of said covenant and those contained herein, that in the event of default under the terms of said Note or under the terms hereof, the Mortgagee shall take no action against the Mortgagor for the collection of any sum of money, nor will it seek a deficiency judgment or other personal monetary liability of Mortgagor, except that the Mortgagee may take such action as may be necessary to subject the property described herein and any chattels appurtenant to the use thereof to the satisfaction of the indebtedness; PROVIDED, that nothing in this condition and no action so taken shall operate to impair any obligation of the Mortgagor under the Building Loan Agreement or the Regulatory Agreement herein referred to and incorporated herein by reference.

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 1 in Brookhaven Addition to the Town of Dyer, as per plat thereof, recorded in Plat Book 53 page 59, in the Office of the Recorder of Lake County, Indiana, said parcel being a part of the East Half of Section 1, Township 35 North, Range 10 West of the 2nd Principal Meridian more particularly described as beginning at the Northwest corner of Lot 486 in Northgate 8th Addition to Dyer, as per plat thereof, recorded in Plat Book 43, page 148 in the Office of the Recorder of Lake County, Indiana, thence South $0^{\circ}-16'-46''$ West along the West line of said Northgate 8th Addition 984.30 feet to a point on the North line of Northgate 4th Addition to Dyer as per plat thereof, recorded in Plat Book 41, page 103 in the Office of the Recorder of Lake County, Indiana; thence North $72^{\circ}-22'-12''$ West along said North line of Northgate 4th Addition 474.25 feet; thence North $17^{\circ}-37'-48''$ East a distance of 884.52 feet to a point which is 225.0 feet South, by perpendicular lines, of the North line of the East Half of Section 1; thence South $89^{\circ}-52'-10''$ East along a line which is parallel with and 225.0 feet South of said North line 188.94 feet to the point of beginning, all in the Town of Dyer, Lake County, Indiana.