

C86-105B

ADDENDUM NO. 3 TO LEASE AGREEMENT

THIS ADDENDUM NO. 3 TO LEASE AGREEMENT is entered into this 25th day of May, 1989, by and between the CITY OF TEMPE, a municipal corporation of the State of Arizona (hereinafter called "Lessor") and TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, an Arizona limited partnership, successor by assignment to The Westcor Company (hereinafter called "Lessee").

WITNESSETH:

WHEREAS, Lessor and Lessee have entered into a certain Lease Agreement dated November 20, 1984, a memorandum of which was recorded on October 15, 1986, in the land records of the County of Maricopa, Arizona, in Document No. 86-565646 as amended by that Certain Addendum No. 1 to Lease Agreement between Lessor and Lessee, dated May 30, 1986 and further amended by that certain Addendum No. 2 to the Lease between Lessor and Lessee, dated February 20, 1987, (the "Lease"), pursuant to which Landlord has leased to Tenant certain real property located in Tempe, Arizona, which real property is more particularly described in the Lease; and

WHEREAS, Landlord and Tenant desire to amend the Lease to set forth certain provisions in regard to the legal descriptions of the premises; more specifically by reconfiguring Parcel A-2 to better facilitate an originally intended expansion of leasehold improvements.

WHEREAS, the reason for this reconfiguration is to better enable Lessee to commence the originally contemplated Phase II construction on Parcel A-2 so as to be synergistically compatible with Phase I construction and environmentally harmonious with the surrounding terrain.

NOW, THEREFORE, in consideration of the mutual provisions and covenants of the parties hereto and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. The original Exhibit A to the Lease as heretofore amended by paragraph 3 of Addendum No. 2, is hereby replaced for all purposes by Exhibit "A" attached to this Addendum No. 3.
2. In the event of any inconsistency between the Lease Agreement, Addendum No. 1, Addendum No. 2 and this Addendum No. 3, this Addendum No. 3 shall control.
3. Pursuant to Section 18.15 added to the Lease Agreement by Addendum No. 2, Shimizu Land Corporation, a New York corporation, hereby consents to the amendment of the Lease Agreement by this Addendum No. 3.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 3 on the date first written above.

Approved As to Form

Date: 5-27-99

By: [Signature]
Tempe City Attorney's Office

Attest:

[Signature]
Helen R. Fowler, CMC
City Clerk

LANDLORD:

CITY OF TEMPE,
a municipal corporation

By: [Signature]
Mayor

TENANT:

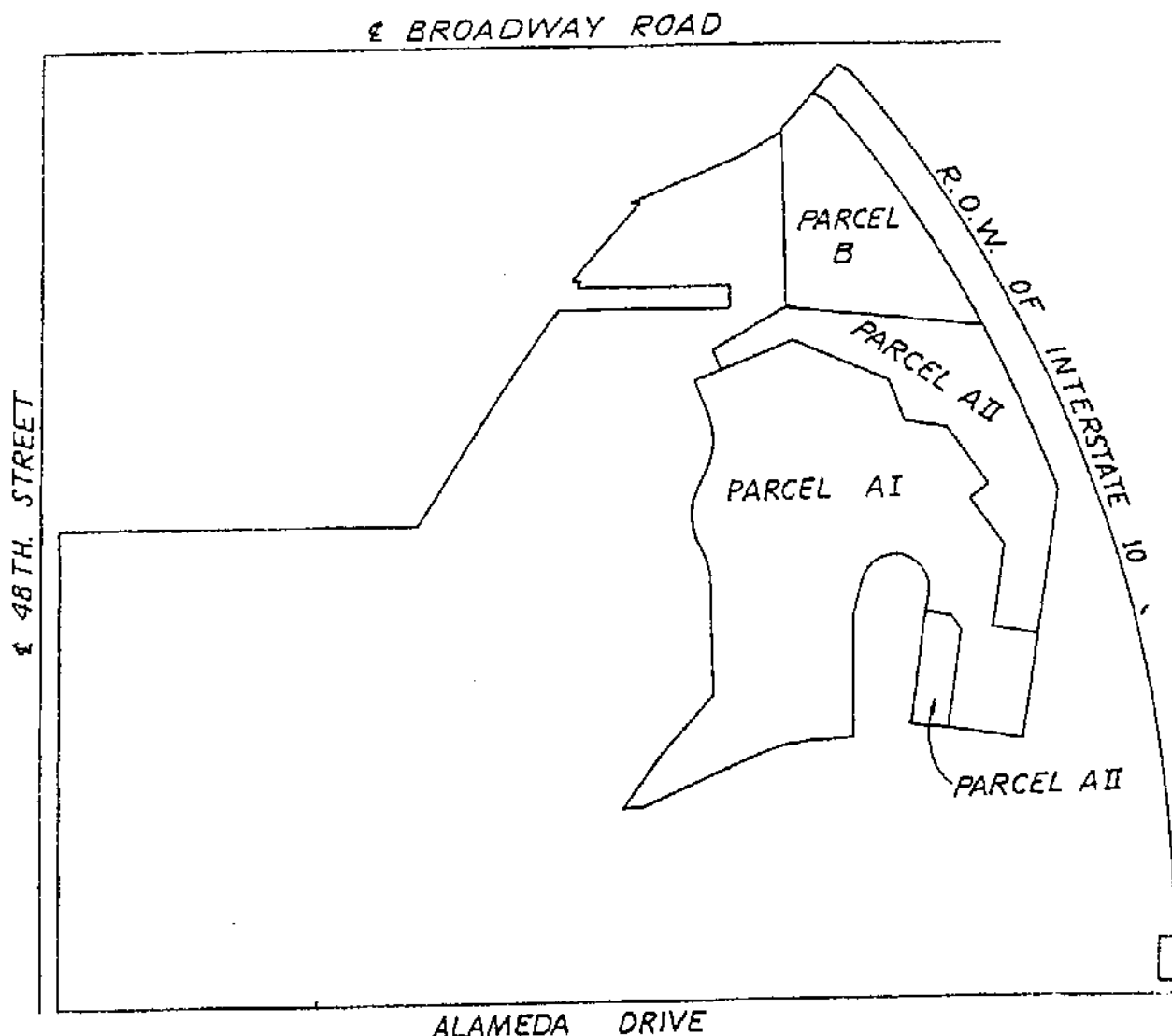
TEMPE BUTTES HOTEL LIMITED
PARTNERSHIP, an Arizona limited
partnership

By: The Westcor Company Limited
Partnership, an Arizona
limited partnership

By 
General Partner

By: Shimizu Land Corporation, a
New York corporation

By 
Title SECRETARY



WESTCOURT IN THE BUTTES
 PARCEL EXHIBIT MAP



Collar, Williams & White Engineering, Inc.
 Consulting Engineers and Land Surveyors
 2422 NORTH 70TH STREET
 ANCHORAGE, ALASKA 99503

Collar, Williams & White Engineering

DONALD H. COLLAR, P.E., R.L.S.
President
ROBERT R. WAGNER, P.E., R.L.S.
Vice President

Consulting Engineers
2702 N. 44th Street, Suite 205-B
Phoenix, Arizona 85008
(602) 957-3350

Description

For

CWV No. 840804

Cornoyer-Hedrick

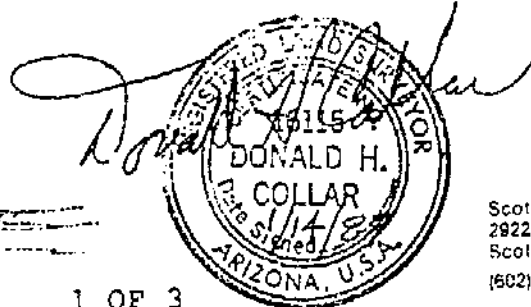
January 14, 1987

PARCEL A1 AT WESTCOURT IN THE BUTTES

Being a portion of the north half of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the North Quarter Corner of said Section 29;
THENCE S00°07'15"W, 1227.35 feet;
THENCE N89°52'45"W, 29.17 feet to the TRUE POINT OF BEGINNING;
THENCE S52°58'18"W, 67.00 feet;
THENCE S37°01'42"E, 162.25 feet;
THENCE S07°58'18"W, 230.86 feet;
THENCE S82°01'42"E, 127.00 feet;
THENCE S07°58'18"W, 292.68 feet;
THENCE N82°01'42"W, 215.00 feet;
THENCE N07°58'18"E, 270.68 feet;
THENCE N37°01'42"W, 52.33 feet;
THENCE N82°01'42"W, 70.00 feet;
THENCE N07°58'18"E, 51.21 feet to a point marking the beginning of a tangent curve, having a radius of 96.00 feet to the left;

BL/yh



Scottsdale Office:
2922 N. 70th Street
Scottsdale, Arizona 85251
(602) 947-5433

Description For
Corneyer-Hedrick
PARCEL A1 AT WESTCOURT IN THE BUTTES
CWW No. 840804
January 14, 1987

THENCE along the arc of said curve, through a central angle of
174°21'43", having an arc distance of 292.15 feet;
THENCE S13°36'30"W, 96.28 feet;
THENCE S00°00'00"W, 339.33 feet;
THENCE S86°40'38"W, 106.34 feet to a point marking the beginning of a
non-tangent curve, the central point of which bears S03°01'58"E, 410.00
feet;
THENCE westerly, along the arc of said curve, through a central angle
of 21°25'09", having an arc distance of 153.27 feet;
THENCE S65°37'46"W, 352.95 feet;
THENCE S83°32'54"W, 60.00 feet;
THENCE N35°23'41"E, 183.69 feet;
THENCE N41°00'00"E, 219.69 feet;
THENCE N01°40'00"W, 313.05 feet to a point marking the beginning of a
tangent curve, having a radius of 197.50 feet to the left;
THENCE along the arc of said curve, through a central angle of
28°53'00", having an arc distance of 99.56 feet to a point of reverse
curvature marking the beginning of a tangent curve, the central point
of which bears N59°27'00"E, 179.50 feet;
THENCE northerly, along the arc of said curve, through a central angle
of 56°47'00", having an arc distance of 177.89 feet;
THENCE N26°14'00"E, 45.63 feet to a point marking the beginning of a
tangent curve, having a radius of 197.50 feet to the left;
THENCE along the arc of said curve, through a central angle of

Description For
Cornoyer-Hedrick
PARCEL A1 AT WESTCOURT IN THE BUTTES
CWW No. 840804
January 14, 1987

49°00'00", having an arc distance of 168.90 feet;

THENCE N22°46'00"W, 96.19 feet;

THENCE N67°58'18"E, 293.34 feet;

THENCE S67°01'42"E, 290.25 feet;

THENCE S22°01'42"E, 120.23 feet;

THENCE S82°01'42"E, 120.23 feet;

THENCE S37°01'42"E, 197.93 feet to the TRUE POINT OF BEGINNING.

Comprising 16.60000 Acres, more or less, subject to all easements
of record.

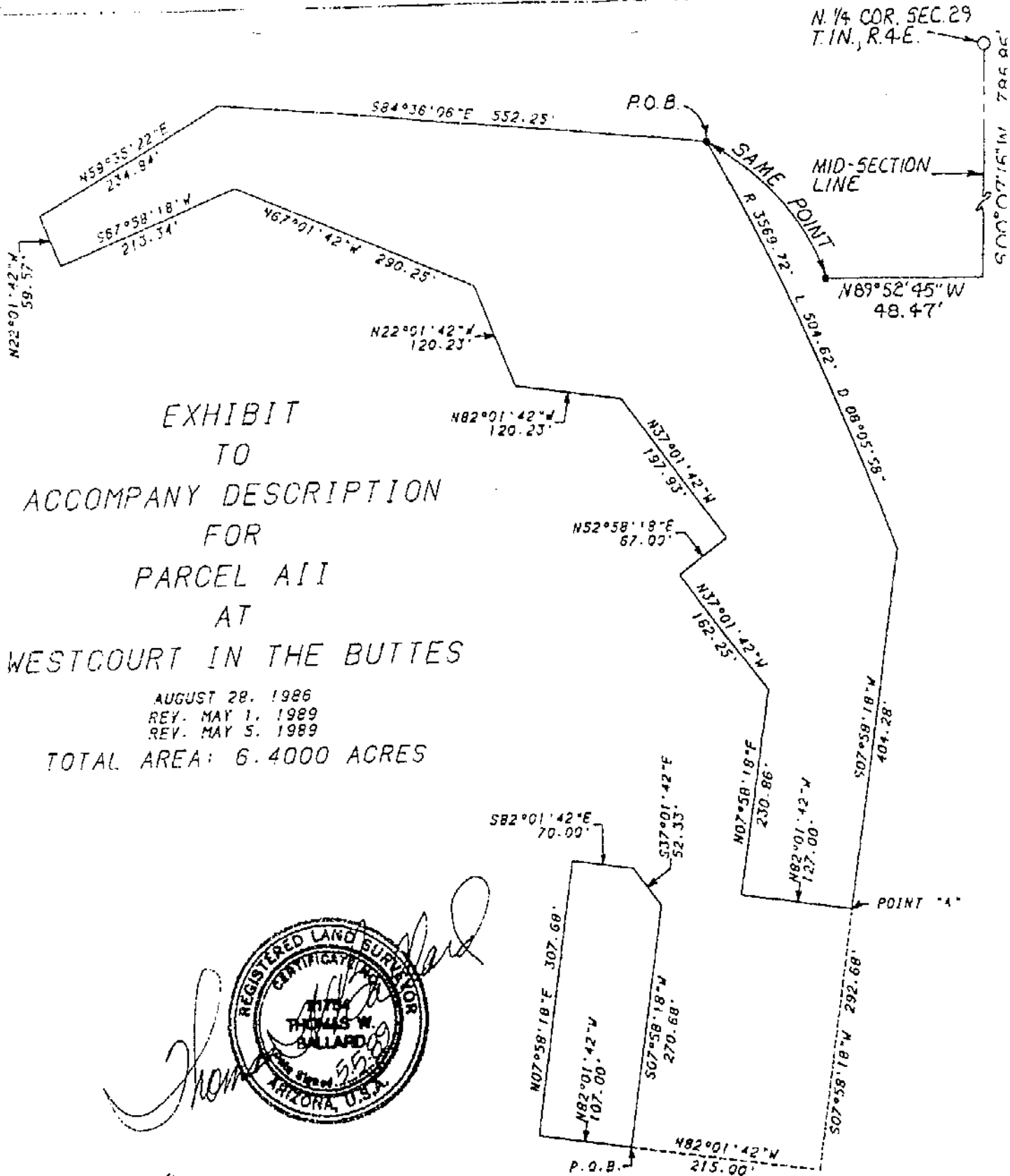


EXHIBIT
 TO
 ACCOMPANY DESCRIPTION
 FOR
 PARCEL A11
 AT
 WESTCOURT IN THE BUTTES

AUGUST 28, 1986
 REV. MAY 1, 1989
 REV. MAY 5, 1989
 TOTAL AREA: 6.4000 ACRES

Thomas W. Ballard
 REGISTERED LAND SURVEYOR
 THOMAS W. BALLARD
 ARIZONA, U.S.A.



SCALE 1"=150'

Collar, Williams & White Engineering, Inc.
 Consulting Engineers
 2702 N. 44TH STREET, SUITE 308-B
 PHOENIX, ARIZONA 85008
 (602) 947-2222
 2322 NORTH 78TH STREET
 SCOTTSDALE, ARIZONA 85261
 (602) 947-8422

| | | |
|----------------------------|------------------|-------------------------|
| DESIGN PROJ. NO. 890501 | SURVEY PROJ. NO. | PREPARED DATE 5-5-89 |
|----------------------------|------------------|-------------------------|

COLLAR, WILLIAMS & WHITE ENGINEERING

Description

For

CWW No. 890501

Cornoyer-Hedrick

Rev. May 5, 1989

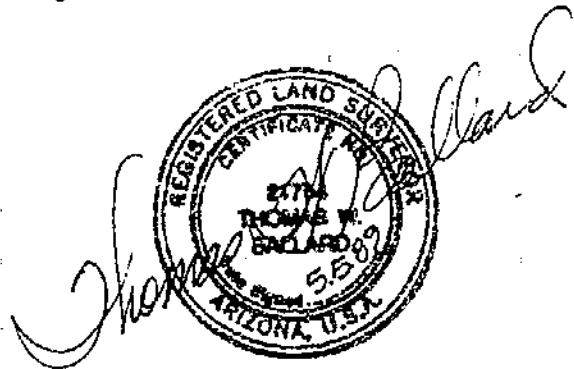
May 1, 1989

PARCEL A11 AT WESTCOURT IN THE BUTTES

Being a portion of the north half of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the north Quarter Corner of said Section 29;
THENCE S00°07'15"W, along the north-south mid-section line of said Section, 785.85 feet;
THENCE N89°52'45"W, 48.47 feet to a point on the westerly right-of-way line of Interstate Highway I-10, said point being the POINT OF BEGINNING and marking the beginning of a non-tangent curve, the central point of which bears S61°02'08"W, 3569.72 feet;
THENCE southeasterly, along the arc of said curve, through a central angle of 8°05'58", having an arc distance of 504.62 feet;
THENCE S07°58'18"W, 404.28 feet, to a point hereinafter referred to as Point "A";
THENCE N82°01'42"W, 127.00 feet;
THENCE N07°58'18"E, 230.86 feet;
THENCE N37°01'42"W, 162.25 feet;

WB/wb



Description For
Cornoyer-Hedrick
PARCEL A11 AT WESTCOURT IN THE BUTTES
CWW No. 890501
May 1, 1989
Rev. May 5, 1989

THENCE N52°58'18"E, 67.00 feet;
THENCE N37°01'42"W, 197.93 feet;
THENCE N82°01'42"W, 120.23 feet;
THENCE N22°01'42"W, 120.23 feet;
THENCE N67°01'42"W, 290.25 feet;
THENCE S67°58'18"W, 213.34 feet;
THENCE N22°01'42"W, 59.57 feet;
THENCE N59°35'22"E, 234.84 feet;
THENCE S84°36'06"E, 552.25 feet to the POINT OF BEGINNING.

Comprising 5.660 Acres.

ALSO INCLUDING that parcel more particularly described as follows:

COMMENCING at aforementioned point "A";

THENCE S07°58'18"W, 292.68 feet;
THENCE N82°01'42"W, 215.00 feet to the POINT OF BEGINNING;
THENCE continue N82°01'42"W, 107.00 feet;
THENCE N07°58'18"E, 307.68 feet;
THENCE S82°01'42"E, 70.00 feet;
THENCE S37°01'42"E, 52.33 feet;
THENCE S07°58'18"W, 270.68 feet to the POINT OF BEGINNING.

Comprising 0.740 Acres.

Both portion of subject parcel comprising 6.400 Acres collectively
more or less, subject to all easements of record.

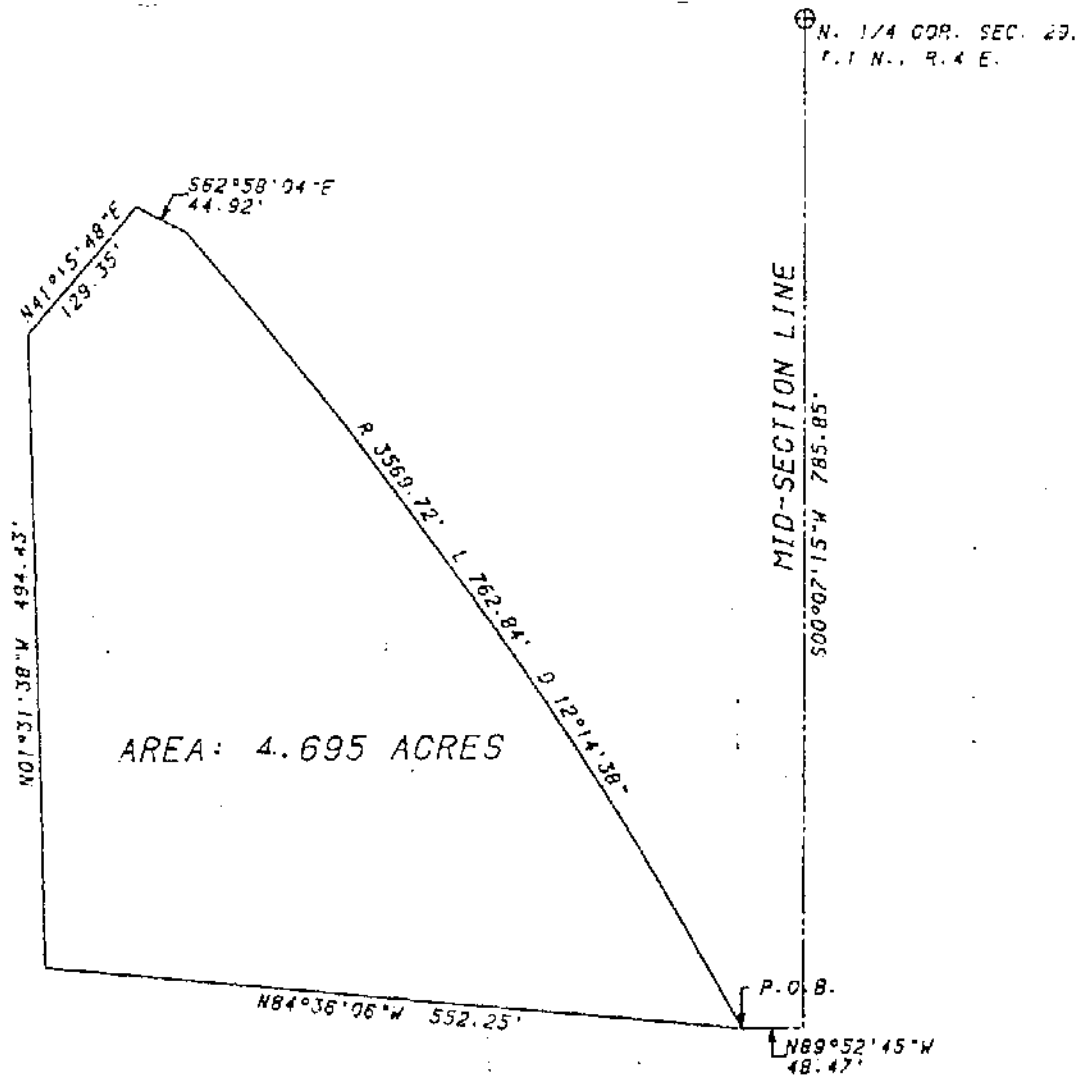


EXHIBIT TO ACCOMPANY DESCRIPTION
FOR
PARCEL B
AT
WESTCOURT IN THE BUTTES

AUGUST 28, 1986
REV. MAY 1, 1989
REV. MAY 5, 1989



SCALE 1"=150'

Collar, Williams & White Engineering, Inc.
Consulting Engineers

2702 N. 44TH STREET, SUITE 206-B
PHOENIX, ARIZONA 85008
(602) 947-3320

2022 NORTH TENTH STREET
SCOTTSDALE, ARIZONA 85257
(602) 947-8423

| | | |
|----------------------------|------------------|-------------------------|
| DESIGN PROJ. NO. 890501 | SURVEY PROJ. NO. | PREPARED DATE 5-5-89 |
|----------------------------|------------------|-------------------------|

GULLAR, WILLIAMS & WHITE ENGINEERING

REGISTERED LAND SURVEYORS

Description

For

CWW No. 890501

Corneyer-Hedrick

Rev. May 5, 1989

May 1, 1989

PARCEL B AT WESTCOURT IN THE BUTTES

Being a portion of the northwest quarter of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the north Quarter Corner of said Section 29;
THENCE S00°07'15"W, along the east line of said northwest quarter, 785.85 feet;
THENCE N89°52'45"W, 48.47 feet to a point on the westerly right-of-way line of Interstate Highway I-10, said point being the POINT OF BEGINNING;
THENCE N84°36'06"W, 552.25 feet;
THENCE N01°31'38"W, 494.43 feet;
THENCE N41°15'48"E, 129.35 feet;
THENCE S62°58'04"E, 44.92 feet to a point on said westerly right-of-way line, said point marking the beginning of a non-tangent curve, the central point of which bears S48°47'29"W, 3569.72 feet;
THENCE southeasterly, along said right-of-way line and along the arc of said curve, through a central angle of 12°14'38", having an arc

WB/wb



Description For
Corneyer-Hedrick
PARCEL B AT WESTCOURT IN THE BUTTES
CWW No. 890501
May 1, 1989
Rev. May 5, 1989

distance of 762.84 feet to the POINT OF BEGINNING.

Comprising 4.695 Acres, more or less, subject to all easements of
record.

ORDINANCE NO. 1100

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF TEMPE, ARIZONA,
AUTHORIZING THE LEASE OF CERTAIN
REAL PROPERTY OWNED BY THE CITY
OF TEMPE TO WESTCOX HOTEL COMPANY.

* * * * *

WHEREAS, the City of Tempe requested proposals for the development of a resort hotel on land owned by the City, and

WHEREAS, Westcox submitted a proposal to the City on or about March 15, 1984, and

WHEREAS, the City Council has determined that it is desirable for the City to enter into a lease agreement with Westcox for the construction and operation of a first class luxury conference resort and related facilities,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

SECTION I. The City Council does hereby authorize the conveyance of certain real property owned by the City to Westcox Hotel Company, all as is more particularly set forth in that certain Lease Agreement, attached hereto as Exhibit A.

SECTION II. That the Mayor is hereby authorized to execute such Lease Agreement together with other necessary and/or desirable documents to carry out the intent of this undertaking.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 27th day of September, 1984.

Harry E. Mitchell
Mayor

ATTEST:

Virginia Thompson
City Clerk

APPROVED AS TO FORM:

Robert M. Muehl
City Attorney

UPON RECORDATION, RETURN TO:
MAX E. GREENBERG, CANTOR,
TRAGER & TOPLITZ
100 CHURCH STREET, SUITE 1620
NEW YORK, NEW YORK 10007
ATTN: TODD L. HERBST, ESQ.

C 86-105 B

MEMORANDUM OF ADDENDUM NO. 2 AND ADDENDUM NO. 3 OF LEASE

This Memorandum of Addendum No. 2 and Addendum No. 3 of Lease (the "Memorandum of Addendums") is entered into and recorded with respect to that certain unrecorded (i) Addendum No. 2 of Lease dated February 20, 1987 (the "Addendum No. 2") by and between the CITY OF TEMPE, a municipal corporation of the State of Arizona (hereinafter referred to as "Lessor") and TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, an Arizona limited partnership, successor by assignment to Westcox Hotel Company (hereinafter referred to as "Lessee"); and (ii) Addendum No. 3 of Lease dated May 22, 1989 (the "Addendum No. 3") by and between Lessor and Lessee.

RECITALS

A. As of November 20, 1984, Lessor and Westcox Hotel Company, an Arizona corporation, as lessee, entered into a Ground Lease ("Lease"), as evidenced by a Memorandum of Lease dated August 15, 1986 and Addendum No. 1 to said Lease dated May 30, 1986, recorded October 15, 1986 in Document 86565646, as corrected by Memorandum of Lease recorded February 7, 1987 in Document No. 87068485, all in the Official Records of Maricopa

County, Arizona.

B. Westcox Hotel Company's interest, as lessee, was assigned to Lessee by assignment recorded in Document No. 87007239 in the Official Records of Maricopa County, Arizona.

C. For good and valuable consideration, Lessor and Lessee have amended the Lease pursuant to the Addendum No. 2 and the Addendum No. 3 and desire to modify the Memorandum of Lease to give notice of the Addendum No. 2 and Addendum No. 3 (Addendum No. 2 and Addendum No. 3 are hereinafter sometimes collectively referred to as the "Addendums").

NOW THEREFORE, Lessor and Lessee hereby amend the Memorandum of Lease as follows:

I. Amendments. Lessor and Lessee amended the Lease in the following respects, among others:

A. Premises. Notwithstanding anything to the contrary in the Memorandum of Lease, Lessor and Lessee by the Addendums revised the legal description of Parcels AI, AII and B to reconfigure the existing Parcels to better enable Lessee to commence the originally contemplated Phase II construction on Parcel AII so as to be synergistically compatible with Phase One

construction, environmentally harmonious with the surrounding terrain and to better facilitate the originally intended expansion of leasehold improvements. Under the Addendums, the legal description of the premises shall be as set forth in the attached "Schedule 1."

B. Construction of Phase II. Lessor and Lessee added provisions relating to the construction of Phase II.

C. Development of Parcel B. Lessor and Lessee amended provisions relating to the development of Parcel B.

D. Casualty Insurance; Liability and Property Damage Insurance. Lessor and Lessee amended provisions governing insurance coverage under the Lease.

E. Right to Ingress and Egress. Lessor and Lessee amended provisions governing the right of ingress and egress to the premises.

F. Hypothecation of Leasehold Estate. Lessor and Lessee amended and added provisions relating to leasehold mortgages.

G. Schedule of Charges. Lessor and Lessee amended provisions relating to the schedule of charges.

H. Infrastructure, Repairs and Utilities. Lessor and Lessee amended provisions relating to construction of infrastructure and/or repairs on or about the premises.

II. No Other Changes. This Memorandum of Addendums is prepared, signed and acknowledged solely for recording purposes under the laws of the State of Arizona and is intended to give notice of the modified terms of the Lease by modifying the Memorandum of Lease as stated but in no other way to affect the rights, duties and obligations of Lessor and Lessee pursuant to the Lease; it being understood and agreed between the parties that each has rights, duties and obligations imposed upon it in the Lease that are not set forth herein.

III. Not Complete. This Memorandum of Addendums is not a complete recitation of the Addendum No. 2 and Addendum No. 3. Reference should be made to the text of the Addendum No. 2 and Addendum No. 3 for the full terms and provisions thereof. Provisions in this Memorandum of Addendums shall not be used in interpreting the Lease or Addendum No. 2 or Addendum No. 3 provisions. In the event of conflict between this Memorandum of Addendums and Addendum No. 2 and/or Addendum No. 3 respectively, Addendum No. 2 and/or Addendum No. 3 shall control. Complete and executed copies of the Lease and Addendum are available in the

offices of the Lessor and Lessee upon reasonable notice during regular business hours as follows:

Lessor: City of Tempe
c/o City Manager
31 East 5th Street
Tempe, Arizona 85281

Lessee: Tempe Buttes Hotel Limited Partnership
c/o The Westcor Company Limited Partnership
11411 North Tatum Boulevard
Phoenix, Arizona 85028

IV. Successors and Assigns. The Addendums and this Memorandum of Addendums shall be binding upon, and inure to the benefit of, the parties thereto and their successors and assigns.

V. Counterparts. This Memorandum of Addendums may be executed in counterparts.

IN WITNESS WHEREOF, Lessor and Lessee have executed the foregoing Memorandum of Addendums as of the 6th day of August, 1990.

LESSOR

CITY OF TEMPE

By: Harry E. Mitchell
Mayor

Attest: Helen P. Fowler
(~~Secretary~~) City Clerk

LESSEE

TEMPE BUTTES HOTEL LIMITED PARTNERSHIP,
an Arizona limited partnership

By: THE WESTCOR COMPANY LIMITED PARTNERSHIP
an Arizona limited partnership,
its general partner

By: Jel O'Car
Name: _____
General Partner

APPROVED AS TO FORM:

City Attorney

By: SHIMIZU LAND CORPORATION,
a New York corporation,
its general partner

By: _____
Naoshi Oinuma
Secretary

Attachments:

- Acknowledgments
- Schedule 1 - Description of Leasehold Premises

ACKNOWLEDGEMENT

STATE OF ARIZONA)
 ss:)
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this
6th day of August, 1990 by Harry E. Mitchell, the Mayor of
the CITY OF TEMPE, a municipal corporation of the State of Arizona, on
behalf of the corporation.

IN WITNESS HEREOF, I hereunto set my hand and official seal.

Karen L. Brittingham
Notary Public

My commission expires
June 7, 1991



ACKNOWLEDGMENT

STATE OF ARIZONA)
 ss:)
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this
2nd day of *August*, 1990 by *Fred O. Cox*, a general
partner of The Westcor Company Limited Partnership, a general partner
of Tempe Buttes Hotel Limited Partnership, an Arizona limited
partnership ("Tempe Buttes"), on behalf of Tempe Buttes.

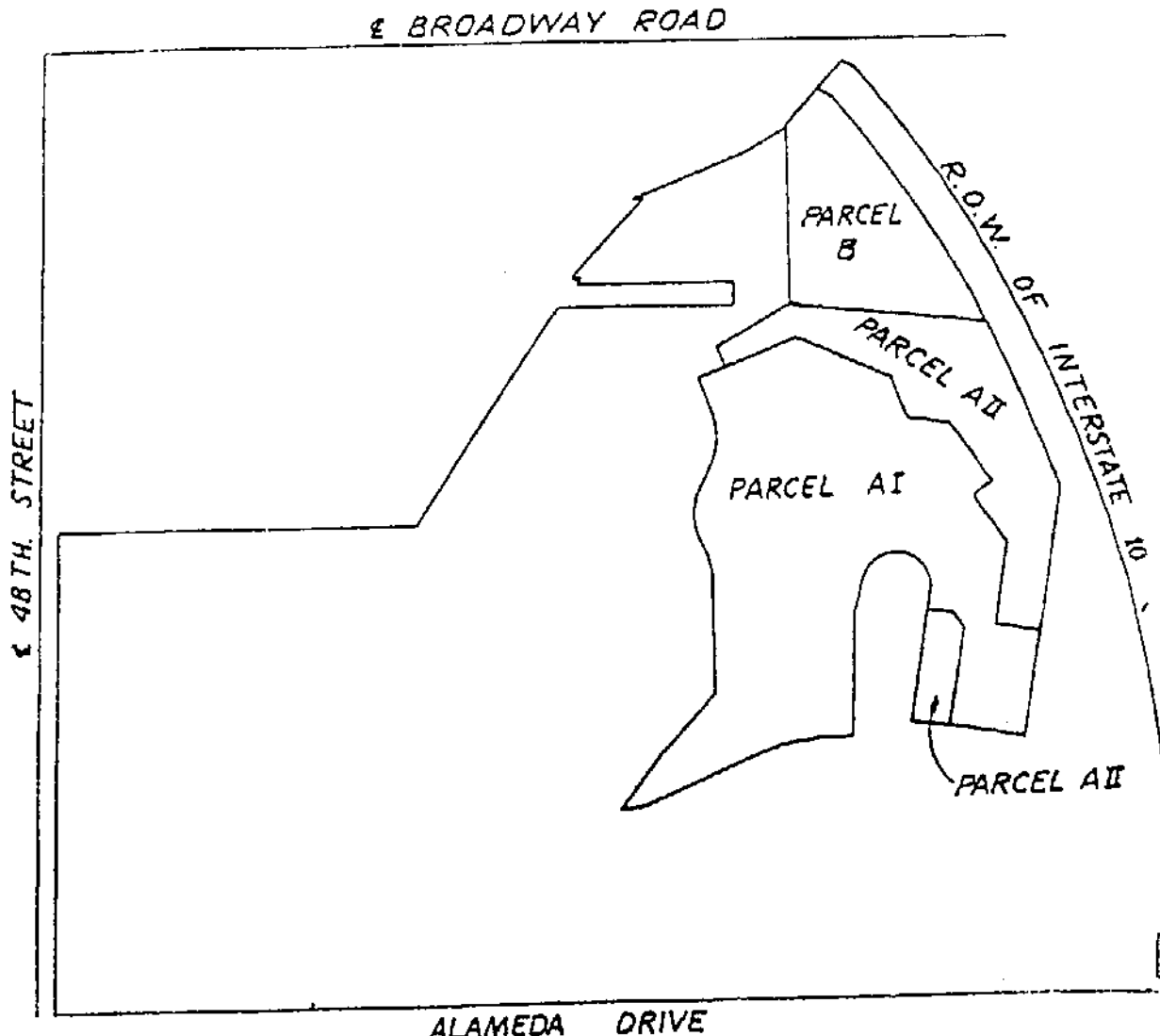
IN WITNESS HEREOF, I hereunto set my hand and official seal.

Jennifer G. Erlanson
Notary Public

See: Jennifer G. Baker

My commission expires
November 14, 1993.





WESTCOURT IN THE BUTTES
PARCEL EXHIBIT MAP



Collar, Williams & White Engineering,
 Consulting Engineers and Land Surveyors
 1111 NORTH 7TH STREET

SCHEDULE "I"

Collar, Williams & White Engineering

DONALD H. COLLAR, P.E., R.L.S.
President
ROBERT R. WAGGONER, P.E., R.L.S.
Vice President

Consulting Engineers
2702 N. 44th Street, Suite 205-B
Phoenix, Arizona 85008
(602) 957-3350

Description

For

C/W No. 840804

Cornoyer-Hedrick

January 14, 1987

PARCEL A1 AT WESTCOURT IN THE BUTTES

Being a portion of the north half of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the North Quarter Corner of said Section 29;
THENCE S00°07'15"W, 1227.35 feet;
THENCE N89°52'45"W, 29.17 feet to the TRUE POINT OF BEGINNING;
THENCE S52°58'18"W, 67.00 feet;
THENCE S37°01'42"E, 162.25 feet;
THENCE S07°58'18"W, 230.86 feet;
THENCE S82°01'42"E, 127.00 feet;
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THENCE N82°01'42"W, 215.00 feet;
THENCE N07°58'18"E, 270.68 feet;
THENCE N37°01'42"W, 52.33 feet;
THENCE N82°01'42"W, 70.00 feet;
THENCE N07°58'18"E, 51.21 feet to a point marking the beginning of a tangent curve, having a radius of 96.00 feet to the left;



BL/yh

Donald H. Collar
DONALD H. COLLAR
1/14/87
ARIZONA, U.S.A.

Scottsdale Office:
2922 N. 70th Street
Scottsdale, Arizona 85251
(602) 947-6433

Description FOR
Corneyer-Hedrick
PARCEL A1 AT WESTCOURT IN THE BUTTES
CWW No. 840904
January 14, 1987

THENCE along the arc of said curve, through a central angle of
174°21'43", having an arc distance of 292.15 feet;
THENCE S13°36'30"W, 96.28 feet;
THENCE S90°00'00"W, 339.33 feet;
THENCE S86°40'38"W, 106.34 feet to a point marking the beginning of a
non-tangent curve, the central point of which bears S03°01'58"E, 410.00
feet;
THENCE westerly, along the arc of said curve, through a central angle
of 21°25'09", having an arc distance of 153.27 feet;
THENCE S65°37'46"W, 352.95 feet;
THENCE S83°32'54"W, 60.00 feet;
THENCE N35°23'41"E, 183.69 feet;
THENCE N41°00'00"E, 219.69 feet;
THENCE N01°40'00"W, 313.05 feet to a point marking the beginning of a
tangent curve, having a radius of 197.50 feet to the left;
THENCE along the arc of said curve, through a central angle of
28°53'00", having an arc distance of 99.56 feet to a point of reverse
curvature marking the beginning of a tangent curve, the central point
of which bears N59°27'00"E, 179.50 feet;
THENCE northerly, along the arc of said curve, through a central angle
of 56°47'00", having an arc distance of 177.89 feet;
THENCE N26°14'00"E, 45.63 feet to a point marking the beginning of a
tangent curve, having a radius of 197.50 feet to the left;
THENCE along the arc of said curve, through a central angle of

Description For
Cornoyer-Hebrick
PARCEL A1 AT WESTCOURT IN THE BUTTES
CWW No. 840804
January 14, 1987

49°00'00", having an arc distance of 168.90 feet;
THENCE N22°46'00"W, 96.19 feet;
THENCE N67°58'18"E, 293.34 feet;
THENCE S67°01'42"E, 290.25 feet;
THENCE S22°01'42"E, 120.23 feet;
THENCE S82°01'42"E, 120.23 feet;
THENCE S37°01'42"E, 197.93 feet to the TRUE POINT OF BEGINNING.

Comprising 16.60000 Acres, more or less, subject to all easements
of record.

N. 1/4 COR. SEC 29
T. 1 N., R. 4 E.

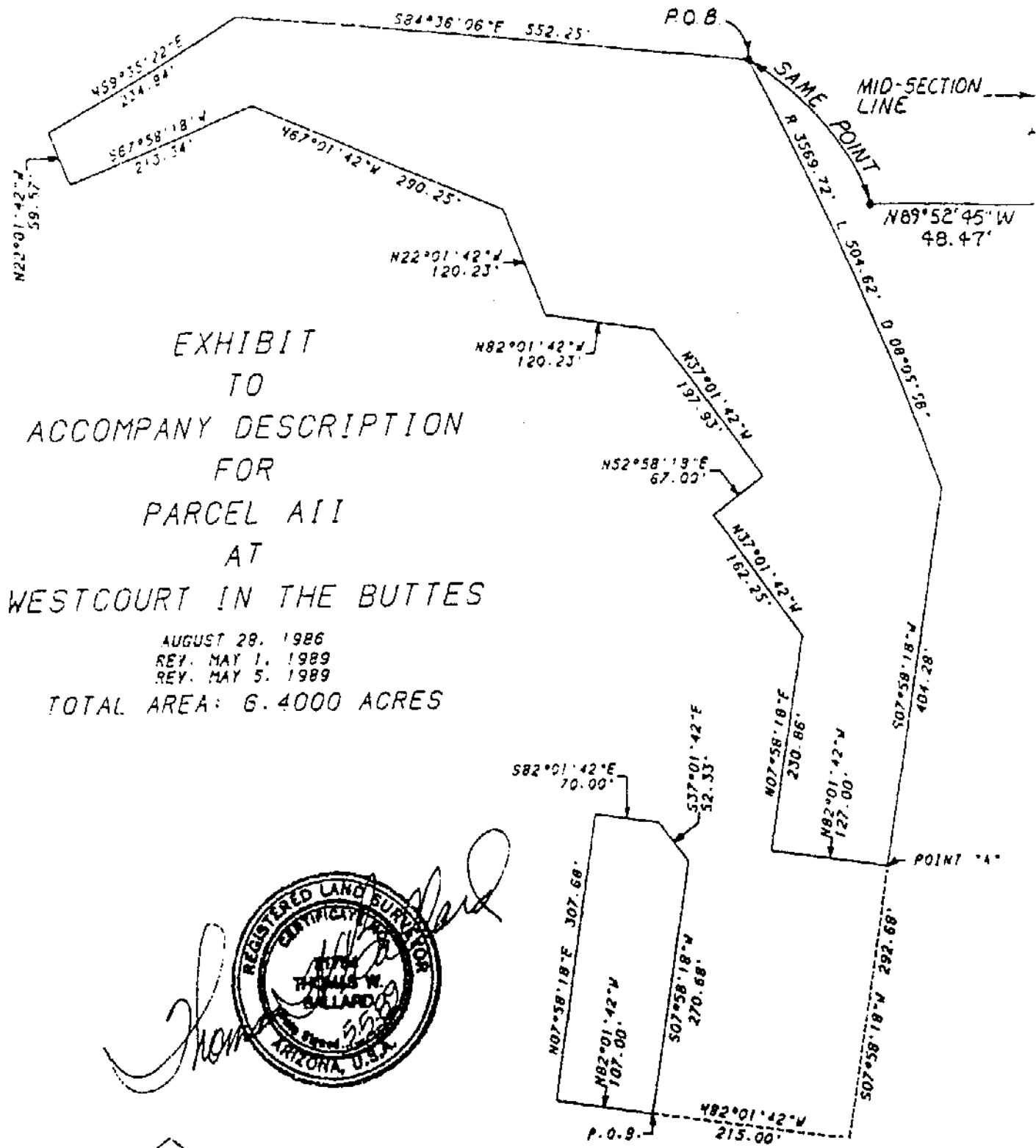


EXHIBIT
TO
ACCOMPANY DESCRIPTION
FOR
PARCEL A11
AT
WESTCOURT IN THE BUTTES

AUGUST 28, 1986
REV. MAY 1, 1989
REV. MAY 5, 1989
TOTAL AREA: 6.4000 ACRES



SCALE 1"=150'

Collar, Williams & White Engineering, Inc.
Consulting Engineers
3708 N. 44TH STREET, SUITE 108-B
PHOENIX, ARIZONA 85018
602-947-8788

2822 NORTH 70TH STREET
SCOTTSDALE, ARIZONA 85261
602-947-9428

| | | |
|----------------------------|----------------------------|-------------------------|
| DESIGN PROJ. NO. 900001 | SURVEY PROJ. NO. R-5-A9 | PREPARED DATE 8-5-89 |
|----------------------------|----------------------------|-------------------------|

JULLAR, WILLIAMS & WHITE ENGINEERING

Description

For

CWW No. 890501

Cornoyer-Hedrick

Rev. May 5, 1989

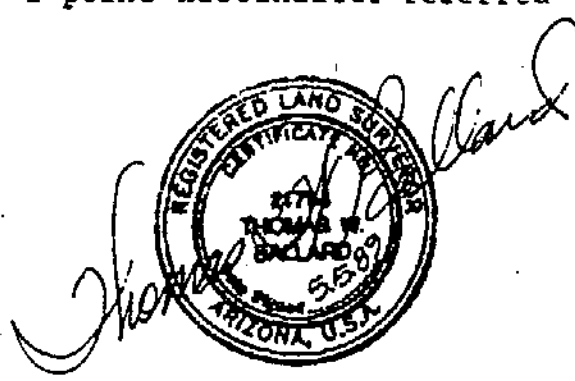
May 1, 1989

PARCEL AII AT WESTCOURT IN THE BUTTES

Being a portion of the north half of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the north Quarter Corner of said Section 29;
THENCE S00°07'15"W, along the north-south mid-section line of said Section, 785.85 feet;
THENCE N89°52'45"W, 48.47 feet to a point on the westerly right-of-way line of Interstate Highway I-10, said point being the POINT OF BEGINNING and marking the beginning of a non-tangent curve, the central point of which bears S61°02'08"W, 3569.72 feet;
THENCE southeasterly, along the arc of said curve, through a central angle of 8°05'58", having an arc distance of 504.62 feet;
THENCE S07°58'18"W, 404.28 feet, to a point hereinafter referred to as Point "A";
THENCE N82°01'42"W, 127.00 feet;
THENCE N07°58'18"E, 230.86 feet;
THENCE N37°01'42"W, 162.25 feet;

WB/wb



Description For
Cornoyer-Hedrick
PARCEL AII AT WESTCOURT IN THE BUTTES
CWW No. 89050J
May 1, 1989
Rev. May 5, 1989

THENCE N52°58'18"E, 67.00 feet;
THENCE N37°01'42"W, 197.93 feet;
THENCE N82°01'42"W, 120.23 feet;
THENCE N22°01'42"W, 120.23 feet;
THENCE N67°01'42"W, 290.25 feet;
THENCE S67°58'18"W, 213.34 feet;
THENCE N22°01'42"W, 59.57 feet;
THENCE N59°35'22"E, 234.84 feet;
THENCE S84°36'06"E, 552.25 feet to the POINT OF BEGINNING.

Comprising 5.660 Acres.

ALSO INCLUDING that parcel more particularly described as follows:

COMMENCING at aforementioned point "A";

THENCE S07°58'18"W, 292.68 feet;
THENCE N82°01'42"W, 215.00 feet to the POINT OF BEGINNING;
THENCE continue N82°01'42"W, 107.00 feet;
THENCE N07°58'18"E, 307.68 feet;
THENCE S82°01'42"E, 70.00 feet;
THENCE S37°01'42"E, 52.33 feet;
THENCE S07°58'18"W, 270.68 feet to the POINT OF BEGINNING.

Comprising 0.740 Acres.

Both portion of subject parcel comprising 6.400 Acres collectively more or less, subject to all easements of record.

N. 1/4 COR. SEC. 23.
T. 1 N., R. 4 E.

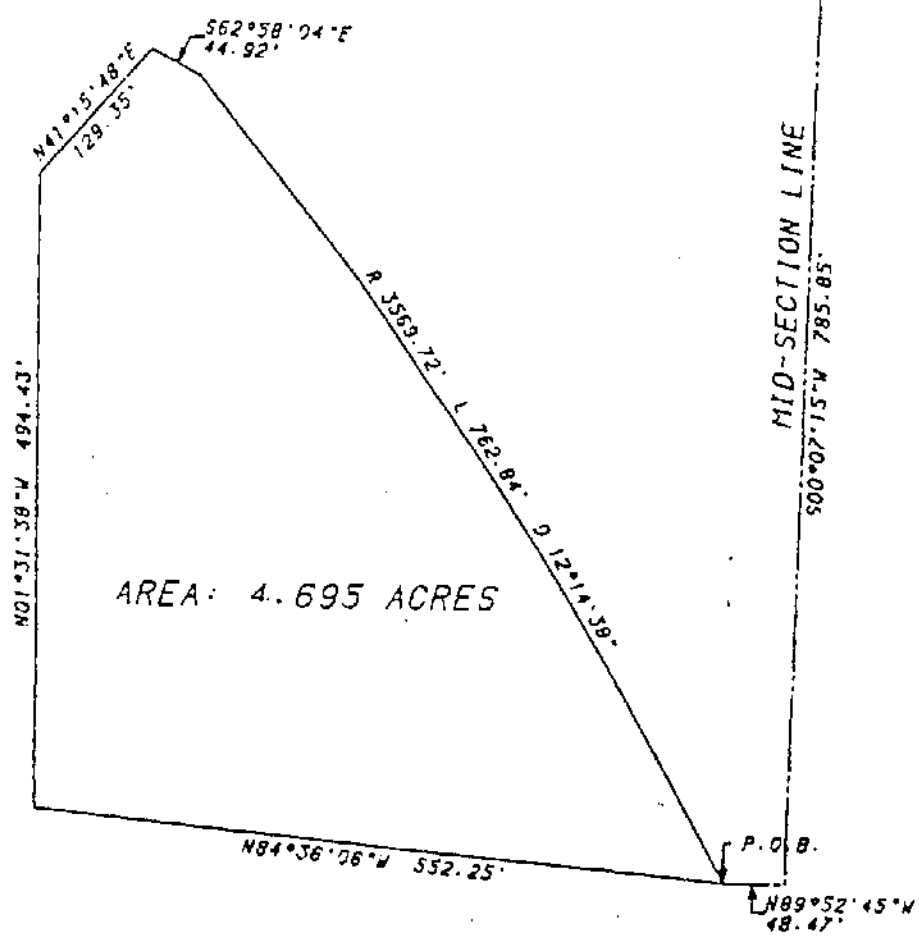


EXHIBIT TO ACCOMPANY DESCRIPTION
 FOR
 PARCEL B
 AT
 WESTCOURT IN THE BUTTES

AUGUST 28, 1986
 REV. MAY 1, 1989
 REV. MAY 5, 1989

Thomas W. Ballard
 REGISTERED LAND SURVEYOR
 CERTIFICATE NO. 5589
 THOMAS W. BALLARD
 5589
 ARIZONA, U.S.A.



SCALE 1"=150'

Collar, Williams & White Engineering, Inc
 Consulting Engineers
 2708 N. 44TH STREET, SUITE 100-B
 PHOENIX, ARIZONA 85018
 (602) 997-9300
 3022 NORTH 10TH STREET
 SCOTTSDALE, ARIZONA 85261
 (602) 947-4400

| | | |
|----------------------------|------------------|-------------------------|
| DESIGN PROJ. NO. 890501 | SURVEY PROJ. NO. | PREPARED DATE 5-5-89 |
|----------------------------|------------------|-------------------------|

BALLARD, WILLIAMS & WHITE ENGINEERING

REGISTERED LAND SURVEYORS

Description

For

CWW No. 890501

Cornoyer-Hedrick

Rev. May 5, 1989

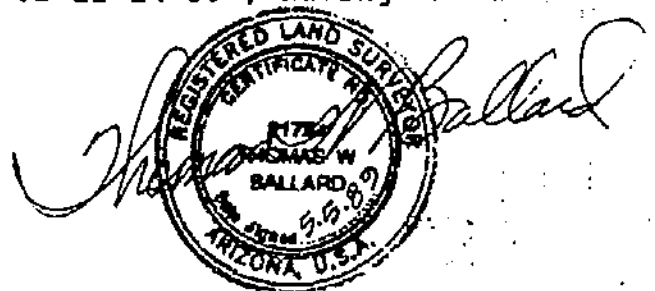
May 1, 1989

PARCEL B AT WESTCOURT IN THE BUTTES

Being a portion of the northwest quarter of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the north Quarter Corner of said Section 29;
THENCE S00°07'15"W, along the east line of said northwest quarter, 785.85 feet;
THENCE N89°52'45"W, 48.47 feet to a point on the westerly right-of-way line of Interstate Highway I-10, said point being the POINT OF BEGINNING;
THENCE N84°36'06"W, 552.25 feet;
THENCE N01°31'38"W, 494.43 feet;
THENCE N41°15'48"E, 129.35 feet;
THENCE S62°58'04"E, 44.92 feet to a point on said westerly right-of-way line, said point marking the beginning of a non-tangent curve, the central point of which bears S48°47'29"W, 3569.72 feet;
THENCE southeasterly, along said right-of-way line and along the arc of said curve, through a central angle of 12°14'38", having an arc

WB/wb



Description For
Corneyer-Hedrick
PARCEL B AT WESTCOURT IN THE BUTTES
CWW No. 890501
May 1, 1989
Rev. May 5, 1989

distance of 762.84 feet to the POINT OF BEGINNING.

Comprising 4.695 Acres, more or less, subject to all easements of
record.

156-105

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)
 5/01/93

PRODUCER
 Valley National Co.-Insurance
 P O Box 31
 Phoenix, AZ 85001

 602-381-2800

INSURED
 The Buttes
 c/o Westcor Partners
 11411 N. Tatum Blvd.
 Phoenix
 AZ 85028

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

| COMPANIES AFFORDING COVERAGE | |
|------------------------------|----------------------------|
| COMPANY LETTER A | Transamerica Insurance Co. |
| COMPANY LETTER B | Royal Indemnity |
| COMPANY LETTER C | |
| COMPANY LETTER D | |
| COMPANY LETTER E | |

COVERAGES
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| CO LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|--------|--|---------------|----------------------------------|-----------------------------------|--|
| A | GENERAL LIABILITY | 31918957 | 12/31/92 | 12/31/93 | GENERAL AGGREGATE \$ 2,000,000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | PRODUCTS-COMP/OP AGG. \$ 2,000,000 |
| | <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR | | | | PERSONAL & ADV. INJURY \$ 1,000,000 |
| | <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. | | | | EACH OCCURRENCE \$ 1,000,000 |
| | <input checked="" type="checkbox"/> Liquor Liab. | | | | FIRE DAMAGE (Any one fire) \$ 50,000 |
| | | | | | MED. EXPENSE (Any one person) \$ 5,000 |
| A | AUTOMOBILE LIABILITY | 31918957 | 12/31/92 | 12/31/93 | COMBINED SINGLE LIMIT \$ 1,000,000 |
| | <input checked="" type="checkbox"/> ANY AUTO | | | | BODILY INJURY (Per person) \$ |
| | <input checked="" type="checkbox"/> ALL OWNED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | <input checked="" type="checkbox"/> SCHEDULED AUTOS | | | | PROPERTY DAMAGE \$ |
| | <input checked="" type="checkbox"/> HIRED AUTOS | | | | |
| | <input checked="" type="checkbox"/> NON-OWNED AUTOS | | | | |
| B | EXCESS LIABILITY | RHN005941 | 12/31/92 | 12/31/93 | EACH OCCURRENCE \$ 1,000,000 |
| | <input checked="" type="checkbox"/> UMBRELLA FORM | | | | AGGREGATE \$ 1,000,000 |
| | <input type="checkbox"/> OTHER THAN UMBRELLA FORM | | | | |
| | WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY | | | | STATUTORY LIMITS |
| | | | | | EACH ACCIDENT \$ |
| | | | | | DISEASE-POLICY LIMIT \$ |
| | | | | | DISEASE-EACH EMPLOYEE \$ |
| | OTHER | | | | |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
 RE: City of Tempe, Arizona is additional insured as their interest may appear as respects 18 acres known as Tempe Buttes Property (lessor) premises at 2000 Westcourt Way, Tempe, AZ

CERTIFICATE HOLDER
 City of Tempe
 City Attorney - Dave Merkle
 P O Box 5002
 Tempe, AZ 85280

CANCELLATION:
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE 034300000

C86-105

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

12/16/94

PRODUCER

Acordia of Arizona
3020 E. Camelback Rd.
Suite 200
Phoenix, AZ 85016
602-381-2800

cs

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

| | | |
|----------------|---|-----------------------------|
| COMPANY LETTER | A | Aetna Casualty & Surety Co. |
| COMPANY LETTER | B | Allendale Mutual Ins. Co. |
| COMPANY LETTER | C | |
| COMPANY LETTER | D | |
| COMPANY LETTER | E | |

INSURED

-SCP (Buttes) Inc. dba:
.The Buttes
c/o Resorts Services, Inc.
11011 N. Tatum Blvd. #P135
Phoenix
AZ 85028

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| CO LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|--------|--|---------------|----------------------------------|-----------------------------------|---|
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. | 067GL24430101 | 12/31/94 | 12/31/95 | GENERAL AGGREGATE \$ 2000000 |
| | | | | | PRODUCTS-COMP/OP AGG. \$ 2000000 |
| | | | | | PERSONAL & ADV. INJURY \$ 1000000 |
| | | | | | EACH OCCURRENCE \$ 1000000 |
| | | | | | FIRE DAMAGE (Any one fire) \$ 50000 |
| | | | | | MED. EXPENSE (Any one person) \$ 5000 |
| A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY | 067FJ24430101 | 12/31/94 | 12/31/95 | COMBINED SINGLE LIMIT \$ 1000000 |
| | | | | | BODILY INJURY (Per person) \$ |
| | | | | | BODILY INJURY (Per accident) \$ |
| | | | | | PROPERTY DAMAGE \$ |
| | | | | | |
| A | EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM | 067XS24430101 | 12/31/94 | 12/31/95 | EACH OCCURRENCE \$ 40000000 |
| | | | | | AGGREGATE \$ 40000000 |
| | WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY | | | | STATUTORY LIMITS |
| | | | | | EACH ACCIDENT \$ |
| | | | | | DISEASE-POLICY LIMIT \$ |
| | | | | | DISEASE-EACH EMPLOYEE \$ |
| A | OTHER Misc. Unsch. Prop. | UA532 | 12/31/94 | 12/31/95 | \$1,000,000. Special Form - \$1,000. Ded. |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

RE: City of Tempe, Arizona is additional insured as their interest may appear as respects 18 acres known as The Buttes property (lessor) at 2000 Westcourt Way, Tempe, AZ

CERTIFICATE HOLDER

City of Tempe
City Attorney
P O Box 5002
Tempe, AZ 85280

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 50 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



701424000

C86-105

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY) 1/03/95

PRODUCER
 Acordia of Arizona
 3020 E. Camelback Rd.
 Suite 200
 Phoenix, AZ 85016 cs
 602-381-2800

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

| | |
|-------------------------|-----------------------------|
| COMPANY LETTER A | Aetna Casualty & Surety Co. |
| COMPANY LETTER B | |
| COMPANY LETTER C | |
| COMPANY LETTER D | |
| COMPANY LETTER E | |

INSURED
 SCP (Buttes) Inc. dba:
 The Buttes
 c/o Resorts Services, Inc.
 11811 N. Tatum Blvd. #P135
 Phoenix
 AZ 85028

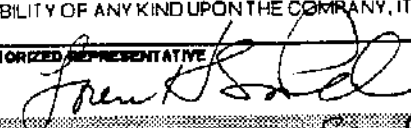
COVERAGES
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| CO LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|--------|--|---------------|----------------------------------|-----------------------------------|--|
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. | 067GL24430101 | 12/31/94 | 12/31/95 | GENERAL AGGREGATE \$ 200000 |
| | | | | | PRODUCTS-COMP/OP AGG. \$ 200000 |
| | | | | | PERSONAL & ADV. INJURY \$ 100000 |
| | | | | | EACH OCCURRENCE \$ 100000 |
| | | | | | FIRE DAMAGE (Any one fire) \$ 50000 |
| | | | | | MED. EXPENSE (Any one person) \$ 5000 |
| A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY | 067FJ24430101 | 12/31/94 | 12/31/95 | COMBINED SINGLE LIMIT \$ 100000 |
| | | | | | BODILY INJURY (Per person) \$ |
| | | | | | BODILY INJURY (Per accident) \$ |
| | | | | | PROPERTY DAMAGE \$ |
| | | | | | EACH OCCURRENCE \$ 4000000 |
| | | | | | AGGREGATE \$ 4000000 |
| A | EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM | 067XS24430101 | 12/31/94 | 12/31/95 | STATUTORY LIMITS |
| | | | | | EACH ACCIDENT \$ |
| | | | | | DISEASE-POLICY LIMIT \$ |
| | | | | | DISEASE-EACH EMPLOYEE \$ |
| A | WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY | | | | |
| | | | | | |
| A | OTHER Liquor Liability | 067GL24430101 | 12/31/94 | 12/31/95 | \$1,000,000. Occur. \$2,000,000. Agg. |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
 RE: City of Tempe, Arizona is additional insured as their interest may appear as respects 18 acres known as The Buttes property (lessor) at 2000 Westcourt Way, Tempe, AZ

CERTIFICATE HOLDER
 City of Tempe
 City Attorney
 P O Box 5002
 Tempe, AZ 85280

CANCELLATION
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE  701424000

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY) **1/12/95**

PRODUCER
 Acordia of Arizona
 3020 E. Camelback Rd.
 Suite 200
 Phoenix, AZ 85016
 602-381-2800

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

| | |
|-------------------------|-----------------------------|
| COMPANY LETTER A | Aetna Casualty & Surety Co. |
| COMPANY LETTER B | |
| COMPANY LETTER C | |
| COMPANY LETTER D | |
| COMPANY LETTER E | |

INSURED
 SCP (Buttes) Inc. dba:
 The Buttes
 c/o Resorts Services, Inc.
 11811 N. Tatum Blvd. #P135
 Phoenix
 AZ 85028


COVERAGES
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| CO LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|--------|---|---------------|----------------------------------|-----------------------------------|---------------------------------------|
| A | <input checked="" type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. | 067GL24430101 | 12/31/94 | 12/31/95 | GENERAL AGGREGATE \$ 2000000 |
| | | | | | PRODUCTS-COMP/OP AGG. \$ 2000000 |
| | | | | | PERSONAL & ADV. INJURY \$ 1000000 |
| | | | | | EACH OCCURRENCE \$ 1000000 |
| | | | | | FIRE DAMAGE (Any one fire) \$ 50000 |
| | | | | | MED. EXPENSE (Any one person) \$ 5000 |
| A | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY | 067FJ24430101 | 12/31/94 | 12/31/95 | COMBINED SINGLE LIMIT \$ 1000000 |
| | | | | | BODILY INJURY (Per person) \$ |
| | | | | | BODILY INJURY (Per accident) \$ |
| | | | | | PROPERTY DAMAGE \$ |
| | | | | | |
| A | <input checked="" type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM | 067XS24430101 | 12/31/94 | 12/31/95 | EACH OCCURRENCE \$ 40000000 |
| | | | | | AGGREGATE \$ 40000000 |
| | <input type="checkbox"/> WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY | | | | STATUTORY LIMITS |
| A | <input type="checkbox"/> OTHER <input checked="" type="checkbox"/> Liquor Liability | 067GL24430101 | 12/31/94 | 12/31/95 | \$1,000,000. Occur. |
| | | | | | \$2,000,000. Agg. |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
 RE: Event for 1-13-95 to 1-17-95 Diablo Ballfield
 City of Tempe, Arizona is additional insured ATIMA as regards above noted event - insurance is primary per CG0001

CERTIFICATE HOLDER
 City of Tempe
 City Attorney
 P O Box 5002
 Tempe, AZ 85280
 Fax #350-8990
 ACORD 25-S (7/90)

CANCELLATION
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

 701424000
 ©ACORD CORPORATION 1990

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

1/12/95

PRODUCER

Acordia of Arizona
 3020 E. Camelback Rd.
 Suite 200
 Phoenix, AZ 85016
 602-381-2900

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

| | | |
|----------------|----------|--|
| COMPANY LETTER | A | Aetna Casualty & Surety Co. |
| COMPANY LETTER | B | |
| COMPANY LETTER | C | |
| COMPANY LETTER | D | |
| COMPANY LETTER | E | |

INSURED

SCP (Buttes) Inc. dba:
 The Buttes
 c/o Resorts Services, Inc.
 11811 N. Tatum Blvd. #P135
 Phoenix
 AZ 85028

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| CO LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|---|---|---------------|----------------------------------|-----------------------------------|--|
| A | GENERAL LIABILITY | 067GL24430101 | 12/31/94 | 12/31/95 | GENERAL AGGREGATE \$ 2000000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | PRODUCTS-COMP/OP AGG. \$ 2000000 |
| | <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. | | | | PERSONAL & ADV. INJURY \$ 1000000 |
| | <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. | | | | EACH OCCURRENCE \$ 1000000 |
| | | | | | FIRE DAMAGE (Any one fire) \$ 50000 |
| | | | | | MED. EXPENSE (Any one person) \$ 5000 |
| A | AUTOMOBILE LIABILITY | 067FJ24430101 | 12/31/94 | 12/31/95 | COMBINED SINGLE LIMIT \$ 1000000 |
| | <input checked="" type="checkbox"/> ANY AUTO | | | | BODILY INJURY (Per person) \$ |
| | <input checked="" type="checkbox"/> ALL OWNED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | <input checked="" type="checkbox"/> SCHEDULED AUTOS | | | | PROPERTY DAMAGE \$ |
| | <input checked="" type="checkbox"/> HIRED AUTOS | | | | |
| <input checked="" type="checkbox"/> NON-OWNED AUTOS | | | | | |
| <input type="checkbox"/> GARAGE LIABILITY | | | | | |
| A | EXCESS LIABILITY | 067XS24430101 | 12/31/94 | 12/31/95 | EACH OCCURRENCE \$ 40000000 |
| | <input checked="" type="checkbox"/> UMBRELLA FORM | | | | AGGREGATE \$ 40000000 |
| | <input type="checkbox"/> OTHER THAN UMBRELLA FORM | | | | STATUTORY LIMITS |
| | WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY | | | | EACH ACCIDENT \$ |
| | | | | | DISEASE-POLICY LIMIT \$ |
| | | | | | DISEASE-EACH EMPLOYEE \$ |
| A | OTHER | 067GL24430101 | 12/31/94 | 12/31/95 | \$1,000,000. Occur. \$2,000,000. Agg. |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

RE: City of Tempe, Arizona is additional insured as their interest may appear as respects 18 acres known as The Buttes property (lessor) at 2000 Westcourt

Way, Tempe, AZ

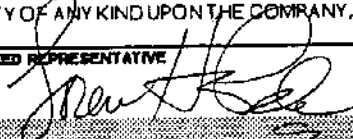
CERTIFICATE HOLDER

City of Tempe
 City Attorney
 P O Box 5002
 Tempe, AZ 85280

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



701424000

ACORD. CERTIFICATE OF INSURANCE

DATE (MM/DD/YY)

12/15/95

PRODUCER

Acordia of Arizona
3020 E. Camelback Rd.
Suite 200
Phoenix, AZ 85016
602-381-2800

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY

A St. Paul Fire & Marine Ins.

COMPANY

B TIG Insurance Company

COMPANY

C Travelers Insurance Group

COMPANY

D

INSURED

SCP (Buttes) Inc.
(the Buttes)
c/o Resorts Services, Inc.
11811 North Tatum Blvd. #1060
Phoenix AZ 85028

*copy to
Kurt
12/15/95
KS*

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| CO LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|--------|--|---------------------|----------------------------------|-----------------------------------|--|
| A | GENERAL LIABILITY | 602NB2495 | 12/31/95 | 8/01/96 | GENERAL AGGREGATE \$ 2000000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | PRODUCTS-COMP/OP AGG \$ 2000000 |
| | <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR | | | | PERSONAL & ADV INJURY \$ 1000000 |
| | <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT | | | | EACH OCCURRENCE \$ 1000000 |
| | | | | | FIRE DAMAGE (Any one fire) \$ 50000 |
| | | | | | MED EXP (Any one person) \$ 5000 |
| A | AUTOMOBILE LIABILITY | 602NB2495 | 12/31/95 | 8/01/96 | COMBINED SINGLE LIMIT \$ 1000000 |
| | <input checked="" type="checkbox"/> ANY AUTO | | | | BODILY INJURY (Per person) \$ |
| | <input checked="" type="checkbox"/> ALL OWNED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | <input checked="" type="checkbox"/> SCHEDULED AUTOS | | | | PROPERTY DAMAGE \$ |
| | <input checked="" type="checkbox"/> HIRED AUTOS | | | | |
| | <input checked="" type="checkbox"/> NON-OWNED AUTOS | | | | |
| | | | | | AUTO ONLY - EA ACCIDENT \$ |
| | | | | | OTHER THAN AUTO ONLY: |
| | | | | | EACH ACCIDENT \$ |
| | | | | | AGGREGATE \$ |
| B | EXCESS LIABILITY | XLB9262056 | 12/31/95 | 8/01/96 | EACH OCCURRENCE \$ 10000000 |
| | <input checked="" type="checkbox"/> UMBRELLA FORM | | | | AGGREGATE \$ 10000000 |
| | <input type="checkbox"/> OTHER THAN UMBRELLA FORM | | | | \$ |
| | | | | | STATUTORY LIMITS |
| | | | | | EACH ACCIDENT \$ |
| | | | | | DISEASE - POLICY LIMIT \$ |
| | | | | | DISEASE - EACH EMPLOYEE \$ |
| C | OTHER | KTJCMB-251T969-1-95 | 12/31/95 | 12/31/95 | \$1,000,000 Special Form-\$5,000. Ded. |
| | Unscheduled Prop. | | | | |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

RE: City of Tempe, Arizona is additional insured as their interest may appear as respects 18 acres known as The Buttes property (lessor) at 2000 Westcourt Way, Tempe, AZ

CERTIFICATE HOLDER

City of Tempe
City Attorney
P O Box 5002
Tempe, AZ 85280

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

701424000

C-93-120

C 75 - 120

RECORDING REQUESTED BY AND
AFTER RECORDING RETURN TO:
Man: E. Greenberg, Cantor,
Trager & Toplitz
100 Church Street
New York, New York 10007
Attn: John M. Cilmi, Esq.

CONSENT AGREEMENT

This Consent Agreement is made as of the 30th day of June, 1993 by and between the City of Tempe, a municipal corporation of the State of Arizona ("Lessor"), Tempe Buttes Hotel Limited Partnership, an Arizona limited partnership ("Lessee"), successor by assignment to Westcox Hotel Company, an Arizona corporation ("Westcox"), and SCP (Buttes) Inc., a California corporation ("SCP"), all of whom agree as follows:

WHEREAS, on November 20, 1984 Lessor and Westcox Hotel Company ("Westcox"), an Arizona corporation, as lessee, entered into a certain Lease Agreement, as evidenced by a certain Memorandum of Lease dated August 15, 1986, and as amended by that certain Addendum No. 1 to Lease Agreement dated May 30, 1986 [both] recorded on October 15, 1986 as Document No. 86-565646 and as corrected by a certain Memorandum of Lease recorded on February 7, 1987 as Document No. 87-068485, all in the Official Records of Maricopa County, Arizona (the "Original Lease").

WHEREAS, the Original Lease created a leasehold estate in certain real property, together with improvements to be constructed thereon, located in the City of Tempe, State of Arizona, more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Real Property").

WHEREAS, the Original Lease was assigned by Westcox to Lessee pursuant to that certain Assignment dated the 15th day of November, 1986 and recorded on January 6, 1987 in the Official Records of Maricopa County, Arizona as Document No. 87-007239 (the "Original Assignment Agreement").

WHEREAS, the Original Lease, as assigned, was further amended by (i) that certain Addendum No. 2 to Ground Lease between Lessor and Lessee dated February 20, 1987 and (ii) that certain Addendum No. 3 to Lease Agreement between Lessor and Lessee dated May 22, 1989, as evidenced by a certain Memorandum of Addendum No. 2 and Addendum No. 3 of Lease dated August 6, 1990 and recorded on August 13, 1990 in the Official Records of Maricopa County, Arizona, as Document No. 90-365694 (collectively, the Original Lease, as assigned and modified as set forth above is hereinafter referred to as the "Lease").

WHEREAS, Lessee desires to grant, transfer, assign, convey and set over all of its right, title, interest and estate in,

to and under the Lease to SCP pursuant to a certain Assignment and Assumption Agreement between Lessee and SCP to be recorded in the Official Records of the County of Maricopa, Arizona (the "Assignment").

WHEREAS, Section 17.2 of the Lease requires that Lessee obtain Lessor's consent prior to entering into any assignment or transfer of its interest under the Lease.

WHEREAS, Lessor desires to consent to and approve the Assignment to SCP pursuant to the terms of the Lease.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Lessor, Lessee and SCP agree as follows:

1. Consent. Lessor hereby consents to the grant, assignment, conveyance and transfer by Lessee of all of its rights, title, interest and estate in, to and under the Lease to SCP pursuant to the Assignment.

2. Effect of Consent and Assignment. From and after the effective date of the Assignment (i) all reference in the Lease to Lessee shall be deemed to be a reference to SCP, and (ii) all notices to be forwarded to Lessee pursuant to Section 29 of the Lease shall be forwarded to SCP (Buttes) Inc. at 1055

West Seventh Street, Suite 1800, Los Angeles, California 90017,
Attention: Secretary.

3. Status of Lease. Lessor and Lessee hereby acknowledge and certify to SCP that: (a) Lessee is in fact the successor in interest to Westcox's rights, title, interest and estate under the Original Lease and the Original Assignment Agreement validly and effectively assigned such interest to Lessee in accordance with and pursuant to the terms of the Original Lease, (b) the Lease is in full force and effect and has not been modified, amended or supplemented except as otherwise provided herein; (c) the Lease represents the entire agreement between Lessor and Lessee with respect to the Real Property; (d) to the best knowledge of Lessor, Lessee is not in default under the terms of the Lease nor has any event occurred which with the giving of notice and/or with the passage of time would constitute a default under the Lease; (e) to the best knowledge of Lessee, Lessor is not in default under the terms of the Lease nor has any event occurred which with the giving of notice and/or with the passage of time would constitute a default under the Lease; (f) the assignment of the Lease by Westcox to Lessee was duly consented to by Lessor; (g) the current rent has been paid up to and including July 31, 1993 and no rent is accrued and unpaid under the Lease; and (h) all charges and fees and other payments, if any,

due to Lessor from Lessee under the Lease have been paid in full; (i) to the best knowledge of Lessor and Lessee, all conditions, duties and obligations under the Lease have been currently performed to the date hereof and there are no setoffs, claims or defenses to the performance by either party of such conditions, duties and obligations; (j) Lessor has full right, power and authority to consent to the transfer and assignment as contemplated hereunder and all authorizations, consents and/or approvals necessary or proper to effect such transfer and assignment have been obtained; (k) other than as described herein, there are no other interests, rights, entitlements or estates in, to and under the Real Property.

4. Notwithstanding the provisions of Section 17.2(c) of the Lease to the contrary, Lessor hereby forever releases, acquits and discharges Lessee (its partners and any partner of such partners and their respective officers, directors, shareholders, agents, employees and their successors and assigns) from all claims, causes of actions, liability, obligations, damages and losses of any kind or nature that may arise on account of any act or omission occurring from and after the date of this Agreement with respect to any term, condition or obligation under the Lease.

5. This Agreement may be executed and acknowledged in any number of counterparts, all of which taken together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Consent Agreement as of the day and year first above written.

LESSOR

CITY OF TEMPE, a municipal corporation of the State of Arizona

ATTEST:

Helen F. Fowler
City Clerk

By: Harry E. Mitchell
Mayor

David R. Meskel
City Attorney

LESSEE


TEMPE BUTTES HOTEL LIMITED
PARTNERSHIP, an Arizona limited
partnership

By: THE WESTCOR COMPANY LIMITED
PARTNERSHIP, an Arizona limited
partnership

By: L.M. Warner
Name: L.M. Warner
General Partner

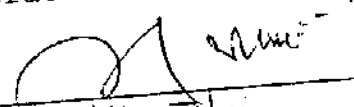
By: Ray A. Brown
Name: Ray A. Brown
General Partner

By: SHIMIZU LAND CORPORATION

By: 
Name: AKIO Ishii
Title: Executive Vice President

SCP

SCP (BUTTES) INC., a California corporation

By: 
Name: AKIO Ishii
Title: Executive Vice President

STATE OF Arizona)
COUNTY OF Maricopa ss.:

On the 30th day of June, in the year 1993, before me personally came Archie Mitchell, to me known, who, being by me duly sworn did depose and say that he is the Mayor of the City of Tempe, a municipal corporation of the State of Arizona, described in and which executed the foregoing instrument, and he acknowledged that he executed the same as the Mayor of the City of Tempe acting on behalf of such corporation.

Karl E. Pedersen
Notary Public

(SEAL)

My Commission Expires: May 31, 1997

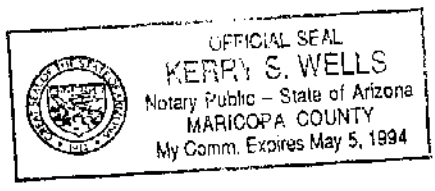
STATE OF ARIZONA)
COUNTY OF MARICOPA) ss.:

On the 30th day of June, in the year 1993, before me personally came Lee M. Waxman, to me known, who, being by me duly sworn did depose and say that he is a General Partner of The Westcor Company Limited Partnership, an Arizona limited partnership, described in and which executed the foregoing instrument, and he acknowledged that he executed the same as a General Partner of The Westcor Company Limited Partnership acting on behalf of such limited partnership.

Kerry S. Wells
Notary Public

(SEAL)

My Commission Expires: May 5, 1994



STATE OF ARIZONA)

ss.:

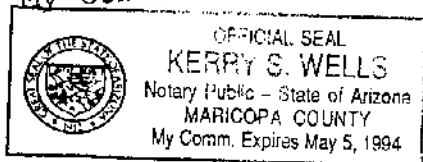
COUNTY OF MARICOPA)

On the 30th day of June, in the year 1993, before me personally came Roy A. Brown, to me known, who, being by me duly sworn did depose and say that he is a General Partner of The Westcor Company Limited Partnership, an Arizona limited partnership, described in and which executed the foregoing instrument, and he acknowledged that he executed the same as a General Partner of The Westcor Company Limited Partnership acting on behalf of such limited partnership.

Kerry S. Wells
Notary Public

(SEAL)

My Commission Expires: May 5, 1994



STATE OF ARIZONA)
COUNTY OF MARICOPA) ss.:

On the 30th day of June, in the year 1993, before me personally came Aki Ishii, having an address at 1811 N. TATUM BLVD, PHOENIX, AZ 85028, to me known, who, being by me duly sworn did depose and say that he is an EXEC. VICE PRESIDENT of Shimizu Land Corporation, a New York corporation, described in and which executed the foregoing instrument, and he acknowledged that he executed the same by order of the Board of Directors of Shimizu Land Corporation as a Exec. V.P. of Shimizu Land Corporation acting on behalf of such corporation.

Kerry S. Wells
Notary Public

(SEAL)

My Commission Expires: May 5, 1994

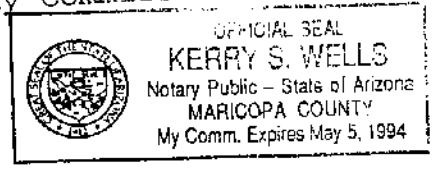


EXHIBIT "A"
Property Description

I, Virginia S. Thompson, the duly appointed City Clerk of Tempe, Maricopa County, Arizona, do hereby certify this document to be a true and exact copy of Addendum No. 2 To Ground Lease, passed and approved at the Regular Council Meeting of February 19, 1987, by the Tempe City Council, Tempe, Arizona.

DATED this 20th day of February, 1987. Virginia S. Thompson
City Clerk

ADDENDUM NO. 2 TO GROUND LEASE

THIS ADDENDUM NO. 2 TO LEASE AGREEMENT (the "Amendment") is entered into the 20th day of February, 1987, by and between the CITY OF TEMPE, a municipal corporation of the State of Arizona (hereinafter called "Lessor") and TEMPE BUTTES HOTEL PARTNERSHIP, an Arizona limited partnership, successor by assignment to Westcox Hotel Company (hereinafter called "Lessee").

WITNESSETH:

WHEREAS, Lessor and Lessee have entered into a certain lease agreement, dated November 20, 1984, a memorandum of which was recorded on October 15, 1984, in the land records of the County of Maricopa, Arizona in Document No. 86-565646 as amended by that certain Addendum No. 1 to Lease between Lessor and Lessee, dated May 30, 1986 and recorded on October 15, 1986 in Document No. 86-565646 (the "Lease"), pursuant to which Landlord has leased to Tenant certain real property located in Tempe, Arizona, which real property is more particularly described in the Lease;

WHEREAS, Landlord and Tenant desire to amend the Lease to set forth certain provisions in regard to the legal description of the premises, utilization of Parcel B, infrastructure, repairs and utilities, casualty and liability insurance and leasehold mortgages;

NOW, THEREFORE, in consideration of the mutual provisions and covenants of the parties hereto and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. All terms not defined herein shall have the meaning set forth in the Lease unless the context requires otherwise.

2. In the event of any inconsistency between the Lease and this Amendment, this Amendment shall control.

3. The legal descriptions of Parcels A-1 and A-2 attached to the Lease Agreement as Exhibit A are hereby replaced by the Exhibit A attached to this Addendum No. 2.

4. Section 4 of the Lease is hereby amended by adding the following paragraph at the end thereof:

Notwithstanding anything in this Section 4 to the contrary, if the leasehold estate created by this Lease Agreement has been acquired, or is in the process of being acquired, by a leasehold mortgagee of LESSEE's interest in the premises, through foreclosure, assignment in lieu of foreclosure or otherwise, said leasehold mortgagee may, at its option, elect not to construct or continue to construct, as the case may be, Phase II, but said leasehold mortgagee shall, nevertheless, be obligated to pay accelerated Minimum Annual Rent attributable to Parcel A-2, as set forth above, up to \$80,000 in the aggregate, and if on January 1, 1995 Phase II Construction still has not commenced, Parcel A-2 shall be released from the scope and operation of this Lease Agreement. Any election by the leasehold mortgagee hereunder shall be made within 30 days after the date LESSEE is obligated under the Lease to commence construction of Phase II or within 30 days after the leasehold mortgagee acquires irrevocable title to the leasehold estate created by this Lease, whichever is later. The term "leasehold mortgagee" as used herein shall mean any mortgagee of the leasehold estate created by the Lease, its successor and assigns, and any purchaser of said lease-

hold estate from such mortgagee. In the event Parcel A-2 is released from the scope and operation of this Lease Agreement following the leasehold mortgagee's election not to construct Phase II, the restriction against LESSOR'S leasing of Parcel A-2 for hotel or motel facilities until LESSEE has attained an annual occupancy rate of 80% or more for the Phase I facilities shall not apply.

5. Section 5 of the Lease is hereby amended by (i) deleting the date "January 1, 1986" in the second sentence of Section 5 of the Lease Agreement and substituting therefor the date "July 1, 1987", and (ii) deleting the date "July 1, 1986" in the fifth sentence of this Lease Agreement and substituting therefor the date "January 1, 1988".

6. Sections 11 and 12 of the Lease Agreement are hereby deleted and the following new Sections 11 and 12 shall be substituted in their place:

11. Casualty Insurance.

LESSEE shall maintain at its own expense a "Difference in Condition" (DIC) policy on the improvements constructed on the leased premises with insurance underwriters authorized to do business in the State of Arizona and reasonably acceptable to the LESSOR. Such insurance shall run in favor of the LESSOR, LESSEE and any mortgagees and leasehold mortgagees as their respective interests may appear and shall be in an amount of not less than the reasonable value of the improvements on the premises. Such DIC policy shall include flood insurance (\$50,000.00 deductible) and earthquake insurance (\$100,000 deductible). This DIC policy or ancillary insurance policy or policies shall include Boiler And Machinery Insurance with Business Interruption Insurance included.

The face amount of such DIC insurance shall be the replacement cost of the leasehold improvements adjusted at least annually.

LESSEE shall carry Rent Insurance running in favor of the LESSOR on the leased premises written by a company authorized to do business in Arizona so as to indemnify the LESSOR for any loss of rent (room, food and beverage revenues or minimal annual rent, which ever is greater) which it might suffer as a result of the destruction of the improvements by fire or other casualty.

Such Rental Insurance shall provide monthly payments to the LESSOR for a term of not less than two (2) years. The amount of such monthly payments shall be an amount equal to the average monthly payment paid to the LESSOR for the twelve (12) full calendar months immediately preceding the date of the casualty loss.

In the case the improvements erected on the premises shall be partially damaged (less than fifty (50%) percent of replacement cost) by fire or other casualty, LESSEE shall repair the same as speedily as possible at the expense of LESSEE. In case the improvements erected on the premises are damaged by fire or other casualty to an extent of fifty (50%) percent or more of replacement cost, LESSEE may within sixty (60) days of such damage elect to repair or rebuild the same at its expense or to terminate this Lease Agreement. If LESSEE elects to repair or rebuild the same at its expense, it shall complete such repair or rebuilding within twenty-four (24) months from the date of such damage. If LESSEE fails to elect within said sixty (60) days to repair or rebuild the said improvement or if, after having made such election, fails to complete such repair or rebuilding of the building within said twenty-four (24) months, the LESSOR may, any other provision or section of this Lease to the contrary notwithstanding, terminate this Lease by giving to LESSEE not less than sixty (60) days written notice thereof.

Any insurance policies required under this Section 11 shall be delivered to the Management Services Director no later than the opening day of the hotel. Prospectively any such renewal insurance policies (or until

the policy is actually received, a binder or certificate) shall be forwarded to the LESSOR not less than thirty (30) days prior to the expiration date of any previously issued insurance policies. Should LESSEE fail to supply the LESSOR with the required insurance thirty (30) days prior to its expiration, the LESSOR will have as a non-exclusive remedy, the right to purchase such insurance at LESSEE's sole expense, the cost of which shall be deemed additional rent.

Any policies of insurance required by this Section shall contain wording that they can not be canceled, non-renewed or changed in limits of coverage, without giving the LESSOR at least sixty (60) days prior written notice of such cancellation, non-renewal or change in limits or coverage.

All such insurance required by this Section shall be provided by companies authorized to do business in the State of Arizona and reasonably acceptable to LESSOR and who carry a minimum Best's rating of A:XIII. LESSEE agrees that the LESSOR may approve all deductibles and/or self-insured retentions.

12. Liability and Property Damage Insurance.

LESSEE shall at all times during the term of this Lease carry comprehensive general liability insurance ("broad-form" liability insurance) including, but not limited to, premises/operations; independent contractors; elevators; products/completed operations; blanket contractual (oral and written); liquor law liability; host liquor liability; incidental malpractice; broad-form property damage, including completed operations; XCU (during any construction phases); personal injury (liable, slander, false arrest), including employees; employees as additional insureds; broad-form named insured; broad-liability endorsements; garagekeeper legal liability (if exposure exists); comprehensive automobile liability insurance covering owned, non-owned or hired vehicles.

All such insurance policies, as set forth above, shall provide that LESSEE and LESSOR and any mortgagee or leasehold mortgagee are the insured therein against any all loss or claims arising out of the operation of LESSEE'S business on the leased premises or any act or omission of LESSEE, its agents, employees or invitees. A complete copy (or until such time as a complete copy can be secured, a binder or certificate) of said policies shall be filed with the Management Services Director of the LESSOR no later than the opening date of the hotel. In the case of renewal insurance policies, they shall be forwarded to the LESSOR not less than thirty (30) days prior to the expiration date of any previously secured insurance. Should the LESSEE fail to supply the LESSOR with the required insurance not less than thirty (30) days prior to its expiration, the LESSOR shall have as a non-exclusive remedy the option of providing such insurance at the sole expense of LESSEE, the cost of which shall be deemed additional rent.

Such liability insurance shall be in the following minimum amounts, to wit: twenty million (\$20,000,000.00) dollars single limit insurance and one million dollars for property damage.

All such liability and property damage insurance shall provide that the LESSOR shall be named as an "Additional Insured" and shall contain a provision that LESSEE'S coverage is primary to the LESSOR's self-insured retentions.

All such liability and property insurance shall be provided through insurance companies authorized to do business in the State of Arizona which are acceptable to the LESSOR and carry a minimum Best's rating of A:XIII. Additionally, the LESSOR shall approve all deductibles and/or self-insured retentions. All insurance policies for property insurance shall provide that the insurance company will have no rights of subrogation against the LESSOR, its agents or employees.

6(a). Section 14 of the Lease Agreement is hereby deleted and the following new Section 14 shall be substituted in its place:

"By an Ordinance, dated February 19, 1987, (the "Ordinance"), LESSOR has dedicated for the public use, the road more particularly described in Exhibit "E" attached hereto (the "Road"), which Road will provide LESSEE with access from the leased premises to the publically dedicated street commonly known as 48th Street. If the Ordinance is rescinded, or if other action is taken by the LESSOR so that the Road shall no longer be a publically dedicated street, LESSOR simultaneously shall undertake all necessary measures in the way of street dedications and/or granting of easement rights to assure LESSEE of continued access to said 48th Street."

LESSEE shall provide workers or workman's compensation insurance as required by the laws of the State of Arizona.

The foregoing minimum limits shall be subject to adjustments upon the reasonable request of the LESSOR in order to reflect changes in economic conditions.

7. Section 18.5 is hereby deleted from the Lease and the following shall be substituted therefore:

18.5 If any default (other than a monetary default) cannot be cured by the leasehold mortgagee within the time permitted by LESSEE to cure, the leasehold mortgagee shall have an additional period necessary to effect such cure, provided that the leasehold mortgagee has commenced such cure within the cure period available to the LESSEE to effect such cure and at all times proceeds diligently and continuously to effect such cure. The leasehold mortgagee shall advise LESSOR of such extension of the time for curing such default and shall pay or cause to be paid as and when due, the rent, additional charges and other sums that LESSEE is required to pay under this Lease for the period during which the cure period has been extended. If to effect the cure of any default under the Lease the leasehold mortgagee is actively, diligently and continuously engaged in steps to acquire the leasehold estate by foreclosure or other actions or proceedings, and if the leasehold mortgagee has then cured or remedied all defaults that it can cure or remedy (including without limitation all monetary defaults) and has paid all rent, additional charges and other sums that LESSEE is then required to have paid, the leasehold mortgagee may further extend the date for curing any default under this Lease for such period as may be reasonably necessary to complete these steps with diligence and continuity. The leasehold mortgagee shall advise LESSOR of the need for such extended cure period and shall pay or cause to be paid as and when due the rent,

additional charges and other sums that LESSEE is required to pay under this Lease for the period during which the cure period is extended. If, within the time permitted and upon the terms contained in this Lease, the leasehold mortgagee acquires the leasehold estate created by this Lease or the leasehold estate is sold to a purchaser at foreclosure or similar proceedings, any default of the prior LESSEE that is impossible for the leasehold mortgagee or the purchaser at foreclosure or similar proceedings (as the case may be) to cure shall cease to be a default under this Lease. Subject to the provisions of Section 18.10 of the Lease, if the leasehold mortgagee fails to pay or cause to be paid when due any rent, additional charges, or other sums that LESSEE is required to pay during any period for which the cure period under this Lease is extended, LESSOR may proceed to terminate this Lease notwithstanding the extension. The leasehold mortgagee shall not be required to exercise any of its rights to foreclose the leasehold mortgage or to continue any foreclosure or other proceeding to acquire Lessee's interest in the premises if LESSOR is proceeding to terminate the Lease, in which event said leasehold mortgagee shall have those rights set forth under Section 18.11 hereof.

B. The following shall be added to the Lease as Section 18.10:

18.10 Notwithstanding any provision of the Lease to the contrary, including Section 25 hereof, if LESSEE's interest in the premises is encumbered by a leasehold mortgage, LESSOR shall not be permitted to cancel or terminate the Lease, (i) by reason of the occurrence of any of the events described in Section 25(c) of this Lease unless, in the event LESSEE is in bankruptcy, the trustee in bankruptcy rejects the Lease, in which event the leasehold mortgagee shall be entitled to a new lease under Section 18.11 of the Lease, or (ii) if the operation of any law or a determination by any court stays, enjoins or

restrains any attempt by Lessor to terminate the Lease for any reason, including non-payment of rent, or (iii) if a default is not reasonably susceptible of being cured by the leasehold mortgagee, unless LESSOR enters into a new lease with the leasehold mortgagee pursuant to Section 18.11 of the Lease, in which event such default shall not be a default under said new lease, and upon the occurrence of any of the foregoing, the leasehold mortgagee shall not be required to cure any defaults hereunder unless and until the leasehold mortgagee succeeds to the LESSEE'S interest in the premises by foreclosure, new lease or otherwise, provided such defaults are reasonably susceptible of being cured by the leasehold mortgagee.

9. The following shall be added to the Lease as Section 18.11:

18.11 If, at a time when the LESSEE'S interest in the estate created by the Lease Agreement is encumbered by a leasehold mortgage, the Lease Agreement is terminated or cancelled by reason of a rejection of the Lease by a trustee, court or debtor in possession pursuant to the Federal Bankruptcy Act as amended, or by reason of a default under the Lease not susceptible of being cured by the leasehold mortgagee, or other reason (which reason would result in the leasehold mortgagee's interest in such leasehold estate being impaired), the leasehold mortgagee, its nominee or designee shall have the absolute and unconditional right to demand a new lease covering the premises for a term to commence on the date of termination of the Lease and to expire on the same date as the Lease would have expired if it had otherwise continued uninterrupted until its scheduled date of termination, and containing all of the same rights, terms, covenants, considerations, unexpired options, and obligations as set forth in the Lease (except for any covenant no longer applicable at the time the new lease is executed). The leasehold

mortgagee shall exercise its right hereunder to demand a new lease within thirty (30) days after receipt of notice of such termination (or if LESSEE contests the termination, within 30 days after LESSOR gives the leasehold mortgagee notice of a final adjudication adverse to Tenant, which notice LESSOR agrees to give to the leasehold mortgagee promptly). Such new lease shall be executed and delivered by LESSOR to the leasehold mortgagee or its nominee or designee, as the case may be, within thirty (30) days after receipt by LESSOR of written notice from the leasehold mortgagee of such election and upon execution of such new lease by the leasehold mortgagee or its nominee or designee, as the case may be, such party shall pay all sums owing by LESSEE under the provisions of the Lease which are calculable with reasonable certainty (less the rent and other income actually collected by LESSOR in the meantime from guests, subtenants or other occupants of the premises, and less any rent payable in connection with Phase II if the leasehold mortgagee elects not to construct Phase II) and the leasehold mortgagee, its assignee or designee, as the case may be, upon execution of said new lease shall perform all other obligations of LESSEE under the provisions of the Lease with respect to which performance is then due and which are reasonably susceptible of being performed by the leasehold mortgagee. Any holder of an interest in LESSOR'S interest in the premises is hereby put on notice and agrees that any new lease granted to the leasehold mortgagee shall enjoy the same priority as the Lease over any lien, encumbrance or other interest created by LESSOR including, without limitation, a mortgage against LESSOR'S interest in the premises, before or after the date of such new lease. The leasehold mortgage or its assignee or designee may, anything in Section 17 or other provision of this Lease to the contrary notwithstanding, assign any such new lease upon notice to Lessor, and upon such assignment, the leasehold mortgage or its assignee or designee shall have no further liability under such new lease.

10. Section 18.7 of the Lease Agreement is hereby deleted and the following new Section 18.7 shall be substituted in its place:

18.7 If the leasehold mortgagee shall succeed to LESSEE'S interest in the leasehold estate created by this Lease Agreement, or shall become a lessee under a new lease pursuant to Section 18.11 hereof, then such leasehold mortgagee may, without LESSOR'S consent, assign or convey all right, title and interest in and to such leasehold estate or lease, as the case may be, upon notice to LESSOR, without the consent of LESSOR. Any such assignee shall be vested with any and all rights, duties and obligations of LESSEE.

11. The following shall be added to the Lease as Section 18.12:

18.12 In the event the leasehold mortgagee or its nominee or designee succeeds to the interest of LESSEE by reason of foreclosure or an assignment in lieu thereof or by reason of delivery of a new lease, the leasehold mortgagee's, its nominee's, designee's or assignee's, liability to LESSOR shall be limited to its interest in the premises, including the buildings and other improvements thereon, and LESSOR shall have no recourse whatsoever to any other assets of the leasehold mortgagee, its nominee, designee or assignee. This Section 18.12 shall not apply to any liability of the leasehold mortgagee for accelerated Annual Minimum Rent, up to \$80,000, pursuant to Section 4 hereof.

12. The following shall be added to the Lease as Section 18.13:

18.13 In the event two or more leasehold mortgagees each exercise their rights

hereunder and there is a conflict which renders it impossible to comply with all such requests, the leasehold mortgagee whose leasehold mortgage would be senior in priority if there were a foreclosure shall prevail. In the event any leasehold mortgagee pays any rental or other sums due hereunder which relate to periods other than during its actual ownership of the leasehold estate, such leasehold mortgagee shall have the rights of LESSOR under the Lease Agreement to pursue such rental or other sums by court action or otherwise.

13. The following shall be added to the Lease as Section 18.14:

18.14 The provisions of this Section 18 shall be self-operative and shall benefit any leasehold mortgagee of which LESSOR has notice. Notwithstanding the foregoing, LESSOR shall at the request of LESSEE or such leasehold mortgagee enter into an agreement directly with such leasehold mortgagee having terms and provisions substantially similar to the provisions of this Section 18 so long as LESSOR assumes no liability or obligation whatsoever thereunder except as set forth in this Lease.

14. The following shall be added to the Lease as Section 18.15:

18.15 LESSOR and LESSEE covenant and agree, so long as a leasehold mortgage of which Landlord has written notice is in effect, that they will not cancel, accept a surrender, reject, terminate, amend, modify or alter this Lease without the prior written consent of the Mortgagee, unless, with respect to cancellation or termination, the LESSOR gives the leasehold mortgagee a new lease pursuant to Section 18.11 hereof.

15. Section 22 of the Lease shall be modified by deleting the period at the end of the second sentence thereof and adding the following phrase:

, except that this requirement shall not be applicable to any leasehold mortgagee, or its successors or assigns, who acquires LESSEE's interest in the premises, or any person or entity who acquires such interest from such leasehold mortgagee for the period of time not to exceed, in LESSOR'S reasonable opinion, based on advice from professional hotel consultants, the time required by the leasehold mortgagee to initiate and implement any plans or programs for improving operations at the hotel.

16. Section 24 of the Lease Agreement is hereby deleted and the following new Section 24 shall be substituted in its place:

24. Infrastructure, Repairs and Utilities.

LESSOR is not obligated or required by this Lease Agreement or otherwise to construct any infrastructure or to make any repairs to do any work on or about the leased premises. LESSEE will provide at no cost to LESSOR all infrastructure including utilities required or desired by LESSEE. LESSOR will reimburse LESSEE for the lesser of (1) fifty percent (50%) of the infrastructure cost that benefits the Stadium Property other than the leased premises, or (2) \$350,000.00. LESSEE will maintain the infrastructure and pay all bills for water, light, heat, electricity and gas used on the leased premises during the term of this lease. LESSEE will pay all bills for sewer rental or charges resulting from the use of the leased premises by LESSEE under this Lease. Exhibit "D" attached to this Addendum No. 2 and incorporated by reference herein lists the infrastructure improvements contemplated by the parties.

17. Section 31 of the Lease shall be amended by adding the following sentence at the end thereof:

The provisions of this Section 31 shall not apply to any leasehold mortgagee, or its successors or assigns, who acquires Lessee's

interest in the premises or to any person or entity who acquires such interest from such leasehold mortgagee for the period of time not to exceed, in Lender's reasonable opinion, based on advise from professional hotel consultants, the time required by the leasehold mortgagee to initiate and implement any plans or programs for improving operations at the hotel.

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first above written.

Attest:
Virginia D. Thompson
City Clerk

LANDLORD:

CITY OF TEMPE,
a municipal corporation

By: *Harry E. Mitchell*
Mayor

TENANT:

TEMPE BUTTES HOTEL LIMITED
PARTNERSHIP, an Arizona limited
partnership

By: The Westcor Company Limited
Partnership, an Arizona
limited partnership

By: *A.M. Warner*
General Partner

By: Shimizu Land Corporation, a
New York corporation

By: _____
Title: _____

interest in the premises or to any person or entity who acquires such interest from such leasehold mortgagee for the period of time not to exceed, in Lender's reasonable opinion, based on advise from professional hotel consultants, the time required by the leasehold mortgagee to initiate and implement any plans or programs for improving operations at the hotel.

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first above written.

LANDLORD:

CITY OF TEMPE,
a municipal corporation

By: _____
Mayor

TENANT:

TEMPE BUTTES HOTEL LIMITED
PARTNERSHIP, an Arizona limited
partnership

By: The Westcor Company Limited
Partnership, an Arizona
limited partnership

By: _____
General Partner

By: Shimizu Land Corporation, a
New York corporation

By: Naoki Osumi
Title: _____

EXHIBIT "A"

PARCEL NO. A1:

A portion of the North half of Section 29, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the North quarter corner of said Section 29;

THENCE South 00 degrees 07 minute 15 seconds West, 1227.35 feet;

THENCE North 89 degrees 52 minutes 45 seconds West, 29.17 feet to the TRUE POINT OF BEGINNING;

THENCE South 52 degrees 58 minutes 18 seconds West, 67.00 feet;

THENCE South 37 degrees 01 minutes 42 seconds East, 162.25 feet;

THENCE South 07 degrees 58 minutes 18 seconds West, 230.86 feet;

THENCE South 82 degrees 01 minutes 42 seconds East, 127.00 feet;

THENCE South 07 degrees 58 minutes 18 seconds West, 292.68 feet;

THENCE North 82 degrees 01 minutes 42 seconds West, 215.00 feet;

THENCE North 07 degrees 58 minutes 18 seconds East, 270.68 feet;

THENCE North 37 degrees 01 minutes 42 seconds West, 52.33 feet;

THENCE North 82 degrees 01 minutes 42 seconds West, 70.00 feet;

THENCE North 07 degrees 58 minutes 18 seconds East, 51.21 feet; to a point marking the beginning of a tangent curve, having a radius of 96.00 feet to the left;

THENCE along the arc of said curve, through a central angle of 174 degrees 21 minutes 48 seconds having an arc distance of 292.15 feet;

THENCE South 13 degrees 36 minutes 30 seconds West 96.28 feet;

THENCE South 00 degrees 00 minutes 00 seconds West 339.33 feet;

THENCE South 86 degrees 40 minutes 38 seconds West, 106.34 feet to a point marking the beginning of a non-tangent curve, the central point of which bears South 03 degrees 01 minutes 58 seconds East, 410.00 feet;

THENCE Westerly, along the arc of said curve, through a central angle of 21 degrees 25 minutes 09 seconds, having an arc distance of 153.27 feet;

THENCE South 65 degrees 37 minutes 46 seconds West, 352.95 feet;

THENCE South 83 degrees 32 minutes 54 seconds West, 60.00 feet;

THENCE North 35 degrees 23 minutes 41 seconds East, 183.69 feet;

THENCE North 41 degrees 00 minutes 00 seconds East, 219.69 feet;

THENCE North 01 degrees 40 minutes 00 seconds West, 313.05 feet to a point marking the beginning of a tangent curve, having a radius of 197.50 feet to the left;

THENCE along the arc of said curve, through a central angle of 28 degrees 53 minutes 00 seconds, having an arc distance of 99.56 feet to a point of reverse curvature marking the beginning of a tangent curve, the central point of which bears North 59 degrees 27 minutes 00 seconds East, 179.50 feet;

THENCE Northerly, along the arc of said curve, through a central angle of 56 degrees 47 minutes 00 seconds, having an arc distance of 177.89 feet;

THENCE North 26 degrees 14 minutes 00 seconds East, 45.63 feet to a point marking the beginning of an tangent curve, having a radius of 197.50 feet to the left;

CONTINUED.....



SAFECO

DESCRIPTION - PARCEL NO. A1 - CONTINUED

THENCE along the arc of said curve, through a central angle of 49 degrees 00 minutes 00 seconds, having an arc distance of 168.90 feet;

THENCE North 22 degrees 46 minutes 00 seconds West, 96.19 feet;
THENCE North 67 degrees 58 minutes 18 seconds East, 293.34 feet;
THENCE South 67 degrees 01 minutes 42 seconds East, 290.25 feet;
THENCE South 22 degrees 01 minutes 42 seconds East, 120.23 feet;
THENCE South 82 degrees 01 minutes 42 seconds East, 120.23 feet;
THENCE South 37 degrees 01 minutes 42 seconds East, 197.93 feet to the
TRUE POINT OF BEGINNING.

PARCEL AII

A portion of the North one-half of Section 29, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the North quarter corner of said Section 29;

THENCE South 00 degrees 07 minutes 15 seconds West, along the north-south mid-section line of said Section 29, a distance of 567.14 feet;

THENCE North 89 degrees 52 minutes 45 seconds West, 180.60 feet to the TRUE POINT OF BEGINNING and a point marking the beginning of a non-tangent curve, the central point of which bears South 56 degrees 55 minutes 59 seconds West, 3569.72 feet;

THENCE Southeasterly along the arc of said curve through a central angle of 12 degrees 12 minutes 07 seconds, having an arc distance of 760.20 feet;

THENCE South 07 degrees 58 minutes 18 seconds West, 404.28 feet;

THENCE North 82 degrees 01 minutes 42 seconds West, 127.00 feet;

THENCE North 07 degrees 58 minutes 18 seconds East, 230.86 feet;

THENCE North 37 degrees 01 minutes 42 seconds West, 162.25 feet;

THENCE North 52 degrees 58 minutes 18 seconds East, 67.00 feet;

THENCE North 37 degrees 01 minutes 42 seconds West, 197.93 feet;

THENCE North 82 degrees 01 minutes 42 seconds West, 120.23 feet;

THENCE North 22 degrees 01 minutes 42 seconds West, 120.23 feet;

THENCE North 67 degrees 01 minutes 42 seconds West, 290.25 feet;

THENCE South 67 degrees 58 minutes 18 seconds West, 213.34 feet;

THENCE North 22 degrees 01 minutes 42 seconds West, 59.57 feet;

THENCE North 59 degrees 35 minutes 22 seconds East, 234.84 feet;

THENCE North 88 degrees 28 minutes 22 seconds East, 320.00 feet;

THENCE North 31 degrees 47 minutes 29 seconds East, 186.49 feet to the TRUE POINT OF BEGINNING.

EXHIBIT "D"

September 11, 1986

Westcoast Hotel Company
Attn: Fred Cox
11411 N. Tatum Blvd.
Phoenix, Arizona 85028

Re: Offsite Costs

WEITZ

Dear Fred:

Attached is copy (9/9/86) of our current estimate for the offsite costs. I have organized this estimate to compare directly with exhibit B of your lease agreement.

While this estimate is accurate today, there are several items which I must clarify.

1. I have estimated three drywells however it appears we will only provide two with bleed off piping to be substituted for the third. I anticipate this will reduce the estimated cost.
2. The estimate for the gas main cost is the Southwest Gas' total job cost. This total job cost is distributed over the gas usage over the first several years of the buildings use. Consequently your out of pocket cost is approximately \$11,000.00. Per your direction I have included the total project cost.
3. The landscape and irrigation estimates shown in items seven and eight are based on the current drawings. We are working with Cormoyer-Hedrick in an attempt to reduce these costs to bring the landscape within the budget. If we are able to meet the budget the landscape and irrigation estimates would be reduced.
4. The landscape cost for the buffer area between the site and the cemetery was obtained from Mike Surguine.
5. The cost to clean out the pit located at the South East corner is our current estimate. In an attempt to reduce the landscape cost, we have discussed the possibility of not cleaning out the pit. If you direct us not to clean out the pit this estimated cost would be reduced to zero.
6. I have not included any cost for the addition of berms, retention areas, head walls or storm drainage pipe shown on the current set of drawings but yet not part of our work. If we have to provide the berms and the storm drainage systems the estimate will be increased.

Westcoast Hotel Company
Attn: Fred Cox
September 11, 1986
Page Two

7. The contingency item shows a steak fry area allowance. We are currently working on the design and the estimated cost after our 9/10/86 meeting. It is possible that this estimated cost will change.

If you have any questions regarding this estimate please contact me.

Very truly yours,
THE WEITZ COMPANY



Bill Hornaday
Project Manager

cc: Darrell Beach
Terry Bates
Tom Guinther
Vince Ng
Ron Kuhn
Mike Surguine

ESTIMATE FOR WENTWOOD INT IN THE PLANT

DATE 9/9/86

LOCATION OFF-SITE LOT 2

SHEET NO. 1/2

| | LINE | QUANTITY | Unit Price Labor | LABOR COST | Unit Price Matl | MATL. COST | Unit Price Sub Cost | Sub Contract Cost | TOTAL COST |
|----|--------------------------------------|----------|------------------|------------|-----------------|------------|---------------------|-------------------|---------------|
| 1. | ENTR DRIVE | | | | | | | | |
| | | | | | | | | 1052.57 | |
| | CONCRETE & FINISH | | | | | | | 2575 | |
| | UTILITIES | | | | | | | 7600 | |
| | GRADING | | | | | | | 7800 | |
| | TESTING - ALLOWANCE | | | | | | | 1000 | |
| | PERMITS | | | | | | | 397 | |
| | RIP PAD | | | | | | | 1000 | |
| | | | | | | | | 150171 | 150171 |
| 2. | OFF-SITE WATER | | | | | | | 95300 | |
| | GRADING | | | | | | | 1715 | |
| | PERMIT | | | | | | | 110 | |
| | WET TAP | | | | | | | 97125 | 97125 |
| 3. | OFF-SITE SEWER | | | | | | | 80600 | 80600 |
| | GRADING | | | | | | | | |
| 4. | GAS MAIN | | | | | | | 54286 | 54286 |
| 5. | LIGHTING, POWER & TELEPHONE SERVICES | | | | | | | 21696 | |
| | B.R.P. | | | | | | | 7440 | |
| | MT. POLE | | | | | | | 27000 | |
| | CONDUIT & ENCLOSURE | | | | | | | 4581 | |
| | MISC. CONDUIT | | | | | | | 60717 | 60717 |

EXHIBIT "E"

That portion of the Northwest quarter of Section 29, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Commencing at the Northwest corner of said Section 29;

- THENCE South 0 degrees 18 minutes 46 seconds West, along the West line of the said Northwest quarter 1339.52 feet;
- THENCE North 89 degrees 37 minutes 22 seconds East, 55.0 feet to the East right of way line of 48th Street and the Point of Beginning.
- THENCE continuing North 89 degrees 37 minutes 22 seconds East, 269.58 feet;
- THENCE South 79 degrees 42 minutes 43 seconds East, 163.85 feet;
- THENCE South 10 degrees 17 minutes 17 seconds West, 15.0 feet to a point "A";
- THENCE continuing South 10 degrees 17 minutes 17 seconds West, 15.0 feet;
- THENCE North 79 degrees 42 minutes 43 seconds West, 100.00 feet to a point on the arc of a circle the center of which bears South 10 degrees 16 minutes 57 seconds West, 250.0 feet;
- THENCE Southwesterly along the arc of said circle through a central angle of 25 degrees 38 minutes 26 seconds, a distance of 111.88 feet;
- THENCE South 78 degrees 16 minutes 55 seconds West, 73.82 feet;
- THENCE South 87 degrees 38 minutes 21 seconds West, 144.40 feet to the said East right of way line of 48th Street;
- THENCE North 00 degrees 18 minutes 46 seconds East, along said right of way line 65.0 feet to the Point of Beginning, and;

That portion thereof being 15.0 feet on each side of the following described centerline,

- Beginning at the aforementioned Point "A", said point being on the arc of a circle the center of which bears North 10 degrees 17 minutes 17 seconds East, 305.39 feet;
- THENCE Easterly along the arc of said circle through a central angle of 20 degrees 30 minutes 00 seconds, a distance of 109.27 feet;
- THENCE North 79 degrees 47 minutes 17 seconds East, 121.63 feet to a point on the arc of a circle the center of which bears South 10 degrees 12 minutes 43 seconds East, 425.0 feet;
- THENCE Southeasterly along the arc of said circle through a central angle 32 degrees 30 minutes 00 seconds, a distance of 247.07 feet;
- THENCE South 67 degrees 42 minutes 43 seconds East, 115.0 feet to a point on the arc of a circle the center of which bears North 22 degrees 17 minutes 17 seconds East, 200.0 feet;
- THENCE Northeasterly along the arc of said circle, through a central angle of 88 degrees 10 minutes 00 seconds, a distance of 307.76 feet;

CONTINUED.....

PARCEL C CONTINUED.....

THENCE North 24 degrees 07 minutes 17 seconds East, 105.29 feet to a point on the arc of a circle the center of which bears South 65 degrees 52 minutes 43 seconds East 500.0 feet;

THENCE Northeasterly along the arc of said circle through a central angle of 25 degrees 54 minutes 00 seconds, a distance of 226.02 feet;

THENCE North 50 degrees 01 minutes 17 seconds East, 109.25 feet to a point on the arc of a circle the center of which bears South 39 degrees 58 minutes 43 seconds East, 572.98 feet;

THENCE Northeasterly along the arc of said circle, through a central angle of 9 degrees 34 minutes 02 seconds, a distance of 95.62 feet, to a point on the arc of a circle the center of which bears South 30 degrees 24 minutes 41 seconds East, 157.63 feet;

THENCE Southeasterly along the arc of said circle, through a central angle of 97 degrees 38 minutes 43 seconds, a distance of 268.65 feet to the Point of Terminus.

EXCEPTING THEREFROM any portion of the above described street lying within Parcel No. AI as shown on Exhibit "A" hereof.



CITY OF TEMPE

Home of Arizona State University

P.O. Box 5002

Tempe, Arizona 85281

(602) 967-2001

February 19, 1987

The Bank of Tokyo Trust Company
360 Madison Avenue
New York, New York 10017

Attention: Kinya Kato,
Assistant Vice President

Re: \$21,000,000 Loan by The Bank of Tokyo Trust Company, The Dai-Ichi Kangyo Bank, Limited, New York Branch, The Nippon Credit Bank Ltd., The Taiyo Kobe Bank Ltd., and the Mitsui Trust and Banking Co., Ltd. (the "Lenders") to Tempe Buttes Hotel Limited Partnership (the "Loan")

Gentlemen:

With respect to that certain Lease agreement between the City of Tempe and Westcoast Hotel Company and all addenda thereto, please be advised that the use of the property comports in all respects with the requirements of Tempe Zoning Ordinance No. 808 and other laws, rules, and regulations of the City of Tempe.

Should you desire more information or clarification of my above comments, please advise.

Very truly yours,

David R. Merkel
City Attorney

DRM/cb

February 20, 1987

The Bank of Tokyo Trust Company
360 Madison Avenue
New York, New York 10017

Attention: Kinya Kato,
Assistant Vice President

Re: \$21,000,000 Loan by The Bank of
Tokyo Trust Company, The Dai-Ichi
Kangyo Bank, Limited, New York
Branch, The Nippon Credit Bank Ltd.,
The Taiyo Kobe Bank Ltd., and the
Mitsui Trust and Banking Co., Ltd.
(the "Lenders") to Tempe Buttes
Hotel Limited Partnership (the
"Loan")

Gentlemen:

We refer to that certain Lease Agreement between the City of Tempe ("City") and Westcox Hotel Company, predecessor in interest to Tempe Buttes Hotel Limited Partnership ("Lessee") as amended by that certain Addendum No. 1 to Lease between the City and Lessee, dated May 30, 1986, and that certain Addendum No. 2 to Lease between the City and Lessee dated February 20, 1987, (the "Lease").

In order to induce you and the other Lenders to make the Loan, the City hereby certifies as follows:

1. The Lease is in full force and effect and has not been modified, supplemented or amended except as set forth in the Addendum No. 1 and the Addendum No. 2 referred to above;

2. The Lease represents the entire agreement between the City and Lessee with respect to the premises demised under the Lease;

3. The Lease is in full force and effect and there are no defaults thereunder and there exist no conditions which, with the giving of notice or the passage of time, may give rise to a default under the Lease.

4. All conditions under the Lease to be performed by Lessee as prerequisites to the full effectiveness of the Lease have been satisfied, and on this date there are no unperformed obligations on the part of Lessee and there are no existing defenses, offsets or defaults which with the giving of notice and/or the passage of time would give rise to events of default under said Lease by the Tenant; and

5. The City has reviewed and approved the plans and specifications for the construction of Phase I (as defined in the Lease), and the use of the demised premises contemplated by said plans and specifications complies with the provisions of Section 2 of the Lease.

6. The City has consented to the assignment of the Lease by Westcox Hotel Company to Tempe Buttes Hotel Limited Partnership.

7. The City acknowledges receipt of the notices referred to in Sections 18.2, 18.5 and 33(b) of the Lease that the Lenders are the leasehold mortgagee of the leasehold estate created by the Lease and hereby agrees that the Lenders have all the rights and protections afforded under the Lease to a leasehold mortgagee.

8. All notices by the City to the Lenders shall be given by registered or certified mail, return requested

or nationwide commercial courier service, addressed to The Dai-Ichi Kangyo Bank Limited, New York Branch, at the following address:

The Dai-Ichi Kangyo Bank Limited,
New York Branch
One World Trade Center
Suite 4811
New York, New York 10048
Attention: Mr. Masahiko Kimura

with a copy to:

Emmet, Marvin & Martin
48 Wall Street
New York, New York 10005
Attention: Leonard C. Pojednic, Esq.

or at such other address of which it shall notify the City in writing, except that mailed notices shall not be deemed given or served until three business days after the date of mailing thereof, or if delivery is by nationwide commercial courier service, notice shall be deemed given one business day after the date of delivery of such notice to the courier service.

This letter is being delivered to you as Lead Manager for the Loan. Each Lender may rely on the statements herein as if the letter were addressed to each such Lender.

Very truly yours,

CITY OF TEMPE,
an Arizona municipal corporation

By: Harry E. Mitchell
Mayor

Mr. David R. Merkel
CITY OF TEMPE
P O Box 5002
Tempe, AZ 85281

O' LA PRADE INSURANCE
AGENTS and BROKERS
4601 NORTH BLACK CANYON FREEWAY
P.O. BOX 11667 • PHOENIX, ARIZONA 85061-1667
(602) 246-4946

fw/ Contract # 26-105 757 2604

The Westcourt in the Buttes

12 4 87

Per the request of your office, please find enclosed the primary policy and four layers of the umbrella policy covering the above named entity for liability insurance in the total amounts of \$22,000,000. Should you require anything further for your files, do not hesitate to call our office.

Thank you,

Carol Sullivan

Carol Sullivan

RECEIVED
DEC 7 1987
CITY ATTORNEY

M
E
S
S
A
G
E

PLEASE REPLY TO → SIGNED

REPLY
BY

R
E
P
L
Y

SIGNED

DATE

INSTRUCTIONS TO SENDER

INSTRUCTIONS TO RECEIVER

1. REFER TO ENCL. 2. SEND WHITE AND PINK COPIES WITH CARBON INTACT

1. WRITE REPLY 2. DETACH STUB. KEEP PINK COPY. RETURN WHITE COPY TO SENDER

| | | |
|------|-------------|-------|
| CODE | AGENCY CODE | COMM. |
| | 744052 | |

| |
|--|
| AGENT AND AGENCY AT: ORTH-LaPRADE INS.- WESTCOR, INC.; PHOENIX, AZ |
|--|



ISSUED BY THE INSURANCE COMPANY
 INDICATED BY AN "X"
 Transamerica Insurance Company
 Home Office: Los Angeles, California

Policy No. **30212621**
 Replacement No. **NEW**

Common Policy - Declarations

NAMED INSURED AND ADDRESS:
THE WESTCOR CO., LIMITED PARTNERSHIP *and*
DBA: WESTCOURT IN THE BUTTES
11411 N. TATUM BLVD.
PHOENIX, ARIZONA 85028

POLICY PERIOD: From **12-31-86** to **12-31-87**
 at 12:01 a.m. Standard Time at your mailing address shown above.

BUSINESS DESCRIPTION: HOTEL

In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

This policy consists of the following coverage parts and separate policies for which a premium is indicated. This premium may be subject to adjustment.

COPY

| | PREMIUM |
|--|-----------------|
| Commercial Property Coverage Part | \$ _____ |
| Commercial General Liability Coverage Part | \$ _____ |
| Commercial Inland Marine Coverage Part | \$ _____ |
| Commercial Crime Coverage Part | \$ _____ |
| Commercial Auto Coverage Part | \$ _____ |
| Umbrella Policy | \$ _____ |
| GARAGE | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| | \$ _____ |
| Minimum Premium | \$ _____ |
| TOTAL PREMIUM | \$ _____ |

FORMS APPLICABLE TO ALL COVERAGE PARTS:

POLICY NUMBER: 30212621

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED—OWNERS OR OTHER INTERESTS
FROM WHOM LAND HAS BEEN LEASED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Designation of Premises (Part Leased to You):

LAND AT 48TH STREET AND I-10; TEMPE, ARIZONA

Name of Person or Organization:

**CITY OF TEMPE
TEMPE, ARIZONA**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land;
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the Schedule.

POLICY NO: 30212621

**INSURED: THE WESTCOR CO., LIMITED PARTNERSHIP
DBA: THE WESTCOURT IN THE BUTTES**

**AGENT: ORTH-LaPRADE INSURANCE - WESTCOR, INC.
744052**



Policy No. 30212621

Declarations Extension

IT IS AGREED THAT THE COMPANY WILL GIVE
90 DAYS WRITTEN NOTICE OF CANCELLATION
OR NON-RENEWAL TO THE FIRST NAMED INSURED.
THIS 90 DAY AGREEMENT SUPERSEDES OTHER
CANCELLATION OR NON-RENEWAL PROVISIONS OF
THE POLICY.

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. INSPECTIONS AND SURVEYS

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

E. PREMIUMS

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

AMENDATORY ENDORSEMENT — ARIZONA

This endorsement changes the policy. Please read it carefully.

This endorsement modifies the insurance provided by the policy to which it is attached.

- A. If this policy has been in effect for 60 days or more, the following are added to the CANCELLATION Condition and supersede any other provisions to the contrary:
1. We may cancel this policy only for one or more of the following reasons as stated in Arizona law:
 - a. Nonpayment of premium;
 - b. Conviction of the Named Insured of a crime arising out of acts increasing the hazard insured against;
 - c. Acts or omissions by the Named Insured or his or her representative constituting fraud or material misrepresentation in obtaining the policy, in continuing the policy or in presenting a claim under the policy;
 - d. A substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the contract;
 - e. A substantial breach of contractual duties or conditions by the Named Insured;
 - f. Loss of reinsurance applicable to the risk insured against, but only if the absence of reinsurance has resulted from termination of treaty or facultative reinsurance initiated or implemented by our reinsurer or reinsurers;
 - g. A determination by the director of insurance that the continuation of the policy would place us in violation of the insurance laws of Arizona or would jeopardize our solvency; or
 - h. Acts of omissions by the Named Insured or his or her representative which materially increases the hazard insured against.
 2. If we cancel, we will send written notice of cancellation by certified mail to the first Named Insured's last mailing address known to us and agent, if any, by mail at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 60 days before the effective date of cancellation if we cancel for the other reasons in paragraph 1. above.
 3. The notice will state the reason(s) for cancellation.
- B. The following is added and supersedes any other provision to the contrary:
- NONRENEWAL**
- If we decide not to renew, we will send written notice of nonrenewal by certified mail to the first Named Insured's last mailing address known to us and agent, if any, by mail not less than 60 days before:
1. The expiration date; or
 2. The anniversary date if it is a continuous policy.
- Proof of mailing will be sufficient proof of notice.
- C. The following CHANGE IN COVERAGE Condition is added:
- If we decide to offer renewal with a change in premium, change in deductible, reduction in limits or substantial reduction in coverage, we will mail or deliver written notice to the first Named Insured's last mailing address known to us and agent, if any, not less than 60 days before the expiration date of the policy.
- If notice is mailed, proof of mailing will be sufficient proof of notice.
- D. The provisions of this endorsement do not apply to any automobile coverage.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF POLLUTION EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to exclusion f. of COVERAGE A (Section I):

Subparagraphs (a) and (d)(i) of paragraph (1) of this exclusion do not apply to "bodily injury" or "property damage" caused by heat, smoke or fumes from a hostile fire. As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF TRANSPORTATION

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage:"

(1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of "nuclear material," if:

(1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an "insured;" or

(3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility," but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" include radioactive, toxic or explosive properties;

"Nuclear material" means "source material," "Special nuclear material" or "by-product material;"

"Source material," "Special nuclear material," and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor;"

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility."

"Nuclear facility" means:

- (a) Any "nuclear reactor;"
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel," or (3) handling, processing or packaging "waste;"

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste;"

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations:

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under SECTION II — WHO IS AN INSURED.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION V — DEFINITIONS.

SECTION I — COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS — COVERAGES A AND B. This insurance applies only to "bodily injury" and "property damage" which occurs during the policy period. The "bodily injury" or "property damage" must be caused by an "occurrence." The "occurrence" must take place in the "coverage territory." We will have the right and duty to defend any "suit" seeking those damages. But:
 - (1) The amount we will pay for damages is limited as described in SECTION III — LIMITS OF INSURANCE;
 - (2) We may investigate and settle any claim or "suit" at our discretion; and
 - (3) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.
- b. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."
- c. "Property damage" that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the "occurrence" that caused it.

2. Exclusions.

This insurance does not apply to:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.
- b. "Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:
 - (1) Assumed in a contract or agreement that is an "insured contract;" or
 - (2) That the insured would have in the absence of the contract or agreement.
- c. "Bodily injury" or "property damage" for which any insured may be held liable by reason of:
 - (1) Causing or contributing to the intoxication of any person;
 - (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.
- d. Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law.
- e. "Bodily injury" to:
 - (1) An employee of the insured arising out of and in the course of employment by the insured; or
 - (2) The spouse, child, parent, brother or sister of that employee as a consequence of (1) above.

This exclusion applies:

 - (1) Whether the insured may be liable as an employer or in any other capacity; and
 - (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract."

COMMERCIAL GENERAL LIABILITY
COVERAGE FORM

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants:

- (a) At or from premises you own, rent or occupy;
- (b) At or from any site or location used by or for you or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are at any time transported, handled, stored, treated, disposed of, or processed as waste by or for you or any person or organization for whom you may be legally responsible; or
- (d) At or from any site or location on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations:
 - (i) if the pollutants are brought on or to the site or location in connection with such operations; or
 - (ii) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants.

(2) Any loss, cost, or expense arising out of any governmental direction or request that you test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph f.(2) or f.(3) of the definition of "mobile equipment" (Section V.8).

h. "Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. "Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. "Property damage" to:

(1) Property you own, rent, or occupy;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in your care, custody or control;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

k. "Property damage" to "your product" arising out of it or any part of it.

- l. "Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard."

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

- m. "Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work;" or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

- n. Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product;"
- (2) "Your work;" or
- (3) "Impaired property;"

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

Exclusions c. through n. do not apply to damage by fire to premises rented to you. A separate limit of insurance applies to this coverage as described in SECTION III — LIMITS OF INSURANCE.

COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal injury" or "advertising injury" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS—COVERAGES A AND B. We will have the right and duty to defend any "suit" seeking those damages. But:

- (1) The amount we will pay for damages is limited as described in SECTION III — LIMITS OF INSURANCE:

- (2) We may investigate and settle any claim or "suit" at our discretion; and

- (3) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

- b. This insurance applies to "personal injury" only if caused by an offense:

- (1) Committed in the "coverage territory" during the policy period; and
- (2) Arising out of the conduct of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you.

- c. This insurance applies to "advertising injury" only if caused by an offense committed:

- (1) In the "coverage territory" during the policy period; and
- (2) In the course of advertising your goods, products or services.

2. Exclusions.

This insurance does not apply to:

- a. "Personal injury" or "advertising injury:"

- (1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured; or
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

- b. "Advertising injury" arising out of:

- (1) Breach of contract, other than misappropriation of advertising ideas under an implied contract;
- (2) The failure of goods, products or services to conform with advertised quality or performance;
- (3) The wrong description of the price of goods, products or services; or
- (4) An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

COVERAGE C. MEDICAL PAYMENTS

Insuring Agreement.

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:
- (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
- (1) First aid at the time of an accident;
 - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions.

We will not pay expenses for "bodily injury:"

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an employee of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard."
- g. Excluded under Coverage A.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

SUPPLEMENTARY PAYMENTS — COVERAGES A AND B

We will pay, with respect to any claim or "suit" we defend:

1. All expenses we incur.
2. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
3. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$100 a day because of time off from work.
5. All costs taxed against the insured in the "suit."
6. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
7. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

SECTION II — WHO IS AN INSURED

1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. An organization other than a partnership or joint venture, you are an insured. Your executive officers and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
2. Each of the following is also an insured:
 - a. Your employees, other than your executive officers, but only for acts within the scope of their employment by you. However, none of these employees is an insured for:

- (1) "Bodily injury" or "personal injury" to you or to a co-employee while in the course of his or her employment; or
 - (2) "Bodily injury" or "personal injury" arising out of his or her providing or failing to provide professional health care services; or
 - (3) "Property damage" to property owned or occupied by or rented or loaned to that employee, any of your other employees, or any of your partners or members (if you are a partnership or joint venture).
- b. Any person (other than your employee), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
- (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
- a. "Bodily injury" to a co-employee of the person driving the equipment; or
 - b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
4. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will be deemed to be a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

SECTION III — LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits."
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C; and
 - b. Damages under Coverage A and Coverage B, except damages because of injury and damage included in the "products-completed operations hazard."
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of injury and damage included in the "products-completed operations hazard."
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and all "advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence."
6. Subject to 5. above, the Fire Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises rented to you arising out of any one fire.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

COMMERCIAL GENERAL LIABILITY
COVERAGE FORM

The limits of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy.

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Claim Or Suit.

a. You must see to it that we are notified promptly of an "occurrence" which may result in a claim. Notice should include:

- (1) How, when and where the "occurrence" took place; and
- (2) The names and addresses of any injured persons and witnesses.

b. If a claim is made or "suit" is brought against any insured, you must see to it that we receive prompt written notice of the claim or "suit."

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit;"
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit;" and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us.

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance.

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

- (1) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work;"
- (2) That is Fire insurance for premises rented to you; or
- (3) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Coverage A (Section I).

When this insurance is excess, we will have no duty under Coverage A or B to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit.

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations.

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us.

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

SECTION V — DEFINITIONS

1. "Advertising injury" means injury arising out of one or more of the following offenses:
 - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - b. Oral or written publication of material that violates a person's right of privacy;
 - c. Misappropriation of advertising ideas or style of doing business; or
 - d. Infringement of copyright, title or slogan.
2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment."
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or
 - c. All parts of the world if:
 - (1) The injury or damage arises out of:
 - (a) Goods or products made or sold by you in the territory described in a. above; or
 - (b) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; and
 - (2) The insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.

COMMERCIAL GENERAL LIABILITY
COVERAGE FORM

5. "Impaired property" means tangible property, other than "your product" or "your work," that cannot be used or is less useful because:
- It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by:
- The repair, replacement, adjustment or removal of "your product" or "your work;" or
 - Your fulfilling the terms of the contract or agreement.

6. "Insured contract" means:

- A lease of premises;
- A sidetrack agreement;
- An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
- Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- An indemnification of a municipality as required by ordinance, except in connection with work for a municipality;
- An elevator maintenance agreement; or
- That part of any other contract or agreement pertaining to your business under which you assume the tort liability of another to pay damages because of "bodily injury" or "property damage" to a third person or organization, if the contract or agreement is made prior to the "bodily injury" or "property damage." Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An "insured contract" does not include that part of any contract or agreement:

- That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- Under which the insured, if an architect, engineer or surveyor, assumes liability for injury or damage arising out of the insured's rendering or failing to render professional services, including those listed in a. above and supervisory, inspection or engineering services; or

- That indemnifies any person or organization for damage by fire to premises rented or loaned to you.

7. "Loading or unloading" means the handling of property:

- After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto;"
- While it is in or on an aircraft, watercraft or "auto;" or
- While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto."

8. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- Vehicles maintained for use solely on or next to premises you own or rent;
- Vehicles that travel on crawler treads;
- Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - Power cranes, shovels, loaders, diggers or drills; or
 - Road construction or resurfacing equipment such as graders, scrapers or rollers;
- Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - Cherry pickers and similar devices used to raise or lower workers;
- Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos:"

 - Equipment designed primarily for:
 - Snow removal;

- (b) Road maintenance, but not construction or resurfacing;
 - (c) Street cleaning;
 - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
9. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
10. "Personal injury" means injury, other than "bodily injury," arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;
 - d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
 - e. Oral or written publication of material that violates a person's right of privacy.
11. a. "Products-completed operations hazard" includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
- (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned.
- b. "Your work" will be deemed completed at the earliest of the following times:
- (1) When all of the work called for in your contract has been completed.
 - (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
 - (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- c. This hazard does not include "bodily injury" or "property damage" arising out of:
- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle created by the "loading or unloading" of it;
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials;
 - (3) Products or operations for which the classification in this Coverage Part or in our manual of rules includes products or completed operations.
12. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property; or
 - b. Loss of use of tangible property that is not physically injured.
13. "Suit" means a civil proceeding in which damages because of "bodily injury," "property damage," "personal injury" or "advertising injury" to which this insurance applies are alleged. "Suit" includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.
14. "Your product" means:
- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
 - b. Containers (other than vehicles), materials parts or equipment furnished in connection with such goods or products.
- "Your product" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. and b. above.
- "Your product" does not include vending machines or other property rented to or located for the use of others but not sold.
15. "Your work" means:
- a. Work or operations performed by you or on your behalf; and
 - b. Materials, parts or equipment furnished in connection with such work or operations.
- "Your work" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. or b. above.

**QUICK REFERENCE
 COMMERCIAL GENERAL LIABILITY COVERAGE PART**

Please read your policy carefully.

DECLARATIONS PAGES

- Named Insured and Mailing Address
- Policy Period
- Description of Business and Location
- Coverages and Limits of Insurance

SECTION I — COVERAGES

Beginning on Page

| | | |
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| Bodily Injury and Property Damage Liability | Exclusions | 1 |
| Coverage B — | Insuring Agreement | 3 |
| Personal and Advertising Injury Liability | Exclusions | 3 |
| Coverage C — | Insuring Agreement | 4 |
| Medical Payments | Exclusions | 4 |

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| SECTION II — WHO IS AN INSURED | 4 |
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| SECTION III — LIMITS OF INSURANCE | 5 |
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SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS

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| SECTION V — DEFINITIONS | 7 |
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COMMON POLICY CONDITIONS

- Cancellation
- Changes
- Examination of Your Books and Records
- Inspections and Surveys
- Premiums
- Transfer of Your Rights and Duties Under This Policy

ENDORSEMENTS (If Any)

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY

30212621

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION—DESIGNATED PROFESSIONAL SERVICES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Description of Professional Services:

1. **MEDICAL, SURGICAL, DENTAL, X-RAY OR NURSING SERVICE & TREATMENT, OR THE FURNISHING OF FOOD OR BEVERAGE IN CONNECTION THEREWITH.**
2. **ANY SERVICE OR TREATMENT CONDUCTIVE TO HEALTH OR OF A PROFESSIONAL NATURE.**
- 3.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to any professional services shown in the Schedule, this insurance does not apply to "bodily injury," "property damage," "personal injury" or "advertising injury" due to the rendering or failure to render any professional service.

POLICY NUMBER:

30212621

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION — SPECIFIED HEALTH OR COSMETIC SERVICES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Description of Operations:

HOTEL

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to any operation shown in the Schedule, this insurance does not apply to "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of the rendering or failure to render any cosmetic, ear piercing, tonsorial, massage, physiotherapy, chiropody, hearing aid, optical or optometrical service or treatment.

01 03 04 0512 JU 895-2831

ARATIONS
COMMERCIAL EXCESS



Industrial Indemnity
A Commercial Excess Insurance Company

INSURING COMPANY INDUSTRIAL INSURANCE
COMPANY OF HAWAII, LTD.
HOME OFFICE HAWAII

FOR COMPANY USE

NAME
OF
INSURED
LESS

WESTCOR PARTNERS, ET AL
(SEE ENDORSEMENT #1)
11411 TATUM BLVD.
PHOENIX, AZ. 85028

PRODUCER

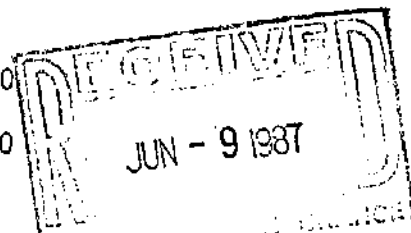
STEWART SMITH WEST
3200 WILSHIRE BLVD.
LOS ANGELES, CA. 90010

2 POLICY PERIOD FROM 12 31 86 TO 12 31 87 AT 12:01 AM STARTING AND TIME AT THE ADDRESS OF THE NAMED INSURED AS STATED HEREIN RENEWAL OF JE 895-1464

RETROACTIVE DATE BUSINESS OF INSURED PROPERTY OWNERS

3 NAMED INSURED THE NAMED INSURED IS INDIVIDUAL CORPORATION PARTNERSHIP JOINT VENTURE OTHER

4 LIMITS LIMIT OF LIABILITY (A) Per occurrence \$ 5,000,000 (B) Policy aggregate limit \$ 5,000,000



5 PREMIUM COMPUTATION - SEE CONDITION A

COPY

Advance Premium

Rate

\$-5.21-0 PER \$1,000. OF GROSS RECEIPTS based on an estimated annual exposure of \$72,000,000.

Annual Minimum Premium

In the event of cancellation by the named insured, the company shall receive and retain not less than \$ 93,750. as a minimum premium.

6 UNDERLYING INSURANCE

Per schedule of underlying AS PER SCHEDULE A.

7 INSURED'S RETENTION

\$ 50,000.

POLICY JACKET, FORM AND ENDORSEMENTS ATTACHED TO THIS POLICY AT INCEPTION:

COMMERCIAL UMBRELLA PAGES 1 thru 14
ENDT. #1 to #7

Countersigned by _____

AUTHORIZED REPRESENTATIVE

THESE DECLARATIONS TOGETHER WITH "THE COMMERCIAL EXCESS POLICY" AND ENDORSEMENTS, IF ANY ARE ISSUED AS PART OF, AND IN COMPLETION OF THE ABOVE

REVISED
SCHEDULE A - SCHEDULE OF UNDERLYING POLICIES

NAME OF INSURED WESTCOR PARTNERS, ET AL

EFFECTIVE ON OR AFTER: DECEMBER 31, 19 86, 12:01 A.M., STANDARD TIME

POLICY NUMBER: JU 895-2831

| <u>TYPE OF POLICY</u> | <u>LIMIT OF LIABILITY</u> | <u>CARRIER DATA</u> |
|--|--|---|
| (a) <u>EMPLOYERS LIABILITY</u> | | |
| BODILY INJURY BY ACCIDENT | \$ 1,000,000 EACH ACCIDENT | TRANSAMERICA POLICY # TO FOLLOW 12-31-86/12-31-87 |
| (b) <u>AUTOMOBILE LIABILITY</u> | | |
| BODILY INJURY, PROPERTY DAMAGE - COMBINED SINGLE LIMIT | \$ 1,000,000 EACH OCCURRENCE | TRANSAMERICA POLICY # TO FOLLOW 12-31-86/12-31-87 |
| (c) <u>GENERAL LIABILITY</u> (RETROACTIVE DATE: _____) | | |
| DEFENSE IN ADDITION TO LIMIT BODILY INJURY & PROPERTY DAMAGE COMBINED | \$ 1,000,000 EACH OCCURRENCE | TRANSAMERICA POLICY # TO FOLLOW 12-31-86/12-31-87 |
| | \$ 1,000,000 PRODUCTS & COMPLETED OPERATION AGGREGATE | |
| | \$ 2,000,000 GENERAL AGGREGATE | |
| | \$ 1,000,000 PERSONAL INJURY & ADVERTISING INJURY LIMIT | |
| (d) HOTEL WESTCOURT ONLY | | |
| LIQUOR LIABILITY (RETRO DATE: 12-31-86) DEFENSE IN ADDITION TO LIMIT | | TRANSAMERICA 30212617 12-31-86/12-31-87 |
| BODILY INJURY & PROPERTY DAMAGE COMBINED | \$1,000,000 EACH OCCURRENCE \$2,000,000 AGGREGATE | |
| | | |
| (e) WESTCOURT IN THE BUTTES ONLY | | |
| LIQUOR LIABILITY (RETRO DAGE: 12-31-86) DEFENSE IN ADDITION TO LIMIT | | TRANSAMERICA POLICY # TO FOLLOW 12-31-86/12-31-87 |
| BODILY INJURY & PROPERTY DAMAGE | \$1,000,000 EACH OCCURRENCE | |
| | | |

IN CONSIDERATION OF THE PREMIUM CHARGED, IT IS UNDERSTOOD AND AGREED THAT THE DECLARATIONS OF COMMERCIAL EXCESS, 1U104R5, ITEM 1, NAMED INSURED, IS HEREBY COMPLETED TO READ AS FOLLOWS:

(A) MANAGING/OPERATING ENTITIES

BELL & HAYDEN ASSOCIATES
BOULDERS CAREFREE PARTNERS LIMITED PARTNERSHIP
BOULDERS ACREFREE SEWER CORP.
THE BOULDERS JOINT VENTURE
BOWEST
CANYON INVESTORS
CLOVERDALE ENTERPRISES
EAST MESA ASSOCIATES
GREENDALE ASSOCIATES
I-10 ASSOCIATES
INA & LACHOLLA ASSOCIATES, A GENERAL PARTNERSHIP
JAMOCA WESTECH GENERAL PARTNERSHIP
LYONS VENTURE, INC.
METROCENTER, INC.
MOHAVE FARMS
MSR PROPERTIES
PARADIES ASSOCIATES
PARADISE PARTNERS LTD.
PARADISE VILLAGE INVESTMENT CO ("PVIC")
PARADISE VILLAGE INVESTMENT CO ("PVIC")
RUSS LYON REALTY/WESTCOR VENTURE I
RUSS LYON REALTY/WESTCOR VENTURE II
RUSS LYON TRUSTEE (THE LUCKY CENTER)
SCOTTSDALE CAREFREE PROPERTIES
TATUM & SHEA ASSOCIATES
WESTBAR LIMITED PARTNERHSIP
WESTCOR AVIATION, INC.
THE WESTCOR COMPANY LIMITED PARTNERSHIP
WESTCOR PARTNERS
WESTCOR PROPERTIES
WESTCOR TELLURIDE
WESTCOR HOTEL CO.
WESTECH CHANDLER PARTNERS
WESTECH PROPERTIES
WESTECH ASSOCIATES
WESTCOX MANAGEMENT CO
THE HOTEL WESTCOURT
MIDCOR ASSOCIATES

All other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date
Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS



ENDORSEMENT

IN CONSIDERATION OF THE PREMIUM CHARGED, IT IS UNDERSTOOD AND AGREED THAT THE DECLARATIONS OF COMMERCIAL EXCESS, 1U104R5, ITEM 1, NAMED INSURED, IS HEREBY COMPLETED TO READ AS FOLLOWS:

(B) NEIGHBORHOOD SHOPPING CENTERS

- EVERWEST, DBA: FOOTHILLS CONVENIENCE CENTER
- METRO VILLAGE LIMITED PARTNERSHIP
- CB INVESTMENT, LTD., DBA: SHOW LOW PLAZA
- THE LUCKY CENTER
- EAST FLAGSTAFF PLAZA ASSOCIATES, DBA: EAST FLAGSTAFF PLAZA
- MONTEBELLO PLAZA ASSOCIATES, DBA: CHRIS TOWN PLAZA
- PVIC, DBA: VILLAGE CENTER
- PROMENADE ASSOCIATES, DBA: PROMENADE
- THE WESTCOR COMPANY LIMITED PARTNERSHIP, DBA:
 - CATALINA PLAZA
 - EAST CACTUS PLAZA
 - FAIRLANES SHEA CENTER
 - NORTH PARK PLAZA
 - VILLAGE PLAZA
 - VILLAGE SQUARE I
 - VILLAGE SQUARE II
- WESTLINC ASSOCIATES, DBA: HILTON VILLAGE

(C) REGIONAL SHOPPING CENTERS

- BERRIEN ASSOCIATES, DBA: THE ORCHARDS MALL
- CAMELBACK SHOPPING CENTER LIMITED PARTNERSHIP, DBA: THECOLONNADE
- DVM CO., DBA: METROCENTER
- EAST MEAS ASSOCIATES
- EVERWEST, DBA: FOOTHILLS FASHION MALL
- FLAGSTAFF MALL ASSOCIATES FLAGSTAFF MALL
- LOS ARCOS INVESTMENTS LIMITED PARTNERSHIP, DBA: LOS ARCOS MALL
- LOS ARCOS MANAGEMENT
- NEW RIVER ASSOCIATES
- THE WESTCOR COMPANY LIMITED PARTNERSHIP, DBA:
 - THE BORGATA
 - SCOTTSDALE FASHION SQUARE
- WESTDAY ASSOCIATES, DBA: PARADISE VALLEY MALL
- WESTPEN ASSOCIATES, DBA: WESTRIDGE MALL

All other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.)

Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS



ENDORSEMENT

IN CONSIDERATION OF THE PREMIUM CHARGED, IT IS UNDERSTOOD AND AGREED THAT THE DECLARATIONS OF COMMERCIAL EXCESS, 1U104R5, ITEM 1, NAMED INSURED, IS HEREBY COMPLETED TO READ AS FOLLOWS:

(C) OFFICE BUILDING/OTHERS

- DESIGN ASSOCIATES LIMITED PARTNERSHIP, DBA: SOUTHWEST WHOLESALE MERCANTILE SHOPS INTERIOR DESIGN
- METROCENTER BUSINESS PARK I LIMITED PARTNERSHIP, DBA: OFFICE BUILDING METROCENTER BUSINESS PARK I
- PARADISE ASSOCIATES, DBA: PARADISE VILLAGE OFFICE PARK II
- PARADISE PARTNERS, DBA: PARADISE VILLAGE OFFICE PARK III
- PARADISE VILLAGE INVESTMENT COMPANY
- THE WESTCOR COMPANY LIMITED PARTNERSHIP, DBA: THE HOTEL WESTCOURT
- WESTBAR LIMITED PARTNERHSIP
- WESTBAR LIMITED PARTNERSHIP
- WESTCOR LIMITED
- WESTECH PROPERTIES
- WESTLINC ASSOCIATES, DBA: HILTON VILLAGE OFFICE BLDG.
- WESTCOX HOTEL CO. MANAGING AGENT FOR WESTCOURT & BUTTES
- TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, DBA: THE WESTCOURT IN THE BUTTES

All other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date. Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

ENDORSEMENT

SUBSIDENCE EXCLUSION

IN CONSIDERATION OF THE PREMIUM PAID, AND NOTWITHSTANDING ANYTHING CONTAINED IN THIS POLICY TO THE CONTRARY, IT IS AGREED THAT THIS POLICY SHALL NOT APPLY TO ANY LIABILITY FOR BODILY INJURY, PERSONAL INJURY AND/OR PROPERTY DAMAGE CAUSED BY THE SUBSIDENCE OF LAND AND ARISING OUT OF OR ATTRIBUTABLE TO ANY OPERATIONS OF THE INSURED.

IT IS FURTHER UNDERSTOOD AND AGREED THAT IN THE EVENT THAT THE AGGREGATE COVERAGE PROVIDED BY ANY UNDERLYING POLICY AS PER THE SCHEDULE OF UNDERLYING WHICH IS ULTIMATELY IMPAIRED OR REDUCED AS A RESULT OF PROVIDING ANY LIABILITY COVERAGE FOR INCIDENTS EXCLUDED BY THIS ENDORSEMENT, THAT THIS IMPAIRED AGGREGATE SHALL NOT AFFECT THIS POLICY IN ANY WAY. IT SHALL BE THE INSURED'S SOLE RESPONSIBILITY TO PROVIDE OTHER INSURANCE OR SELF-INSURANCE FOR SUCH AGGREGATE IMPAIRMENT AS RESULTS FROM SUBSIDENCE LIABILITY RESPONDED TO BY ANY UNDERLYING POLICY.

SUBSIDENCE SHALL MEAN EARTH MOVEMENT, INCLUDING BUT NOT LIMITED TO LANDSLIDE, MUDFLOW, EARTH SINKING AND EARTH RISING OR SHIFTING.

Other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.

Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNER

Endorsement no. 2



ENDORSEMENT

SAFE KEEPERS LEGAL LIABILITY & INN KEEPERS LEGAL LIABILITY EXCLUSION

IT IS AGREED THAT THE COVERAGE AFFORDED BY THIS POLICY DOES NOT APPLY TO A CLAIM FOR ANY DAMAGES ARISING OUT OF AN OCCURRENCE WHICH IS COVERED BY ANY SAFE KEEPERS LEGAL LIABILITY OR INN KEEPERS LEGAL LIABILITY INSURANCE.

If other terms and conditions of this Policy remain unchanged.

(The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.)

Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

endorsement no. 3

1-27-87jw

AUTHORIZED REPRESENTATIVE

ENDORSEMENT

CROSS SUITS

IT IS AGREED THAT THE COVERAGE AFFORDED BY THIS POLICY DOES NOT APPLY TO A CLAIM FOR DAMAGES ARISING OUT OF BODILY INJURY, PERSONAL INJURY OR PROPERTY DAMAGE, INITIATED, ALLEGED, OR CAUSED TO BE BROUGHT ABOUT BY A NAMED INSURED OR ADDITIONAL NAMED INSURED COVERED BY THIS POLICY AGAINST ANY OTHER NAMED INSURED OR ADDITIONAL NAMED INSURED COVERED BY THIS POLICY.

All other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date
Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

endorsement no. 4
1-27-87jw

INDUSTRIAL
INSURANCE

ENDORSEMENT

DIRECTORS AND OFFICERS LIABILITY EXCLUSION

THIS POLICY DOES NOT APPLY TO ANY LIABILITY ARISING FROM ANY WRONGFUL ACT OF ANY DIRECTOR OR OFFICER OF THE INSURED IN THE DISCHARGE OR PERFORMANCE OR THEIR DUTIES AS SUCH.

IT IS FURTHER AGREED THAT FOR THE PURPOSE OF THIS ENDORSEMENT "WRONGFUL ACT" SHALL MEAN ANY ACTUAL OR ALLEGED ERROR OR MISSTATEMENT OR MISLEADING STATEMENT OR ACT OR OMISSION OR NEGLIGENCE OR BREACH OF DUTY BY THE DIRECTORS OF OFFICERS IN THE DISCHARGE OF THEIR DUTIES, INDIVIDUALLY OR COLLECTIVELY, OR ANY MATTER CLAIMED AGAINST THEM SOLELY BY REASON OF THEIR BEING DIRECTORS OR OFFICERS OF THE COMPANY.

All other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date. Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

Endorsement no. 5
1-27-87 uw

Professional Liability Exclusion

It is agreed that this policy shall not apply to liability arising out of any error or omission, malpractice or mistake of a professional nature committed or alleged to have been committed by or on behalf of the insured in the conduct of any of the named insured's business activities.

(The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.)

Effective DECEMBER 31, 1986, this endorsement forms a part of Policy No. JU 895-2831

issued to WESTCOR PARTNERS

by INDUSTRIAL INS. CO. OF HAWAII, LTD.

ENDT. #6
1-27-87jw

Authorized Representative



ENDORSEMENT

MINIMUM RETAINED PREMIUM

IN THE EVENT OF CANCELLATION BY THE NAMED INSURED, THE COMPANY SHALL RECEIVE AND RETAIN NOT LESS THAN 25% OF THE DEPOSIT PREMIUM OR \$5,000. WHICHEVER IS GREATER AS A MINIMUM PREMIUM.

IN THE EVENT OF CANCELLATION FOR NON-PAYMENT, THE COMPANY SHALL RECEIVE AND RETAIN NOT LESS THAN 25% OF THE DEPOSIT PREMIUM OR \$5,000. WHICHEVER IS GREATER AS A MINIMUM PREMIUM.

Other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.

Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

Endorsement no. 7
1-27-87jw

IT IS AGREED THAT, EXCEPT FOR NON-PAYMENT OF PREMIUM, THE POLICY CANCELLATION
CONDITION IS AMENDED TO PROVIDE FORTY-FIVE (45) DAYS WRITTEN NOTICE OF
CANCELLATIONS.

All other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.

Effective DECEMBER 31, 1986. this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

Endorsement no. 8

3-3-87 jw

PORTIONS OF THIS POLICY PROVIDES CLAIMS MADE COVERAGE
READ THIS ENTIRE FORM CAREFULLY

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you," "your," and "the insured" refer to any person qualifying as an insured under Section VII - WHO IS AN INSURED. The words "we," "us" and "our" refer to the Company providing this insurance. Other words and phrases that appear in quotations have special meaning. Refer to Section III - Who is an insured, and Section VIII Definitions.

In consideration of the payment of premium and in reliance upon the statements in the declarations and subject to the limit of liability, the insured's retention, the exclusions, conditions, definitions, and other terms of this policy, the Company (a capital stock company, herein called the Company) and the insured named in the declarations agree as follows:

INSURING AGREEMENTS

COVERAGE A - Bodily Injury and Property Damage

We will indemnify the insured for that part of "ultimate net loss" in excess of the "insured's retention" which "the insured" becomes legally obligated to pay as damages because of:

"bodily injury,"

"property damage,"

"bodily injury" or "property damage" for which liability is assumed under written contract

caused by the "occurrence" in the "coverage territory" and for which claim is first made against "the insured" during the policy period.

II. COVERAGE B - Personal Injury and Advertising Injury

We will indemnify "the insured" for that part of "ultimate net loss" in excess of the "insured's retention" which "the insured" becomes legally obligated to pay as damages because of:

A. "personal injury,"

B. "advertising injury"

caused by an offense in the "coverage territory" and for which claim is first made against "the insured" during the policy period.

III. DEFENSE SETTLEMENT

A. We have the right and duty to investigate, defend, and at our discretion settle, any claim or suit against the insured seeking damages to which this insurance applies and which is in excess of the "insured's retention." The insured or underlying carriers on the insured's behalf, shall bear the costs and expenses until the "insured's retention" has been exhausted by payment of settlements or judgements.

B. Our right and duty to defend such claims or suits ends at the time when the first of the following events takes place:

1. We have paid in "ultimate net loss" an amount equal to the applicable limit of insurance set forth in the declarations, or

2. We have discharged by payment of claims or suits all liability for those damages to which this insurance applies.

C. We have no duty to defend any claim or suit, or that part of any claim or suit, to which this insurance does not apply, but if we must do so to provide an adequate defense to covered claims or suits, you must promptly reimburse us for the expense incurred in defending that part of any claim or suit which through agreement, arbitration, or suit is ultimately found not to be covered by this insurance.

LIMITS OF INSURANCE

A. The limits of insurance designated in the declarations as applicable to coverage A and B is the most we will pay regardless of the number of:

1. Insureds;
2. Claims made or suits brought; or
3. Persons or organizations making claims or bringing suits.

The per occurrence limit of insurance designated in the declarations as applicable to coverage A and B is the most we will pay for each occurrence or offense.

The policy aggregate limit of insurance designated in the declarations as applicable to coverage A and B is the most we will pay for any policy period other than ownership, maintenance, or use of any auto.

WHEN CLAIM IS MADE

Where the "insured's retention" is covered by claims made policies:

1. A claim by a person or organization seeking damages under Coverage A or B will be deemed to have been first made when notice of such claim is received by any insured or by any of our employees, whichever comes first.
2. All claims for damages because of "bodily injury" to the same person,

including damages claimed by any person or organization for care, loss of service, or death resulting at any time from the "bodily injury," will be deemed to have been made at the time the first of those claims is made against any insured.

3. All claims for damages because of "property damage" causing loss to the same person or organization as a result of an "occurrence" will be deemed to have been made at the time the first of those claims is made against any insured.

B. Where the "insured's retention" is covered by occurrence policies. Regardless of the date upon which notice is received by any insured or by any of our employees, a claim by a person or organization seeking damages under Coverage A or B will be deemed to have been first made during the policy period of this insurance, if, and only if, "the insured" has secured underlying insurance coverage for such claim which applies to the "insured's retention" and which does not require that such claim be first made against "the insured" during the policy period of that underlying insurance.

VI. THE AMOUNT WE PAY

The amount we will pay in damages is limited by the "insured's retention" and the limits of liability set forth in the declarations, and as described in Section IV - LIMITS OF INSURANCE.

VII. WHO IS AN INSURED

- A. The named insured shown in the declarations.
- B. If you are designated in the declarations as:
 1. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner,

2. A partnership, or joint venture, you, your spouse, your partners, and their spouses are insureds, but only with respect to the conduct of your business.

3. An organization other than a partnership or joint venture, you are an insured. Your executive officers and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

2. Each of the following is also an insured:

1. Your employees, other than your executive officers, but only for acts within the scope of their employment by you. However, none of these employees is an insured for:

a. "Bodily injury" or "personal injury" to you or to a co-employee while in the course of his or her employment; or

b. "Bodily injury" or "personal injury" arising out of his or her providing or failing to provide professional health care services; or

c. "Property damage" to property owned or occupied by or rented or loaned to that employee, any of your other employees, or any of your partners or members (if you are a partnership or joint venture).

2. Any person (other than your employee), or any organization while acting as your real estate manager.

3. Any person or organization having proper temporary custody of your property if you die, but only:

a. With respect to liability arising out of the maintenance or use of that property; and

b. Until your legal representative has been appointed.

4. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this coverage.

VIII. DEFINITIONS

A. "Advertising injury" means injury in the course of advertising your goods, products or services which arises out of one or more of the following offenses:

1. Oral or written publication of material that slanders or libels a person's or organization's goods, products, or services.

2. Oral or written publication of material that violates a person's right of privacy.

3. Misappropriation of advertising ideas or styles of doing business.

4. Infringement of copyright, title or slogan.

B. "Bodily injury" means physical injury to the body, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" also includes shock to the nervous system or emotional distress if the shock or emotional distress are severe and were treated by a medical doctor.

C. "Insured's retention" means that part of "ultimate net loss" for which we have no indemnity obligation under this insurance. The amount of the "insured's retention" is the sum so designated in the Declarations, or the total limits of valid and collectable insurance listed in the schedule of underlying insurance, whichever is greater.

The "insured's retention" shall apply separately to each and every "occurrence" or offense.

D. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

c. "Personal injury" means injury, other than bodily injury arising out of one or more of the following offenses:

c. when that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

1. False arrest, detention or imprisonment.

2. Malicious prosecution.

3. Wrongful entry into, or eviction from, a room, dwelling or premises that the person occupies as a residence.

4. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products, or services, or

5. Oral or written publication of material that violates a person's right of privacy.

3. This hazard does not include "bodily injury" or "property damage" arising out of:

a. the transportation of property unless the injury or damage arises out of a condition in or on a vehicle created by the "loading or unloading" of it;

b. the existence of tools, uninstalled equipment or abandoned or unused materials.

"Pollutants" means any solid, liquid, gaseous, or thermal irritant, contaminant, corrosive or toxic substance, including smoke, vapors, soot, fumes, acids, alkalis, asbestos, chemicals, or waste materials consisting of or containing any of the foregoing.

i. "Products - Completed Operations Hazard" means

H. "Property damage" means:

1. All "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your products" or "your work" except:

a. products that are still in your physical possession; or

b. work that has not yet been completed or abandoned.

1. Physical injury to tangible property, including all resulting loss of use of that property; or

2. Loss of use of a tangible property that is not physically injured, which is caused by physical injury to other tangible property.

2. "Your work" will be deemed completed at the earliest of the following times:

a. when all of the work called for in your contract has been completed;

b. when all of the work to be done at the site has been completed if your contract calls for work at more than one site;

1. "Suit" means a civil proceeding in a court of law or equity in which damages to a person or entity are sought arising out of "bodily injury," "property damage," "personal injury" or "advertising injury" to which this insurance applies. "Suit" includes a civil proceeding by you in a court of law or equity to secure or clarify coverage under this insurance after an arbitration decision in our favor.

d. "Ultimate net loss" means the total of the following sums with respect to each occurrence or offense to which this insur-

pled to pay for damages, whether by reason of adjudication, settlement, or otherwise, and

ished in connection with such work or operations.

2. All expenses incurred in the investigation, negotiation, or settlement of claims or suits seeking such damages, excluding the salaries of the insured's regular employees.

"Ultimate net loss" shall not include any damages or expenses arising out of liability to which this insurance does not apply.

C. "Your product" means

1. Any goods or products, other than real property, manufactured, sold, handled, distributed, or disposed of by:

- a. you;
- b. others trading under your name; or
- c. a person or organization whose business or assets you have acquired; and

2. Containers (other than vehicles) materials, parts or equipment furnished in connection with such goods or products.

"Your products" includes warranties or representations made at any time with respect to the fitness, quality or durability or performance of any of the items included in (1) and (2) above.

"Your products" do not include vending machines or other property rented to or located for the use of others but not sold.

"Your work" means

1. Work or operations performed by you and on your behalf; and

"Your work" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in (1) or (2) above.

IX. TERRITORY

This policy applies to "occurrences" that happen anywhere.

X. EXCLUSIONS

This insurance does not apply to:

- A. "Bodily injury," "property damage," "personal injury" or "advertising injury" which occurs before the retroactive date, if any, shown in the declarations or which occurs after the policy period.
- B. Any obligation for which the "insured" or any of its insurers may be held liable under any Workers Compensation or unemployment compensation, disability benefits or similar laws, but this exclusion does not apply to liability of others you assume under contract;
- C. 1. "Bodily injury" to an employee of the insured arising out of and in the course of employment by the insured, whether the insured may be liable as an employer or in any other capacity;
2. To any person as a consequence of (1) above.
3. To an employee which creates an obligation to share damages with or repay someone else who must pay damages - but this exclusion does not apply to liability assumed by the insured under a contract.

"bodily injury" or "property damage" expected or intended from the standpoint of the "insured." This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Any "advertising liability" that results from:

1. The failure to meet the requirements of a written contract;
2. Infringement on a registered trade mark, service mark, or trade name by using such for goods or services sold, offered for sale, or advertised. But this exclusion does not apply to titles or slogans;
3. Incorrect description of any article or commodity; or
4. A mistake in an advertised price.

Any personal injury arising out of:

1. Oral or written publication of material, if done by or at the direction of the insured with knowledge of or indifference to its truth or falsity;
2. The willful violation of a penal statute or ordinance committed by or with the consent of the insured.

Liability arising out of racial, religious, sex, or age discrimination.

To "bodily injury," "personal injury," or "property damages" to an employee or former employee of an insured arising out of:

1. Defamation.
2. Discrimination.
3. Humiliation.
4. harassment, or
5. Termination from employment.

I. To any obligations incurred or imposed upon the insured for which are imputed to the insured) under the "Employee Retirement Income Security Act of 1974," Public Law 93-406 and any law amendatory thereof.

J. "Property damage" to "your product" arising out of it or any part of it.

K. "Property damage" to "your work" arising out of it or any part of it and included in the "products - completed operations hazard."

L. Damages claimed for the withdrawal, inspection, repair, replacement, or loss of use of any of the following if withdrawn from the market or from use because of any known or suspected defect or deficiency:

1. Your products;
2. Work completed by or for you, or
3. Any property of which your products or work form a part.

M. For loss of use of tangible property, that has not been physically injured or destroyed, because:

1. Of a delay in or lack of performance of any contract or agreement by you or on your behalf;
2. Any of the following fail to meet the level of performance, quality, fitness or durability that you warrant or represent:

- a. your products;
- b. work performed by you; or
- c. work performed on your behalf.

But this exclusion does not apply to loss of use of other tangible property resulting from sudden or accidental physical injury to or destruction of your product or work performed by or for you, if the loss occurs after your product or work has been put to use by anyone other than an "insured."

N. Property damage to:

- 1. "Real property" occupied by you or leased to the "insured;"
- 2. "Real or personal property" used by the "insured;"
- 3. "Personal property" in the "insured's" care, custody, or control or as to which the "insured" is for any purpose exercising control.

O. Aircraft or watercraft liability that arises out of any of the following unless coverage is provided by a policy listed in Schedule A:

- 1. Ownership;
- 2. Maintenance;
- 3. Use; or
- 4. "Loading or unloading."

Liability that arises out of "bodily injury," "personal injury" or "property damage" that results from any of the following, or any condition that is incidental to any of the following:

- 1. War, whether or not declared;
- 2. Civil war;
- 3. Insurrection;
- 4. Rebellion; or
- 5. Revolution.

To damages of any kind, including damages for "bodily injury," "property damage," contractually assumed damages," or "personal injury," which the insured becomes legally obligated to pay as a result of the manufacturing of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure of any person to asbestos, asbestos products, asbestos fibers, or asbestos dust.

R. Actual, alleged, or threatened "bodily injury," "property damage," or any other damage, whether or not expected or intended from the standpoint of the "insured," arising out of the actual, alleged, or threatened, accidental, inadvertent, or intentional discharge, dispersal, release, escape, or use of "pollutants;"

S. Any loss, cost or expense, arising out of any directive or obligation imposed by law that the "insured" test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize "pollutants;"

T. Wrongful entry or eviction, whether or not expected or intended from the standpoint of the "insured;"

1. Arising out of the accidental, inadvertent, or intentional discharge, disposal, release, escape or use of "pollutants," or

2. Arising out of any directive, or obligation imposed by law that the "insured" test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any "pollutants."

U. Continuing or progressive "bodily injury" or "property damage" occurring at any time if such "bodily injury" or "property damage" arose out of an occurrence which first began prior to the retroactive date of this policy.

V. Punitive or exemplary damages, fines or penalties.

W. Nuclear Energy Liability:

1. To injury, sickness, disease, death, destruction or loss:

a. with respect to which the "insured" under the policy is also the "insured" under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic

Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be the "insured" under any such policy but for its termination upon exhaustion of its limit of liability; or

b. resulting from the hazardous properties of nuclear material and with respect to which

(1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or

(2) the "insured" is or had its policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization;

2. To injury, sickness, disease, death, destruction or loss resulting from the hazardous properties of nuclear material, if:

a. the nuclear material

(1) is at any nuclear facility owned by, or operated by or on behalf of the "insured" or

(2) has been discharged or dispersed therefrom,

b. the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of the "insured," or

c. the injury, sickness, disease, death, destruction or loss arises out of the furnishing by the "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of or loss of property at such nuclear facility.

3. Definitions as used in this policy

a. "hazardous properties" include radioactive, toxic or explosive properties;

b. "nuclear material" means source material, special nuclear material or by-product material.

c. "source material", "special nuclear material" and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof,

d. "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor,

e. "waste" means any waste materials

(1) containing by-product material and

(2) resulting from the operation by any person

or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) and (b) thereof.

6. With respect to injury to or destruction of or loss of property, the word "injury" or "destructive" or "loss" includes all forms of radioactive contamination of property.

4. "Nuclear facility" means:

- a. any nuclear reactor;
- b. any equipment or device designed or used for:
 - (1) separating the isotopes of uranium or plutonium,
 - (2) processing or utilizing spent fuel,
 - (3) handling processing or packing waste;
- c. any equipment or device used for processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste.

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

5. "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in self-supporting chain reaction or to contain a critical mass of fissionable material.

XI. EXTENDED REPORTING PERIODS OPTION

- A. We will provide an extended reporting period only if the policy is either cancelled or not renewed for any reason except nonpayment of premium. Non renewal shall mean the refusal by us to renew the policy on any terms. Non renewal shall not mean change in premium, deductible or underlying required limits, or any other terms and conditions.
- B. A claim first made during the extended reporting period will be deemed to have been made on the last day of the policy period, provided that the claim is for damages because of "bodily injury," "personal injury," "property damage" or "advertising liability" that occurred on or before the end of the policy period but not before any applicable retroactive date.
- C. The extended reporting period will not reinstate or increase the limits of liability or extend the policy period.
- D. The extended reporting period will be as set forth below:
 - 1. If no other insurance you purchase to replace this policy applies to the claim or would apply but for the exhaustion of its applicable limits of liability, an extended reporting period of 60 days from the end of the policy period will apply. This extended reporting period may not be cancelled and requires no additional premium.
 - 2. You make a written request for an extended reporting period within 30 days after the expiration of

the policy period and pay the additional premium within 30 days after said request. We will issue an extended reporting endorsement for a period of twenty-four (24) months from the end of the policy period.

The extended reporting period endorsement will not take effect unless the additional premium is paid when due. If that premium is paid when due, the endorsement may not be cancelled.

The extended reporting period endorsement will also amend the other insurance condition so that the insurance provided will be excess over any other valid and collectible insurance available to the "insured" whether primary, excess, contingent or on any other basis, whose policy period begins or continues after the endorsement takes effect.

The premium for the extended reporting period will be 200% of the expiring claims made premium in accordance with our rules and rates.

The premium for the extended reporting period endorsement will be fully earned when the endorsement takes effect.

CONDITIONS

A. Premium Computation

The rate, rating basis, and estimated unit of exposure for the policy period will be stated in the declarations. We will compute the premium for this policy by applying the rate to each unit of exposure of the rating basis. The estimated units of exposure will be used to determine the advance premium. The actual units of exposure will be used to compute the earned premium.

When this policy expires or if it is cancelled, we will compute the earned premium. If the earned premium is more than the advance premium, you will

pay the additional premium immediately. If the earned premium is less than the advance premium, we will return the excess premium to you. Regardless of the earned premium, the annual minimum premium stated in the declarations will apply for each 12 months of the policy period.

B. Inspection and Surveys

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

C. Examination of your Books and Reports

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

2. Separation of Insureds:

Except with respect to the Limits of Insurance and any rights or duties specifically assigned in this coverage part to the first "named insured," this insurance applies:

1. As if each "named insured" were the only "named insured;" and
2. Separately to each "insured" against whom claim is made or "suit" is brought.

3. Duties in the event of occurrence, claim or suit:

1. In addition to reporting occurrences which may result in a claim under any underlying insurance, you must see to it that we are notified promptly of any "occurrence" which may result in a claim under this policy. Notice should include:
 - a. how, when, and where the "occurrence" took place; and
 - b. the names and addresses of any injured persons and witnesses.
2. If a claim is made or "suit" is brought against any "insured," you must see to it that we receive prompt written notice of the claim or "suit."
3. You and any other involved "insureds" must:
 - a. immediately send us copies of any demands, notices, summons or legal papers received in connection with the claim or "suit;"
 - b. authorize us to obtain records and other information;
 - c. cooperate with us in the investigation, settlement or defense of claim or "suit;" and

d. assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the "insured" because of injury or damage to which this insurance may also apply.

4. No "insureds" will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid without our consent.

F. Appeals

If the "insured" or the "insureds" underlying insurer elects not to appeal a judgment that is in excess of the "retained limit" we may elect to do so at our own expense. In this case, we will:

1. Pay all taxable costs, disbursements and incidental interest; but
2. Not pay more for any one "occurrence" than the amount provided in Insurance Agreement VI, Limits of Insurance, plus taxable costs, disbursements and interest incidental to the appeal.

G. Other Insurance

If there is any other collectible insurance available to the "insured" that covers a loss that is also covered by this policy, the insurance provided by this policy will apply in excess of other collectible insurance. But this does not apply to insurance purchased specifically to apply in excess of this policy.

H. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first named insured shown in the declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

transfer of your rights and duties under this policy.

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die or are legally declared bankrupt, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

I. Cancellation

1. The first named insured shown in the declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first named insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for other reasons.
3. We will mail or deliver our notice to the first named insured's last known mailing address.
4. Notice of cancellation will state the effective date of cancellation. This policy period will end on that date.
5. If this policy is cancelled, we will send the first named insured any premium refund due. The premium refund will be pro-rata. The cancellation will be effective even if we have not made or offered a refund.

b. If notice is mailed, proof of mailing will be sufficient proof of notice.

K. Maintenance of Underlying Insurance

You agreed to maintain in force the underlying policies listed in Schedule A, except for any reduction of aggregate limits subject to "Condition J" solely by payment of claims in respect of occurrences happening during the policy period.

You may renew or replace the underlying policies, but they may not be more restrictive than the policies listed in Schedule A. If the underlying policies listed on Schedule A have a retroactive date, the renewal or replacement policies must have that same retroactive date. You must notify us, in writing, within 30 days of the effective date of any renewal or replacement policies.

If you do not maintain in force the policies listed in Schedule A, or to meet all conditions and warranties of those policies, this policy shall apply as if those policies were available and collectible.

L. Bankruptcy or Insolvency of Underlying Insurer

If any underlying policy listed in Schedule A is not collectible because of the bankruptcy or insolvency of the insurer, this policy shall apply as if the underlying insurance were available and collectible.

M. Good Faith

Both parties to this agreement shall strictly observe standards of good faith and fair dealing with respect to one another and neither shall engage in any conduct which will take unfair advantage of the other. Each party shall be obligated to consider the interests of the other equally with its own and to evaluate settlement offers as though it was liable for the full amount of the claim or suit.

N. Subrogation

In the event that the Company makes any payments in excess of the "insured's retention," the Company shall be subrogated to the "insured's" rights of recovery therefore against any person or organization to the extent of that payment. The "insured" shall do whatever is necessary to secure and preserve the Company's right of subrogation and any amounts recovered by the "insured" or the Company shall first be applied to reimbursement of the Company for payments made by the Company.

O. Non-Binding Arbitration

If we and an insured do not agree concerning whether or not coverage is provided under this insurance for a claim made or suit brought against such insured, then either party may make a written demand for arbitration. When such a demand is made, arbitration shall be a condition precedent to the filing of any civil action relating to or arising out of such disagreements.

We and such insured may agree to use one arbitrator. Failing to agree, then each party will select an arbitrator within 30 days after being notified by the other. The two arbitrators will select a third. If the two arbitrators cannot agree within 30 days, either may request that selection of the third be made by a judge of a court having jurisdiction. Each party will:

1. Pay the expenses it incurs; and
2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the country in which your address as shown in the declarations is located. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will constitute a determination of the coverage question or dispute.

Legal Action against Us

1. No person or organization has a right under this insurance:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an "insured;" or
- b. To sue us unless all of the terms of this insurance have been fully complied with.

2. Where we have notified the "insured" that a claim or suit is not covered by this insurance or where we have refused to defend a claim or suit against the "insured," arbitration must be demanded pursuant to the arbitration provisions of this insurance within 12 months of the date upon which notification was sent to the "insured." No suit or action by the "insured" for damages directly or indirectly arising out of the Company conduct in refusing to defend or provide coverage shall thereafter be maintained in any court of law or equity unless such suit or action commences within 90 days of the date upon which notice of the findings of the arbitrators was sent to the "insured."

3. A person or organization may sue the Company to recover on an agreed settlement or on a final judgment against the "insured" obtained after an actual trial; but the Company will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by the Company, the "insured" and the claimant (or the claimant's legal representative).

4. In any "suit" between the "insured" and the Company, brought by either party by reason or a disagreement concerning any rights or obligations under this insurance, the prevailing party shall recover all legal costs, including attorneys' fees, reasonably incurred.

IN WITNESS WHEREOF, the Company has caused
this policy to be signed by its vice chairman
of the board and secretary but this policy shall
not be valid unless completed by the attachment
hereto of a declarations page countersigned
by a duly authorized representative of the
company.

PRODUCTS AND COMPLETED OPERATIONS LIMITATION

In consideration of the premium paid, and notwithstanding anything contained in this policy to the contrary, it is agreed that this policy shall not apply to any liability for bodily injury, personal injury or property damage arising out of products or completed operations as defined (in the general liability policy described in the Schedule of Underlying Insurance) nor to any liability assumed by any insured under any contract, agreement or warranty pertaining to such products or completed operations, unless such liability is covered by valid and collectible underlying insurance as described in the Schedule of Underlying Insurance, and then only for such liability for which coverage is afforded under said underlying insurance.

If other terms and conditions of this Policy remain unchanged.

The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.

Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

Endorsement no. 9

5-15-87jw

AUTHORIZED REPRESENTATIVE

EXCLUSION - ALL HAZARDS IN CONNECTION WITH DESIGNATED PREMISES

SCHEDULE

DESCRIPTION AND LOCATION OF PREMISES:

HELIPORT PREMISES AND ALL OPERATION IN CONNECTION THEREWITH.
SITUATED: A TOP THE HOTEL WESTCOURT AT METRO CENTER

THIS INSURANCE DOES NOT APPLY TO "BODILY INJURY," "PROPERTY DAMAGE," "PERSONAL INJURY," OR "ADVERTISING INJURY" ARISING OUT OF:

1. THE OWNERSHIP, MAINTENANCE OR USE OF THE PREMISES SHOWN IN THE SCHEDULE OR ANY PROPERTY LOCATED ON THESE PREMISES;
2. OPERATIONS ON THOSE PREMISES OR ELSEWHERE WHICH ARE NECESSARY OR INCIDENTAL TO THE OWNERSHIP, MAINTENANCE OR USE OF THOSE PREMISES; OR
3. GOODS OR PRODUCTS MANUFACTURED AT OR DISTRIBUTED FROM THOSE PREMISES.

All other terms and conditions of this Policy remain unchanged.

(The information below is required to be completed only when this endorsement is issued subsequent to the policy effective date.

Effective DECEMBER 31, 1986, this endorsement forms part of Policy Number JU 895-2831

of INDUSTRIAL INS. CO. OF HAWAII, LTD.

Issued to WESTCOR PARTNERS

REVISED 5-15-87
SCHEDULE A - SCHEDULE OF UNDERLYING POLICIES

NAME OF INSURED WESTCOR PARTNERS, ET AL

EFFECTIVE ON OR AFTER: DECEMBER 31, 19 86, 12:01 A.M., STANDARD TIME

POLICY NUMBER: JU 895-2831

| <u>TYPE OF POLICY</u> | <u>LIMIT OF LIABILITY</u> | <u>CARRIER DATA</u> |
|--|--|--|
| ***** | | |
| a) <u>EMPLOYERS LIABILITY</u> | | |
| BODILY INJURY BY ACCIDENT | \$ 1,000,000 EACH ACCIDENT | TRANSAMERICA POLICY # TO FOLLOW 12-31-86/12-31-87 |
| b) <u>AUTOMOBILE LIABILITY</u> | | |
| BODILY INJURY, PROPERTY DAMAGE - COMBINED SINGLE LIMIT | \$ 1,000,000 EACH OCCURRENCE | TRANSAMERICA 30212620 & 30212621 12-31-86/12-31-87 |
| c) <u>GENERAL LIABILITY (RETROACTIVE DATE: _____)</u> | | |
| DEFENSE IN ADDITION TO LIMIT BODILY INJURY & PROPERTY DAMAGE COMBINED | \$ 1,000,000 EACH OCCURRENCE | TRANSAMERICA 30212621, 30212620 & 3021 12-31-86/12-31-87 |
| | \$ 2,000,000 PRODUCTS & COMPLETED OPERATION AGGREGATE | |
| | \$ 2,000,000 GENERAL AGGREGATE | |
| | \$ 1,000,000 PERSONAL INJURY & ADVERTISING INJURY LIMIT | |
| (d) HOTEL WESTCOURT ONLY LIQUOR LIABILITY (RETRO DATE: 12-31-86) DEFENSE IN ADDITION TO LIMIT BODILY INJURY & PROPERTY DAMAGE COMBINED | \$1,000,000 EACH OCCURRENCE \$2,000,000 AGGREGATE | TRANSAMERICA 30212617 12-31-86/12-31-87 |
| (e) WESTCOURT IN THE BUTTES ONLY LIQUOR LIABILITY (RETRO DATE: 12-31-86) DEFENSE IN ADDITION TO LIMIT BODILY INJURY & PROPERTY DAMAGE COMBINED | \$1,000,000 EACH OCCURRENCE \$2,000,000 | TRANSAMERICA 30212618 12-31-86/12-31-87 |

SCHEDULE A - SCHEDULE OF UNDERLYING POLICIES

NAME OF INSURED WESTCOR PARTNERS

EFFECTIVE ON OR AFTER: JANUARY 1, 1987, 12:01 A.M., STANDARD TIME

POLICY NUMBER: JU 895-2831

| TYPE OF POLICY | LIMIT OF LIABILITY | CARRIER DATA |
|----------------|--------------------|--------------|
|----------------|--------------------|--------------|

a) EMPLOYERS LIABILITY

| | | |
|---------------------------|----|---------------|
| BODILY INJURY BY ACCIDENT | \$ | EACH ACCIDENT |
|---------------------------|----|---------------|

b) AUTOMOBILE LIABILITY

| | | |
|--|----|-----------------|
| BODILY INJURY, PROPERTY DAMAGE - COMBINED SINGLE LIMIT | \$ | EACH OCCURRENCE |
|--|----|-----------------|

c) GENERAL LIABILITY (RETROACTIVE DATE: _____)

| | | |
|--|--|---------------|
| BODILY INJURY & PROPERTY DAMAGE COMBINED | \$ 1,000,000 | TRANSAMERICA |
| INCLUDES | EACH OCCURRENCE | TMP 19925605 |
| EXTENDED LIABILITY COVERAGE | \$ | 1-1-87/1-1-88 |
| | PRODUCTS & COMPLETED OPERATION AGGREGATE | |
| | \$ 1,000,000 . | |
| | GENERAL AGGREGATE | |
| | \$ | |
| | PERSONAL INJURY & ADVERTISING INJURY LIMIT | |

No. **EL 000443**

DECLARATIONS - EXCESS LIABILITY POLICY

STOCK COMPANY

DAILY

EU002688

Renewal of No.

**FIRST STATE
INSURANCE COMPANY**

WILMINGTON, DELAWARE

Administrative Offices: 60 Battery March Street, Boston, Massachusetts 02110

(2)

"L"

Named Insured and Mailing Address

**WESTCOR PARTNERS, ETAL (SEE ENDORSEMENT #1)
11411 NO. TATUM BOULEVARD
PHOENIX, ARIZONA 85028**

Item 1. Policy Period: From **DECEMBER 31, 1986** To **DECEMBER 31, 1987**

12:01 A.M., Standard Time at the address of the named Insured as stated herein.

Item 2. Premium: Advance Premium: • (SEE ENDORSEMENT #2)
Rate: **FLAT**
Minimum Premium: •

If the Policy Period is more than one year and the premium is to be paid in installments, premium is payable on:

Effective Date
\$-----

COPY

Item 3. Coverage: **EXCESS UMBRELLA LIABILITY**

Item 4. Limits of Liability: The limit of the Company's liability shall be as stated herein, subject to all the terms of this policy having reference thereto.

**\$5,000,000. COMBINED SINGLE LIMIT EACH OCCURRENCE AND
AGGREGATE, WHERE APPLICABLE.**

Item 5. Underlying Policy and Limits:

Policy Number: **JU-8952831**
Limits: **\$5,000,000. COMBINED SINGLE LIMIT EACH OCCURRENCE
AND AGGREGATE, WHERE APPLICABLE, EXCESS PRIMARY**

Company: **INDUSTRIAL INSURANCE COMPANY OF HAWAII**

Item 6. During the past three years no insurer has cancelled insurance issued to the named insured, similar to that afforded hereunder, unless otherwise stated herein.

Countersigned by: _____

Mike R. Myers

Date of Issue: _____

ENDORSEMENT #19

It is agreed that the Named Insured is amended to include the following:

WESTCOR HOTEL CO., AN ARIZONA CORPORATION
THE HOTEL WESTCOURT
THE WESTCOR COMPANY LIMITED PARTNERSHIP DBA: THE HOTEL WESTCOURT
WESTCOX HOTEL CO. MANAGING AGENT FOR WESTCOURT & BUTTES
TEMPE BUTTES HOTEL LIMITED PARTNERSHIP DBA: THE WESTCOURT IN THE
BUTTES

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1987
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL 000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

WATED: August 14, 1987

CAMERON AND COLBY CO., INC

BY: 
AUTHORIZED SIGNATURE

FIRST STATE INSURANCE COMPANY

Wilmington, Delaware

(A Stock Insurance Company Herein Called The Company)

Agrees with the Insured, named in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the Declarations and subject to all the terms of this policy:

1. Coverage: To indemnify the Insured for such loss as would have been payable under all of the terms of the Liability Coverages afforded by the underlying policies listed in Item 5 of the Declarations if the limits of liability stated in Item 4 of the Declarations were available under the underlying policies in addition to the limits of liability stated in Item 5 of the Declarations (hereinafter called the "underlying limits"); provided the Company's obligation hereunder shall apply only to loss in excess of such underlying limits.
2. Limits of Liability — Underlying Limits: Liability under this policy shall attach to the Company only after the underlying insurers have paid or have been held to pay the full amount of their respective loss liability as described in the underlying limits, and the limits of liability of the Company under this policy shall then be as follows:
 - a. The limit of liability stated in Item 4 of the Declarations as applicable to each accident or occurrence is the total limit of liability for all damages as a result of any one accident or occurrence, and
 - b. subject to the above provision respecting each accident or occurrence, the limit of liability stated in Item 4 of the Declarations as "each aggregate" is the total limit of the Company's liability for all damages arising out of a hazard in the underlying policies for which an aggregate is designated.
3. Payment of Costs: "Costs" incurred by the Insured personally, with the written consent of the Company, and for which the Insured is not covered by the underlying insurers, shall be apportioned as follows:
 - a. In the event of claim or claims arising which appear likely to exceed the underlying limit, no "costs" shall be incurred by the Insured without the written consent of the Company.
 - b. Should such claim or claims become adjustable prior to going into court for not more than the underlying limit, then no "costs" shall be payable by the Company.
 - c. Should, however, the sum for which the said claim or claims may be so adjustable exceed the underlying limit, then the Company, if it consents to the proceedings continuing, shall contribute to the "costs" incurred by the Insured in the ratio its proportion of the ultimate net loss as finally adjusted bears to the whole amount of such ultimate net loss.
 - d. In the event that the Insured elects not to appeal a judgment in excess of the underlying limit, the Company may elect to conduct such appeal at its own cost and expense, and shall be liable for the taxable court costs and interest incidental thereto, but in no event shall the total liability of the Company exceed its limit of liability as stated above, plus the expense of such appeal.
4. Application of Salvage: All salvage, recoveries, or payments recovered or received subsequent to a loss settlement under this policy shall be applied as if recovered or received prior to such settlement, and all necessary adjustments shall then be made between the Insured and the Company, provided always that nothing in this clause shall be construed to mean that losses under this policy are not recoverable until the Insured's ultimate net loss has been finally ascertained.

5. **Attachment of Liability:** Liability under this policy shall not attach unless and until the underlying insurers shall have admitted liability for the underlying limits or unless and until the Insured has by final judgment been adjudged to pay a sum which exceeds such underlying limits.
6. **Application of Underlying Policies:** This policy, except where provisions to the contrary appear herein, is subject to all of the conditions, agreements, exclusions and limitations of and shall follow the underlying policies in all respects, including changes by endorsement.
7. **Maintenance of Underlying Insurance:** It is a condition of this policy that the policies of the underlying insurance shall be maintained in full effect during the currency of this policy, except for any reduction of the aggregate limits contained therein by payment of losses during the policy period.
8. **Notification of Claims:** The Insured upon knowledge of any occurrence likely to give rise to a claim hereunder shall give immediate written advice to the Company.
9. **Definitions:**
 - a. **Loss:** The word "loss" means the sum paid in settlement of losses for which the Insured is liable after making deductions for all recoveries, salvages, and other insurance (other than recoveries under the policy of the underlying insurance), whether recoverable or not, and shall exclude all expenses and "costs."
 - b. **Costs:** The word "costs" means interest on judgments and investigation, adjustment and legal expenses (excluding, however, all expenses to salaried employees and retained counsel and all office expenses of the Insured).
 - c. **Receipts:** The word "receipts" means the gross amount of money charged by the named Insured for such operations by the named Insured or by others during the policy period as are rated on a receipts basis other than receipts from telecasting, broadcasting or motion pictures, and includes taxes, other than taxes which the named Insured collects as a separate item and remits directly to a governmental division.

SCHEDULE OF ENDORSEMENTS

It is agreed that the following endorsements are attached to and form a part of this policy effective at inception:

- ENDORSEMENT #1. NAMED INSURED
2. DESIGNATED PREMISES LIMITATION
 3. FOLLOWING FORM LIQUOR LIABILITY-CLAIMS MADE
 4. CARE, CUSTODY AND CONTROL EXCLUSION
 5. ABSOLUTE POLLUTION EXCLUSION
 6. ASBESTOS EXCLUSION
 7. PUNITIVE DAMAGES EXCLUSION
 8. PROFESSIONAL LIABILITY EXCLUSION
 9. SUBSIDENCE EXCLUSION
 10. CROSS SUITS LIABILITY
 11. SERVICE OF SUIT
 12. ULTIMATE NET LOSS
 13. AMENDMENT OF CANCELLATION CONDITION
 14. UNINSURED/UNDERINSURED MOTORISTS EXCLUSION
 15. AMENDATORY ENDORSEMENT (DROP DOWN)

POLICY #EL000443

ENDORSEMENT #1

NAMED INSURED

WESTCOR, ET AL

MANAGING/OPERATING ENTITIES

Bell & Hayden Associates
Boulders Carefree Partners Limited Partnership
Boulders Carefree Sewer Corp.
The Boulders Joint Venture
Bowest
Canyon Investors
Cloverdate Enterprises
East Mesa Associates
Greendale Associates
1-10 Associates
Ina & LaCholla Associates, a General Partnership
Jamoca Westech General Partnership
Lyons Venture, Inc.
Metrocenter, Inc.
Mohave Farms
MSR Properties
Paradise Associates
Paradise Partners Ltd. Partnership
Paradise Village Investment Co. ("PVIC")
Paradise Village Investment Co. ("PVIC") Village Center
Russ Lyon Realty/Westcor Venture I
Russ Lyon Realty/Westcor Venture II
Russ Lyon Trustee (The Lucky Center)
Scottsdale Carefree Properties
Tatum & Shea Associates
Westbar Limited Partnership
Westcor Aviation, Inc.
The Westcor Company Limited Partnership
Westcor Partners
Westcor Properties
Westcor Telluride, an Arizona Partnership
Westech Chandler Partners
Westech Properties, Inc.
Westech Properties, Inc. and The Westcor Co. Ltd. Partnership
Westroth Associate
Midcor Associates, a partnership

NEIGHBORHOOD SHOPPING CENTER

Everwest DBA Foothills Convenience Center
Metro Village Limited Partnership
CB Investment, Ltd., dba Show Low Plaza
The Lucky Center
East Flagstaff Plaza Associates dba East Flagstaff Plaza
Montebello Plaza Associates dba Chris Town Plaza
PVIC dba Village Center

Promenade Associates dba Promenade
The Westcor Company Limited Partnership dba:

Catalina Plaza
East Cactus Plaza
Fairlanes Shea Center
North Park Plaza
Village Plaza
Village Square I
Village Square II

Westlinc Associates dba Hilton Village

REGIONAL SHOPPING CENTERS

Berrien Associates dba The Orchards Mall
Camelback Shopping Center Limited Partnership dba The Colonnade
DVM Co. dba Metrocenter
East Mesa Associates
Everwest dba Foothills Fashion Mall
Flagstaff Mall Associates Flagstaff Mall
Los Arcos Investments Limited Partnership dba Los Arcos Mall
Los Arcos Management
New River Associates (land only)
The Westcor Company Limited Partnership dba:

The Borgata
Scottsdale Fashion Square
Westday Associates dba Paradise Valley Mall
Westpen Associates dba Westridge Mall

OFFICE BUILDINGS/OTHERS

Design Associates Limited Partnership dba Southwest Interior Design Center
Metrocenter Business Park 1 Limited Partnership dba Metrocenter Business
Park 1
Paradise Associates dba Paradise Village Office Park II
Paradise Partners dba Paradise Village Office Park III
Paradise Village Investment Company (11411 N. Tatum Blvd.)
Westbar Limited Partnership-owns bldg. 10030 Metro Parkway West (PPP)
Westbar Limited Partnership-owns bldg. 10215 N. 28th Dr., Phx (Cost Plus)
Westcor Limited - owns Hangar - Scottsdale, Airport
Westech Properties, Inc. dba Gill Plaza
Westlinc Associates dba Hilton Village Office Bldg.

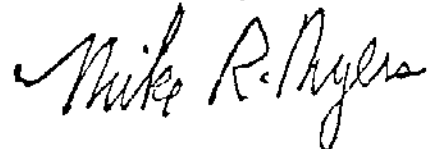
THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

DATED: March 18, 1987

CAMERON AND COLBY CO., INC

BY: 
AUTHORIZED SIGNATURE

ENDORSEMENT #2
(REVISED)

DESIGNATED PREMISES LIMITATION ENDORSEMENT

In consideration of the premium charged, it is agreed that the coverage afforded by this policy shall apply to personal injury, property damage, or advertising injury arising out of:

A. The operation of the following designated premises:

Those premises on file with the company

OR

B. Any other premises as to which the Named Insured acquired ownership or control and reports such premises to be insured under this policy within 90 days of such acquisition, and pays additional premium for such premium as determined by the Company, or such premises are added to the underlying policy named in Item 5. of the Declarations and reported to the Company during the policy period.

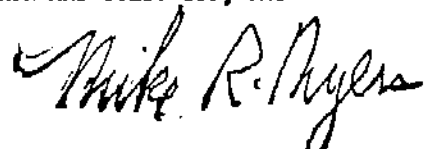
THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1987
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL 000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

DATED: August 14, 1987

CAMERON AND COLBY CO., INC

BY: 
AUTHORIZED SIGNATURE

ENDORSEMENT #3

FOLLOWING FORM LIQUOR LIABILITY "CLAIMS-MADE"

It is agreed that this policy does not apply to personal injury or property damage for which the insured or his indemnitee may be held liable

- (1) as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages, by reason of the selling, serving or giving of any alcoholic beverage (a) in violation of any statute, ordinance or regulation, (b) to a minor, (c) to a person under the influence of alcohol, or (d) which causes or contributes to the intoxication of any person; or
- (2) if not so engaged, as an owner or lessor of premises used for such purposes, by reason of the selling, serving or giving of any alcoholic beverage in violation of any statute, ordinance or regulation

unless such liability is covered by valid and collectible underlying insurance as described in the schedule of underlying insurance and then only for such hazards for which coverage is afforded under said underlying insurance.

"Term" shall be subject to the following definition:

TERM:

This policy applies only to losses for which the Insured is liable and which arise from accidents or occurrences for which coverage is provided in the immediate underlying insurance, provided, however that (a) this policy shall not apply to losses for which claims are first made during any "discovery period" provision in the immediate underlying insurance in the event this policy is cancelled prior to the expiration date stated in the declarations of this policy, (b) the limits of liability of this policy are in excess of the total underlying limit of liability stated in the declarations.

2. regardless of any retroactive date, or other similar provision of the underlying insurance with respect to Liquor Liability, this policy applies only to injury or damage which occurs after the inception date of this policy.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

CAMERON AND COLBY CO., INC

DATED: March 18, 1987

BY: 

AUTHORIZED SIGNATURE

CARE, CUSTODY AND CONTROL

EXCLUSION

It is agreed that this policy shall not apply to any liability for Property Damage to any real or personal property

- (1) owned or occupied by or rented to the Insured
- (2) used by the Insured
- (3) in the care, custody or control of the Insured or as to which the Insured is for any purpose exercising physical control.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

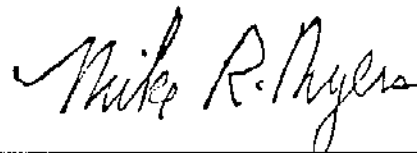
ISSUED TO: WESTCOR PARTNERS, ETAL

ED: March 18, 1987

CAMERON AND COLBY CO., INC

BY: _____

AUTHORIZED SIGNATURE



ABSOLUTE POLLUTION EXCLUSION

"It is understood and agreed that this policy does not apply to any liability of the Insured, direct, vicarious, or otherwise, in whole or in part, resulting from any claim, suit, demand or proceeding brought about or contributed to by any seepage, pollution or contamination of any substance either directly or indirectly attributable to the Insured. This exclusion shall apply to all claims for bodily injury, and damage to real or personal property. It is further understood and agreed that this policy shall not apply to the enforcement of any law, statute or ordinance whether local, state or federal that statutorily imposes liability or sanctions upon the Insured with regard to seepage of any substance that results or contributes to the pollution or contamination of any substance."

"It is further agreed that the First State Insurance Company shall not be obligated to defend any suit or claim against the insured alleging personal injury, bodily injury or property damage and seeking damages therefor, if such suit arises out of any of the exclusions contained herein. In the event that the aggregate coverage provided by any underlying policy (refer to Declaration Page) which is ultimately impaired or reduced as a result of providing any liability coverage for incidents excluded by this endorsement, that this impaired aggregate shall not affect this policy in any way. It shall be the Insured's sole responsibility to provide other insurance or self-insurance for such aggregate impairment as results from pollution liability responded to by any underlying policy."

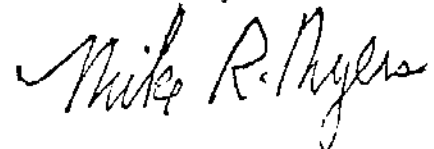
THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

ED: March 18, 1987

CAMERON AND COLBY CO., INC



BY: _____

AUTHORIZED SIGNATURE

ENDORSEMENT #6

ASBESTOS EXCLUSION

This Insurance does not apply to any liability for property damage, bodily injury, sickness, disease, occupational disease, disability, shock, death, mental anguish and mental injury at any time arising out of the manufacture of, use of, removal of, or exposure to Asbestos products, Asbestos fibers, or Asbestos dust, or to any obligation of the Insured to Indemnify any party because of damages arising out of such property damage, bodily injury, sickness, disease, occupational disease, disability, shock, death, mental anguish or mental injury at any time as a result of the manufacture of, use of, or exposure to Asbestos products, Asbestos fibers or Asbestos dust.

It is further understood and agreed that the First State Insurance Company shall not be obligated to defend any suit or claim against the Insured alleging Personal Injury or Property Damage and seeking damages therefor, if such suit or claim arises from Personal Injury or Property Damage resulting from or contributed to by any and all manufacture of, use of, or exposure to Asbestos products, Asbestos fibers or Asbestos dust, nor shall the limits of any Underlying Insurance be reduced or exhausted by payment of any loss or claim which would be excluded by this endorsement.

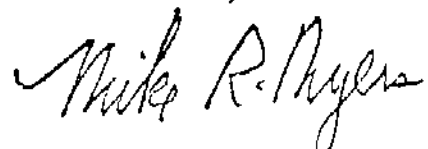
THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

ED: March 18, 1987

CAMERON AND COLBY CO., INC

BY: 
AUTHORIZED SIGNATURE

ENDORSEMENT #7

PUNITIVE DAMAGES EXCLUSION

It is agreed that neither coverage nor defense is provided by this policy for claims, suits, actions or proceedings against the Insured which are punitive or exemplary in nature.

It is further agreed that this policy shall not apply where underlying aggregate limits of liability have been reduced, impaired or exhausted by payment of punitive or exemplary damages.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

CAMERON AND COLBY CO., INC

ISSUED: March 18, 1987

BY: Mike R. Nylers
AUTHORIZED SIGNATURE

ENDORSEMENT #8

PROFESSIONAL LIABILITY EXCLUSION

This policy shall not apply to any claims or losses arising out of any breach of professional duty by reason of negligent act, error or omission whenever or wherever committed or alleged to have been committed on the part of the insured or any person who has been, is now or may hereafter during the existence of this insurance by employed by the insured in the conduct of any business conducted by or on behalf of the insured.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

DATED: March 18, 1987

CAMERON AND COLBY CO., INC

Mike R. Myers

BY: _____
AUTHORIZED SIGNATURE

ENDORSEMENT #9

SUBSIDENCE

It is agreed that this policy shall not apply to any liability for property damage caused by the subsidence of land and arising out of or attributable to any operations of the insured.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443

OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

CAMERON AND COLBY CO., INC

DATED: March 18, 1987

BY: Mike R. Myers
AUTHORIZED SIGNATURE

ENDORSEMENT #10

CROSS SUITS ENDORSEMENT

It is agreed that the coverage afforded by this policy does not apply to a claim for damages arising out of Personal Injury, Property Damage or Bodily Injury as defined, initiated, alleged, or caused to be brought about by a named insured covered by this policy against any other named insured or additional named insured covered by this policy.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER ELO00443

OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

CAMERON AND COLBY CO., INC

DATED: March 18, 1987

BY: Mike R. Myers
AUTHORIZED SIGNATURE

ENDORSEMENT #11

SERVICE OF SUIT CLAUSE

The following Service of Suit Clause is not to become effective unless or until the Insured has notified this Company in each specific claim of its intention to sue.

Service of Suit Clause

It is agreed that in the event of the failure of this Company to pay any amount claimed to be due hereunder, this Company, at the request of the Insured, will submit to the jurisdiction of any Court of Competent Jurisdiction within the United States and will comply with all requirements necessary to give such Court Jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such Court.

It is further agreed that service of process in such suit may be made upon the highest one in authority bearing the title "Commissioner", "Director", or "Superintendent" of Insurance of the State or commonwealth wherein the Insured is domiciled, and that in any suit instituted against it upon this contract this Company will abide by the final decision of such Court or any Appellate Court in the event of an appeal. The one in authority bearing the title "Commissioner", "Director", or "Superintendent" of Insurance of the State or commonwealth wherein the Insured is domiciled is hereby authorized and directed to accept service of process on behalf of this Company in any such suit and/or upon the Insured's request to give a written undertaking to the Insured that they will enter a general appearance upon this Company's behalf in the event such a suit shall be instituted.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

CAMERON AND COLBY CO., INC

ATED: March 18, 1987

BY: 
AUTHORIZED SIGNATURE

ENDORSEMENT #12

ULTIMATE NET LOSS ENDORSEMENT

Except for losses that are covered under the terms of this policy resulting from the ownership, maintenance, operation or use of any automobile, the aggregate limit of liability as provided by the terms of this policy is amended as follows:

As respects form C-51-2, Item 2, paragraph a. and b., regardless of the number of persons and organizations who are insured under this policy and regardless of the number of claims made and suits brought against any or all Insureds, the total limit of the Company's liability for ultimate net loss resulting from all occurrences shall not exceed the amount specified in item 4 of the Declarations.

Ultimate Net Loss shall mean the sums paid as damages in settlement of a claim or in satisfaction of a judgement for which the Insured is legally liable after making deductions for all other recoveries, salvages and other insurances (whether recoverable or not) other than the underlying insurance and excess insurance purchased specifically to be in excess of this policy and also includes investigation, adjustment, appraisal, appeal and defense costs paid or incurred by the Insured with respect to damages covered hereunder. Ultimate "net loss" does not include (a) costs and expenses which an underlying insurer has paid or incurred or is obligated to pay to or on behalf of the Insured, (b) office costs and expenses of the Insured and salaries and expenses of employees of the Insured or (c) general retainer fees or counsel retained by the Insured.

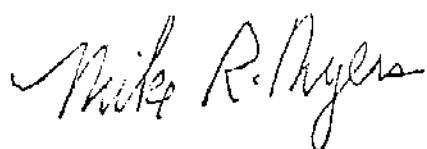
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ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

CAMERON AND COLBY CO., INC

DATED: March 18, 1987

BY: 
AUTHORIZED SIGNATURE

ENDORSEMENT #13

AMENDMENT OF CANCELLATION CONDITION

It is agreed that Notice of Cancellation specified in Condition Seven (7) is hereby amended to forty-five (45) days except in the event of nonpayment of premium, in which case a ten (10) days Notice of Cancellation will apply.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443

ISSUED TO: WESTCOR PARTNERS, ETAL

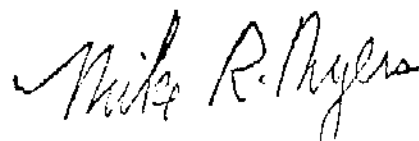
DATED: March 18, 1987

OF FIRST STATE INSURANCE COMPANY

CAMERON AND COLBY CO., INC

BY:

AUTHORIZED SIGNATURE



ENDORSEMENT #14

UNINSURED/UNDERINSURED MOTORISTS EXCLUSION

In consideration of the premium paid, and notwithstanding anything contained in this policy to the contrary, it is agreed that this policy shall not apply to sums which the insured shall be legally entitled to recover as damages from the owner or operator of an uninsured automobile or underinsured automobile because of personal injuries sustained by the insured, caused by an accident and arising out of the ownership, maintenance or use of any such automobile.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443 OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

DATED: March 18, 1987

CAMERON AND COLBY CO., INC

BY: Mike R. Myers
AUTHORIZED SIGNATURE

ENDORSEMENT #15

AMENDATORY ENDORSEMENT

(Exception of "Dropdown")

It is agreed that, notwithstanding any of the terms of this policy that might be construed otherwise, this insurance shall not take the place of any underlying insurance shown in the schedule of underlying insurance policies which is or becomes invalid, uncollectible or otherwise unavailable due to the insolvency of the underlying insurer. The risk of such insolvency is retained by the Insured, and not by the Company.

It is further agreed that this insurance will not take the place of any obligation of any Insured to pay any amount within any self-insured retention or co-insurance portion, whether or not such obligation becomes invalid, suspended, unenforceable or uncollectible for any reason including bankruptcy or insolvency. The entire risk of such invalidity, suspension, unenforceability or uncollectability is retained by all Insureds and their obligees, not by the Company.

The above provisions apply to both (1) the Company's obligation to indemnify or to pay on behalf of the Insured, and (2) the Company's obligation to defend.

THIS ENDORSEMENT TO TAKE EFFECT ON THE 31st DAY OF December, 1986
ALL OTHER ITEMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND FORMING PART OF POLICY NUMBER EL000443

OF FIRST STATE INSURANCE COMPANY

ISSUED TO: WESTCOR PARTNERS, ETAL

CAMERON AND COLBY CO., INC

DATED: March 18, 1987

BY: 

BY: _____
AUTHORIZED SIGNATURE

STOCK COMPANY

FIRST STATE INSURANCE COMPANY

WILMINGTON, DELAWARE

This policy shall not apply:

1. Under any Liability Coverage, to Injury, sickness, disease, death or destruction
 - (a) with respect to which an Insured under the policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an Insured under any such policy but for its termination upon exhaustion of its limit of

This policy is made and accepted subject to the provisions and stipulations hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

FIRST STATE
INSURANCE COMPANY
WILMINGTON, DELAWARE

agrees with the insured, named in the declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the declarations and subject to the limits of liability, exclusions, conditions and other terms of this policy:

The Insuring Agreements and any Special Provisions are contained in the separate Coverage Form or Forms issued to complete this policy.

CONDITIONS

1. Premium Computation: The deposit premium stated in the declarations is an advance premium only unless otherwise specified. Upon termination of this policy, the earned premium shall be computed in accordance with the rates and minimum premium applicable to this insurance as stated in the Declarations. If the earned premium thus computed exceeds the advance premium paid, the Named Insured shall pay the excess to the Company; if less, the Company shall return to the Named Insured the unearned portion paid by such Insured. The Named Insured shall maintain records of the information necessary for premium computation on the basis stated in the Declarations and shall send copies of such records to the Company at the end of the policy period, as the Company may direct.

2. Inspection and Audit: The Company shall be permitted but not obligated to inspect the Named Insured's property and operations at any time. Neither the Company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the Named Insured or others, to determine or warrant that such property or operations are safe.

The Company may examine and audit the Named Insured's books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

3. Action Against Company: No action shall lie against the company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the insured, the claimant and the company.

Subrogation: In the event of any payment under this policy, the company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

5. Changes: Notice to or knowledge possessed by any person shall not effect a waiver or change in any part of this policy or stop the Company from asserting any rights under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part hereof, signed by an authorized representative of the Company.

6. Assignment: Assignment of Interest under this policy shall not bind the Company until its consent is endorsed hereon; if, however, the Named Insured shall be adjudged bankrupt or insolvent, this policy shall cover the Named Insured's legal representative as Named Insured; provided that notice of cancellation addressed to the Insured named in the Declarations and mailed to the address shown in this policy shall be sufficient notice to effect cancellation of this policy.

7. Cancellation: This policy may be canceled by the insured by surrender thereof to the Company or any of its authorized agents or by mailing to the company written notice stating when thereafter the cancellation shall be effective. This policy may be canceled by the company by mailing to the insured at the address shown in this policy written notice stating when not less than ten days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of the surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the insured or by the company shall be equivalent to mailing. If the insured cancels, earned premiums shall be computed in accordance with the customary short rate table and procedure. If the company cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

8. Terms of Policy Conformed to Statute: Terms of this policy which are in conflict with the statutes of the State wherein this policy is issued are hereby amended to conform to such statutes.

In Witness Whereof, the company has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by a duly authorized representative of the company.


Secretary


President

**NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(BROAD FORM)**

This policy shall not apply:

- I. Under any Liability Coverage, to Injury, sickness, disease, death or destruction
 - (a) with respect to which an Insured under the policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the Insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to immediate medical or surgical relief to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if
 - (a) the nuclear material (1) is at any nuclear facility owned by or operated by or on behalf of, an Insured or (2) has been discharged or dispersed therefrom;
 - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an Insured; or
 - (c) the injury, sickness, disease, death, or destruction arises out of the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

IV. As used in this policy:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or byproduct material;

"source material", "special nuclear material" and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste.
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material; with respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

WAR RISK EXCLUSION ENDORSEMENT

This policy shall not apply to any liability of the Insured directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

Declarations

Excess Liability Policy



P.L. (3)

Insured by the Stock Company checked below and hereinafter called the Company

The Home Insurance Company
Manchester, New Hampshire

City Insurance Company
Florham Park, New Jersey

The Home Indemnity Company
Manchester, New Hampshire

The Home Insurance Company
of Indiana, Carmel, Indiana

Item 1. Named Insured and Mailing Address (No., Street, Town or City, County, State, Zip Code)

WESTCOR, et al
(AS PER FIRST UNDERLYING INSURANCE)
11411 NORTH TATUM BLVD.
PHOENIX, AZ 85028

Producer Name
STEWART SMITH WEST
LOS ANGELES, CA

Policy Period

| | | |
|------------------|----------------|---|
| From (Mo-Day-Yr) | To (Mo-Day-Yr) | 12:01 A.M. Standard Time at the address of the Named Insured. |
| 12-31-86 | 12-31-87 | |

Policy Minimum Premium
\$ 13,250. FULLY EARNED

1st Anniversary \$
2nd Anniversary \$

Item 3. Limits of Liability

The Company's liability under this policy shall not exceed the following Limit:

100. Percent of the Ultimate Net Loss in excess of all underlying insurance but for no greater amount than:

\$ 5,000,000. Each Claim or Occurrence

\$ 5,000,000. Policy Aggregate

Item 4. Schedule of Underlying Insurance

First Underlying Insurance Policy:

| | | |
|------------------------------|------------------|------------------------------|
| Carrier, Policy No. and Term | Applicable Limit | |
| SEE ENDORSEMENT NO. 1. | \$ | Each Claim or Occurrence |
| | \$ | Aggregate (where applicable) |

Other Underlying Insurance:

| | | |
|------------------------------|------------------|------------------------------|
| Carrier, Policy No. and Term | Applicable Limit | |
| SEE ENDORSEMENT NO. 1. | \$ | Each Claim or Occurrence |
| | \$ | Aggregate (where applicable) |

As respects coverage under Section A of this policy.

Retroactive Date: 12-31-86

Effective date of first claims made policy: 12-31-86

Subject to forms attached hereto (enter form number and edition dates)

(Do Not Write Below This Line)

| | | |
|--------------------------|--|-----------------------------|
| Do Not Write In This Box | Countersigned at | Issue Date |
| | Authorized Representative Signature <i>Radio Rose</i> | Countersign Date 1-21-87 |

COPY

Inv# 041679
12/31/86
Rw

Non-Premium Endorsement

| | |
|--------------------------|----------------------|
| Date Prepared 1-21-87 | Endorsement No. 1 |
|--------------------------|----------------------|

Issued by

The Home Insurance Company City Insurance Company
 The Home Indemnity Company The Home Insurance Company of Indiana

| | | | |
|--------------------------------|----------------------------|-----------------------------|--|
| Policy Number HEL-913 69 75 | Certificate Number | Named Insured | |
| Producer | | | Producer No. - OPC |
| Policy Period: | Inception (Month-Day-Year) | Expiration (Month-Day-Year) | Effective Date and Time of Endorsement |

It is agreed that this policy is hereby amended as indicated. All other terms and conditions of this policy remain unchanged.

THE SCHEDULE OF UNDERLYING INSURANCE AS IT IS DESCRIBED IN ITEM 4. IS COMPLETED TO READ:"

FIRST UNDERLYING INSURANCE POLICY:

FIRST STATE INSURANCE COMPANY
POLICY NUMBER TBD
EFFECTIVE 12-31-86 TO 12-31-87

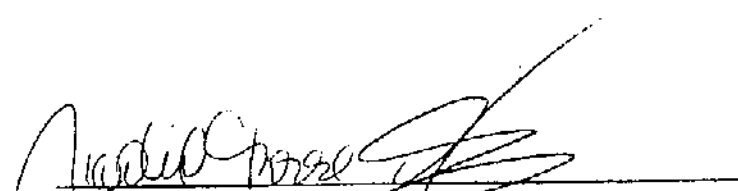
FOLLOWING FORM EXCESS POLICY
\$5,000,000. EACH OCCURRENCE
\$5,000,000. ANNUAL AGGREGATE

EXCESS OF
\$5,000,000. EACH OCCURRENCE
\$5,000,000. ANNUAL AGGREGATE

OTHER UNDERLYING INSURANCE:

INDUSTRIAL OF HAWAII
POLICY NUMBER TBD
EFFECTIVE 12-31-86 TO 12-31-87

\$5,000,000. EACH OCCURRENCE
\$5,000,000. ANNUAL AGGREGATE



Signature of Authorized Representative



Non-Premium Endorsement

Date Prepared
1-21-87

Endorsement No.
2

Issued by

The Home Insurance Company

City Insurance Company

The Home Indemnity Company

The Home Insurance Company
of Indiana

Policy Number

HEL-013 69 75

Certificate Number

Named Insured

Producer

Producer No. - OPC

Policy Period:

Inception (Month-Day-Year)

Expiration (Month-Day-Year)

Effective Date and Time of Endorsement

It is agreed that this policy is hereby amended as indicated. All other terms and conditions of this policy remain unchanged.

AIRCRAFT LIABILITY EXCLUSION

THIS POLICY SHALL NOT APPLY TO PERSONAL INJURY OR PROPERTY DAMAGE ARISING OUT OF THE OWNERSHIP, CONTROL, MAINTENANCE, OPERATION, USE LOADING OR UNLOADING OF ANY AIRCRAFT.

IT IS FURTHER AGREED THAT THE AGGREGATE LIMITS SHOWN IN ITEM 4, SCHEUDLE OF UNDERLYING INSURANCE, SHALL NEITHER BE REDUCED NOR EXHAUSTED BY REASON OF ANY PAID LOSSES CAUSED BY OR ARISING OUT OF THE ABOVE DESCRIBED AIRCRAFT LIABILITY EXCLUSION.



Signature of Authorized Representative



Non-Premium Endorsement

Date Prepared
1-21-87

Endorsement No.
3

Issued by
 The Home Insurance Company City Insurance Company
 The Home Indemnity Company The Home Insurance Company of Indiana


| | | | |
|--------------------------------|----------------------------|-----------------------------|--|
| Policy Number HEL-913 69 75 | Certificate Number | Named Insured | Producer No. - OPC |
| Producer | | | Effective Date and Time of Endorsement |
| Policy Period: | Inception (Month-Day-Year) | Expiration (Month-Day-Year) | |

It is agreed that this policy is hereby amended as indicated. All other terms and conditions of this policy remain unchanged.

POLLUTION EXCLUSION

THIS POLICY SHALL NOT APPLY TO PERSONAL INJURY, PROPERTY DAMAGE OR ADVERTISING LIABILITY ARISING OUT OF THE DISCHARGE, DISPERSAL, RELEASE OR ESCAPE OF SMOKE, VAPORS, SOOT, FUMES, ACIDS, ALKALIS, TOXIC CHEMICALS, LIQUIDS OR GASES, WASTE MATERIALS OR OTHER IRRITANTS, CONTAMINANTS OR POLLUTANTS INTO OR UPON THE LAND, THE ATMOSPHERE OR ANY WATER COURSE OR BODY OF WATER.

IT IS FURTHER AGREED THAT THE AGGREGATE LIMITS SHOWN IN ITEM 4, SCHEDULE OF UNDERLYING INSURANCE, SHALL NEITHER BE REDUCED NOR EXHAUSTED BY REASON OF ANY PAID LOSSES CAUSED BY OR ARISING OUT OF THE DISCHARGE, DISPERSAL, RELEASE OR ESCAPE OF SMOKE, VAPORS, SOOT, FUMES, ACIDS, ALKALIS, TOXIC CHEMICALS, LIQUIDS OR GASES, WASTE MATERIALS OR OTHER IRRITANTS, CONTAMINANTS OR POLLUTANTS INTO OR UPON THE LAND, THE ATMOSPHERE OR ANY WATER COURSE OR BODY OF WATER.



Signature of Authorized Representative



The Home Insurance Companies

Non-Premium Endorsement

Date Prepared
7-20-87

Endorsement No.
6

Issued by

- The Home Insurance Company City Insurance Company
 The Home Indemnity Company The Home Insurance Company of Indiana

| | | | |
|--------------------------------|--|---|--|
| Policy Number HEL-913 69 75 | Certificate Number | Named Insured WESTCOR, et al | |
| Producer STEWART SMITH WEST | | Producer No. - OPC 2800-705 | |
| Policy Period: | Inception (Month-Day-Year) 12-31-86 | Expiration (Month-Day-Year) 12-31-87 | Effective Date and Time of Endorsement 12-31-86 |

It is agreed that this policy is hereby amended as indicated. All other terms and conditions of this policy remain unchanged.

SPECIFIC LOCATIONS LIMITATION ENDORSEMENT

IT IS AGREED THAT THIS POLICY IS HEREBY AMENDED AS INDICATED. ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

THE COVERAGE AFFORDED BY THIS POLICY WITH RESPECT TO PREMISES OF AN INSURED SHALL ONLY APPLY TO PERSONAL INJURY, PROPERTY DAMAGE OR ADVERTISING LIABILITY ARISING OUT OF:

A. THE OPERATION OF THE FOLLOWING DESIGNATED PREMISES:

AS PER SCHEDULE ON FILE WITH THE COMPANY

OR

B. ANY OTHER PREMISES OR SHOPPING CENTERS AS TO WHICH THE NAMED INSURED ACQUIRES OWNERSHIP OR CONTROL AND APPLIES FOR INSURANCE FOR SUCH PREMISES UNDER THIS POLICY WITHIN 60 DAYS OF SUCH ACQUISITION.

HOWEVER, THE PROVISIONS OF THIS ENDORSEMENT SHALL NOT APPLY TO ANY OFFICE OR APARTMENT BUILDING UNDER 8 STORIES TO ONE OR TWO FAMILY DWELLINGS NOR ANY OPEN (STRIP) SHOPPING CENTERS.


Signature of Authorized Representative



Non-Premium Endorsement

Date Prepared

7-20-87

Endorsement No.

5

Issued by

The Home Insurance Company

City Insurance Company

The Home Indemnity Company

The Home Insurance Company of Indiana

Policy Number

HEL-9136975

Certificate Number

Named Insured

WESTCOR, et al

Producer

STEWART SMITH WEST

Producer No. OPC

2800-705

Policy Period:

Inception (Month-Day-Year)

12-31-86

Expiration (Month-Day-Year)

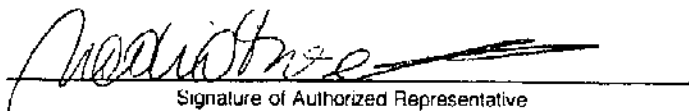
12-31-87

Effective Date and Time of Endorsement

12-31-86

It is agreed that this policy is hereby amended as indicated. All other terms and conditions of this policy remain unchanged.

ENDORSEMENTS NUMBER 4 ARE HEREBY DELETED IN THEIR ENTIRETY.


Signature of Authorized Representative



Specific Locations Limitation Endorsement

| | |
|--------------------------|----------------------|
| Date Prepared 1-21-87 | Endorsement No. 4 |
|--------------------------|----------------------|

Issued by

- The Home Insurance Company
 City Insurance Company

 The Home Indemnity Company
 The Home Insurance Company of Indiana

| | | | |
|--------------------------------|----------------------------|-----------------------------|--|
| Policy Number HEL-913 69 75 | Certificate Number | Named Insured | |
| Producer | | Producer No. - OPC | |
| Policy Period: | Inception (Month-Day-Year) | Expiration (Month-Day-Year) | Effective Date and Time of Endorsement |

It is agreed that this policy is hereby amended as indicated. All other terms and conditions of this policy remain unchanged.

The coverage afforded by this policy with respect to premises of an Insured shall only apply to Personal Injury, Property Damage or Advertising Liability arising out of:

A. the operation of the following designated premises:

AS PER SCHEDULE ON FILE WITH THE COMPANY.

OR

B. any other premises as to which the Named Insured acquires ownership or control and applies for insurance for such premises under this policy within ~~30~~ days of such acquisition.

60

[Handwritten Signature]

Signature of Authorized Representative



Excess Liability Policy

(HEL Form)



| | | |
|--|--------------------------------------|---|
| THE HOME INSURANCE COMPANIES | | |
| BUSINESS AUTO POLICY | GOLD KEY' HOMEOWNERS POLICY | PETRO |
| WORKERS' COMPENSATION POLICY | CRAFT MASTER POLICY | COM |
| COMMERCIAL UMBRELLA | EXCESS CASUALTY | BUILDERS' RISK |
| PERSONAL PROPERTY FLOATER | GOLD KEY' AUTOMOBILE POLICY | FIRE POLICY |
| YACHT MASTER POLICY | PETROCHEMICAL | EXTRA STRENGTH SM BUILDERS' RISK |
| TRUCKERS POLICY | CASUALTY SPECIALTY LINES | WC |
| EXTRA STRENGTH SM PRODUCT LIABILITY | PROFESSIONAL LIABILITY | OCEAN MARIN |
| GARAGE POLICY | MANUSCRIPT ALL-RISK POLICY | INSTITUTIONAL POLICY |
| OWNERS', LANDLORDS' AND TENANTS' | INSTALLATION FLOATER | ELEC |
| ELECTRONIC DATA PROCESSING POLICY | PASSENGER CARRYING VESSEL POLICY | |
| GOLD KEY' MOBILE HOMEOWNERS POLICY | BOILER AND MACHINERY POLICY | |
| CONDOMINIUM PACKAGE POLICY | INLAND MARINE POLICY | MANUFACTU |
| BLANKET CRIME POLICY | MARINA PACKAGE | DIFFERENCE IN CONDITIONS PC |
| INDUSTRIAL POLICY | MANUFACTURER'S AND CONTRACTOR'S LIAB | |
| CUSTOM COVER' POLICY | BOAT DEALERS POLICY | MONEY & SECURITIES PC |
| HOSPITALITY POLICY | GROUP ACCIDENT PLANS | COMPREHENSIVE |
| COMPREHENSIVE GLASS POLICY | BAILEES CUSTOMERS POLICY | APART |
| APARTMENT OWNER'S POLICY | PROTECTION AND INDEMNITY | MONEY & SECURITIES |
| VALUABLE PAPERS AND RECORDS | MANUFACTURER'S OUTPUT POLICY | GI |
| ENVIRONMENTAL IMPAIRMENT LIABILITY | COMPETITOR POLICY | |

Provisions

In consideration of the payment of the premium, the Company, in reliance upon the statements in the DECLARATIONS and upon the covenants, warranties, representations and mutual agreements set forth herein and in the DECLARATIONS, and subject to all the terms and conditions of this policy, hereby agrees with the Insured as follows:

I Insuring Agreements

WHERE THE UNDERLYING POLICY RESPONDS ON A CLAIMS MADE BASIS, SECTION A APPLIES. WHERE THE UNDERLYING POLICY RESPONDS ON AN OTHER THAN CLAIMS MADE BASIS, SECTION B APPLIES.

Section A

1. The Company hereby agrees to pay on behalf of the Insured the Ultimate Net Loss but only up to an amount not exceeding the Company's Limit of Liability as shown in Item 3 of the Declarations as a result of CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD. Payment of Ultimate Net Loss will be in excess of the Underlying Insurance.

Except to the extent the Insuring Agreements, Terms, Definitions, Conditions and Exclusions of this policy differ, the coverage provided by this policy shall follow the Insuring Agreements, Definitions, Conditions and Exclusions of the First Underlying Insurance Policy as shown in Item 4 of the Declarations.

2. The limits of the Underlying Insurance shall be maintained in full effect during the currency of this policy except for the reduction of such limits by exhaustion of aggregate limits (if any) contained therein by payment of damages, for claims made against the Insured during the period of this policy or any subsequent reporting period as provided in Condition 6.

Failure of the Insured to comply with the foregoing shall not invalidate this policy but in the event of such failure, the Company shall be liable only to the extent that it would have been held liable had the Insured complied therewith.

The coverage of this policy does not apply to any accident, occurrence, event or incident which occurs before the Retroactive Date as shown on the Declarations Page.

Section B

1. The Company hereby agrees to pay on behalf of the Insured the Ultimate Net Loss but only up to an amount not exceeding the Company's Limit of Liability as shown in Item 3 of the Declarations. Payment of Ultimate Net Loss will be in excess of the Underlying Insurance.

Except to the extent the Insuring Agreements, Terms, Definitions, Conditions and Exclusions of this policy differ, the coverage provided by this policy shall follow the Insuring Agreements, Definitions, Conditions and Exclusions of the First Underlying Insurance Policy as shown in Item 4 of the Declarations.

2. The limits of the Underlying Insurance shall be maintained in full effect during the currency of this policy except for

reduction of such limits by exhaustion of aggregate limits (if any) contained therein by paying or by having been held liable to pay for damages for accident(s) or occurrence(s), whichever is applicable, during the period of this policy.

Failure of the Insured to comply with the foregoing shall not invalidate this policy but in the event of such failure, the Company shall be liable only to the extent that it would have been held liable had the Insured complied therewith.

3. The inclusion or addition hereunder of more than one Insured shall not operate to increase the Company's Limit of Liability beyond that set forth in Item 3 of the Declarations.

II Aggregate Limit of Liability

This policy is subject to an aggregate limit of liability, as shown on the Declarations Page. This aggregate limit of liability is the maximum amount which will be paid under this policy for Ultimate Net Loss during the Policy Period.

III Definitions

1. **Ultimate Net Loss.** The term "Ultimate Net Loss" shall mean the amount the Company becomes obligated to pay in DEFENSE and INDEMNITY in the settlement of the liability of the Insured after making deductions for all recoveries and for other valid and collectable insurance except however the policy(ies) of the Underlying Insurer(s).

Ultimate Net Loss SHALL INCLUDE DEFENSE COSTS PAYABLE IN THE SETTLEMENT OF THE LIABILITY OF THE INSURED. Ultimate Net Loss shall exclude all interest accruing after entry of judgment, except with the consent of the Company.

2. **Policy Period.** The term "Policy Period" shall mean the period from the Inception Date of this policy to the Expiration Date of this policy, including any extensions thereto.

IV Conditions

1. **Changes.** The Company shall be notified as soon as practicable of any coverage or limit change(s) made after the inception date of this policy to the First Underlying Insurance Policy as shown in Item 4 of the Declarations. The Company shall have the right to charge an additional rate or premium as it deems appropriate.

2. **Premium.** The Insured shall pay premium to the Company as specified in the Declarations.

Upon expiration of this policy or its termination during the policy period, the final premium shall be computed as follows: if the earned premium is more than the advance premium paid, the Insured shall immediately pay the excess to the Company; if less, the Company shall return the difference to

the Insured, but the Company shall receive and retain the Policy Minimum Premium.

3. Notification

As Regards Insuring Agreement, Section A

The Insured upon his receipt of written demand for damages or his knowledge of any accident or occurrence involving injuries or damages which, without regard to liability, are likely to give rise to a claim hereunder shall provide written notice to the Company within thirty days of the earlier of either the receipt of a written demand for damages or of the Insured's obtaining knowledge of any accident or occurrence.

As Regards Insuring Agreement, Section B

The Insured, upon knowledge of any accident or occurrence, whichever is applicable, involving injuries or damages, which, without regard to liability, are likely to give rise to a claim hereunder, shall provide written notice to the Company within thirty days of the Insured obtaining knowledge of any accident or occurrence.

4. Defense. The Company shall not be required to assume charge of the investigation, settlement or defense of any claim made, or suits brought, or proceedings instituted against the Insured, but shall have the right and be given the opportunity to be associated in the defense and trial of any such claim, suits or proceedings relative to any occurrence or any claim made which, in the opinion of the Company, may create liability on the part of the Company under the terms of this policy.

Court costs and interest, if incurred with the consent of the Company, shall be borne by the Company and other interested parties in the proportion that each party's share of the Ultimate Net Loss bears to the total amount of Ultimate Net Loss sustained by all interested parties.

5. Cancellation. This policy may be cancelled by the Named Insured by surrender thereof to the Company or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Company by mailing written notice to the Named Insured at the address shown in the policy. In the event cancellation is due to non-payment of premium, the Insured shall be entitled to a minimum of ten days written notice. In the event cancellation is for any reason other than the non-payment of premium, the Insured shall be entitled to a minimum of thirty days written notice. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of the surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice, either by the Named Insured or by the Company, shall be equivalent to mailing.

The Insured first named in the Declarations is authorized to act on behalf of all Named Insureds with respect to the giving and receiving of notice of cancellation and to the receiving of any return premium that may become payable under this policy.

If the Named Insured cancels, earned premium shall be computed in accordance with the short rate table and procedure in use for this policy. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation. In the event of cancellation by the Named Insured, earned premium shall in no case be less than the Policy Minimum Premium stated in the Declarations.

6. Extended Reporting Periods—As Regards Insuring Agreement, Section A.

(a) Automatic Extended Reporting Period

If the Company shall cancel or fail to renew the policy for reasons other than the Insured's non-payment of premium or non-compliance with the terms and conditions of this policy and if no other insurance purchased by the Insured to replace this policy applies to the claim or would apply but for the exhaustion of its applicable limits of liability, an Automatic Extended Reporting Period of sixty days from the end of the Policy Period will apply. This Extended Reporting Period may not be cancelled and does not require an additional premium.

(b) Optional Extended Reporting Period

If the Company shall cancel or fail to renew the policy for reasons other than the Insured's non-payment of premium or non-compliance with the terms and conditions of this policy, and the Insured makes a written request for an Extended Reporting Period within thirty days after the expiration of the policy and pays the additional premium required by the Company within thirty days of such request for an Optional Extended Reporting Period, the Company may, pursuant to a written endorsement and at its own discretion, provide an Extended Reporting Period of up to sixty months.

The premium for any such Optional Extended Reporting Period granted shall not exceed 200% of the annual premium for this policy and will be fully earned when the endorsement amending this policy to include an Optional Extended Reporting Period first takes effect.

The insurance provided by the Extended Reporting Period will be excess over any other valid and collectible insurance available to the Insured whether primary, excess, contingent or on any other basis the policy period of which begins or continues after the endorsement amending this policy to include an Optional Extended Reporting Period first takes effect.

The following will apply to both 6(a) and 6(b) above:

A claim first made against the Insured and reported to the Company during any Extended Reporting Period will be deemed to have been made on the last day of the policy period, provided that the claim is for damages that would otherwise be covered by this policy and that occurred before the end of the policy period but not before the Retroactive Date shown on the Declarations Page.

Pro

The Extended Reporting Period will not reinstate or increase the Limits of Liability or extend the policy period.

V Exclusions

IT IS AGREED THAT THE AGGREGATE LIMITS SHOWN IN ITEM 4, SCHEDULE OF UNDERLYING INSURANCE, SHALL NEITHER BE REDUCED NOR EXHAUSTED BY REASON OF ANY PAID LOSSES CAUSED BY, OR ARISING OUT OF THE EXCLUSIONS LISTED BELOW.

This policy shall not apply:

1. to Ultimate Net Loss arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon the land, the atmosphere or any watercourse or body of water.

2. to Ultimate Net Loss arising out of the manufacturing, handling, distribution, sale, application, consumption, removal, mining, transportation or use of asbestos.

3. to Ultimate Net Loss arising out of the manufacturing, handling, distribution, sale, application, consumption or use of any product known as Polychlorinated Biphenyls or which contains Polychlorinated Biphenyls or which has the same chemical formulary, or which is a Polychlorinated Biphenyls derivative or which is generally known in the chemical trade as a Polychlorinated Biphenyls derivative or which is generally known in the chemical trade as having a like formulation, structure or function by whatever name manufactured, sold or distributed.

4. to Ultimate Net Loss arising out of the manufacturing, handling, distribution, sale, application, consumption or use of any product known as formaldehyde or which contains formaldehyde or which has the same chemical formulary, or which is a formaldehyde derivative or which is generally known in the trade in which it is used as a formaldehyde derivative or which is generally known in the trade in which it is used as having a like formulation, structure or function by whatever name manufactured, sold or distributed.

5. to Ultimate Net Loss arising out of Punitive Damages, Exemplary Damages, or any damages imposed as a punishment of the party against whom such damages are awarded, whether such damages are awarded as a result of the conduct of the party against whom such damages are imposed, or vicariously for the acts of others for which the party against whom such damages are awarded is held responsible.

6. to Ultimate Net Loss arising out of any act, error, omission or mistake committed or alleged to have been committed by or on behalf of the Insured in rendering or failing to render service or advice of any professional nature whatsoever.

7. to Ultimate Net Loss arising out of or alleged to have arisen from any wrongful act of directors or officers in the discharge or performance of their duties as such.

It is further agreed that for the purpose of this insurance, wrongful act shall mean any actual or alleged error or

misstatement or misleading statement or act or omission or neglect or breach of duty by the directors or officers in the discharge of their duties, individually or collectively, or any matter claimed against them solely by reason of their being directors or officers of any Insured.

8. to Ultimate Net Loss arising out of any automobile or automobile part manufactured, sold or distributed by the Insured or by others trading under its name.

9. to Ultimate Net Loss arising out of underground mining operations including but not limited to tunnelling, drilling, blasting and any subsidence consequent on such mining operations.

10. to Ultimate Net Loss arising out of any chemical operations including but not limited to the escape, leakage, manufacture, transportation, storage or sale of such chemicals.

11. to Ultimate Net Loss arising out of the operation of any quarry including but not limited to any drilling or blasting which is a part of such operations.

12. to Ultimate Net Loss arising out of pharmaceutical operations including but not limited to the escape, leakage, manufacture, transportation, storage or sale of such pharmaceuticals.

13. to Ultimate Net Loss arising out of any oil or gas operation including but not limited to escape, leakage, drilling, transportation, refining, storage or sale.

14. except in respect of any occurrence in the United States of America, its territories or possessions or Canada, to Ultimate Net Loss directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

15. Under any Liability Coverage, to Ultimate Net Loss

(a) with respect to which an Insured under this policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) arising out of hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the Insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

16. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid, to

expenses incurred with respect to Personal Injuries resulting from hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

17. Under any Liability Coverage, to Ultimate Net Loss arising out of hazardous properties of nuclear material, if

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of an Insured or (2) has been discharged or dispersed therefrom;

(b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an Insured; or

(c) the Ultimate Net Loss arises out of the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to Property Damage to such nuclear facility and any property thereat.

18. As used in Exclusions 15, 16, and 17:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or byproduct material;

"source material," "special nuclear material," and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or

organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

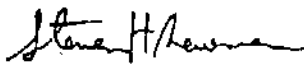
"Property Damage" means

(a) physical injury to tangible property, including all resulting loss of use of that property; or

(b) loss of use of tangible property that is not physically injured.

Property Damage shall also mean all forms of radioactive contamination of property.

In witness whereof, the Company has caused this policy to be signed by its President and Secretary and countersigned on the Declarations Page by a duly authorized representative of the Company.



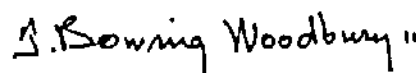
Steven Newman
President
HOME INSURANCE COMPANY
HOME INDEMNITY COMPANY
HOME INSURANCE COMPANY
OF ILLINOIS



F. A. Mina
President
CITY INSURANCE COMPANY



Arthur Phillips
President
HOME INSURANCE COMPANY
OF INDIANA



T. Bowling Woodbury, II
Secretary

**DECLARATIONS
COMMERCIAL EXCESS
LIABILITY POLICY**

Chubb Group of Insurance Companies
15 Mountain View Road, Warren, N.J. 07060



Prior Number 7936-70-23 Producer Number 6-52811 Policy Number 7936-70-23 4

Item 1 Named Insured & Address
WESTCOR PARTNERS, ETAL
(SEE ENDORSEMENT NO. 2)
11411 NO. TATUM BLVD.
PHOENIX, ARIZONA 85028

OE

Issued by the stock insurance company indicated (by "x" below) herein called the company.

- FEDERAL INSURANCE COMPANY**
Incorporated under the laws of New Jersey
- PACIFIC INDEMNITY COMPANY**
Incorporated under the laws of California
- SUN INSURANCE OFFICE LIMITED**
Incorporated under the laws of England

Producer's Name & Address
STEWART SMITH WEST, INC.
3200 WILSHIRE BLVD.
LOS ANGELES, CA. 90010

COPY

Named Insured is

Individual Partnership Corporation Joint Venture Other _____

Item 2 Policy Period From: 12-31-86 To: 12-31-87 12:01 A.M. standard time at the address of the insured as stated.

Retroactive Date _____ applicable when all or part of the policy applies on a Claims Made Basis. If such a date is included, this policy will not apply to any injury or damage which occurs prior to that date.

Item 3 Premium Basis Rate: _____ CHARGE Per: _____

Item 4 Limits of Liability \$ 5,000,000. Each Occurrence \$ 5,000,000. General Aggregate
\$ 15,000,000. in excess of Each Occurrence \$ 15,000,000. General Aggregate

Item 5 Schedule of Underlying Insurance

a. **First Underlying Insurance**
Company: I. UNDERWRITERS OF HAWAII
Policy No.: JU 8952831
From/To: 12-31-86 TO 12-31-87
Claims Made: NO
Retroactive Date: ---
Limits: Each
Of Liability: \$ 5,000,000 Occurrence
\$ 5,000,000 General Aggregate

b. **Other Underlying Insurance**
Company: FIRST STATE & HOME
Policy No.: TO FOLLOW
From/To: 12-31-86 TO 12-31-87
Claims Made: NO
Retroactive Date: ---
Limits: Each
of Liability: \$ 10,000,000 Occurrence
\$ 10,000,000 General Aggregate

In Witness Whereof, the company issuing this policy has caused this policy to be signed by its authorized officers, or the authorized officers of its U.S. Manager, Chubb & Son Inc., but this policy shall not be valid unless also signed by a duly authorized representative of the company.

PACIFIC INDEMNITY COMPANY

FEDERAL INSURANCE COMPANY

CHUBB & SON INC., U.S. MANAGER OF
SUN INSURANCE OFFICE LIMITED

Frederick R. Hoff
President

Henry G. Harden
President

Henry G. Harden
Chairman

Henry A. Aubert
Secretary

Henry A. Aubert
Secretary

Henry A. Aubert
Secretary

2-25-87 gc/la (1-8)

Date

Authorized Representative

ABSOLUTE POLLUTION EXCLUSION



Date Issued 2-25-87 qc/LB
Insured WESTCOOR PARTNERS, FTAL
Name of Company FEDERAL INSURANCE COMPANY
Producer STEWART SAITH WEST, INC.

Endorsement No. 1
Policy No. 7936-70-23
Effective Date 12-31-86

THIS POLICY IS SUBJECT TO THE FOLLOWING EXCLUSION

It is understood and agreed that Exclusion 2.—Pollution Liability is deleted in its entirety and replaced with the following:

This policy will not apply to the following, regardless of whether or not such coverage was or would have been afforded by an **Underlying Insurance** policy.

2. Pollution Liability

- a. to any liability, defense costs and expenses, where all or any part of such liability, defense costs and expenses arise out of the actual, alleged, or threatened discharge, dispersal, release or escape of pollutants into or upon any person, place or thing, including the land or any other real estate, any man-made structure, the atmosphere, any water or watercourse, whether above or below ground or otherwise into the environment, however caused or whenever happening;
- b. to any loss, cost or expense where all or any part of such loss, cost or expense arise out of any governmental direction or request that the insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any pollutant or the actual, alleged or threatened discharge, dispersal, release, seepage or escape thereof.

Pollutant means any solid, liquid, gaseous or thermal irritants or contaminant, including but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste which are designated as pollutants by listing published by the United States Environmental Protection Agency or a state counterpart thereof, or, if unlisted, nevertheless exhibits the characteristics of (1) ignitability, (2) corrosivity, (3) reactivity, or (4) toxicity to a degree which would cause it to be so listed if the subject were to be addressed by the E.P.A. or state counterpart thereof. Waste includes materials to be recycled, reconditioned or reclaimed.

It is our intent to exclude any and all coverage for any claim, suit, liability, defense costs, expenses, settlement arising directly or indirectly out of pollution whether or not the pollution was sudden, accidental, gradual, intended, expected, unexpected, preventable or not preventable.

All Other Terms and Conditions Remain Unchanged.

Date

Authorized Representative

ABSOLUTE POLLUTION EXCLUSION

Form 07-02-0590 (Ed. 7-86)

BRANCH OFFICE COPY

P-71122

PRINTED
IN
USA



ENDORSEMENT

Date Issued 2-25-87 qc/la

Endorsement No. 2

Insured WESTCOB PARTNERS, ETAL

Policy No. 7736-70-23

Name of Company FEDERAL INSURANCE COMPANY

Effective Date 12-31-86

Producer STEWART SMITH WEST, INC.

IT IS AGREED THAT NAMED INSURED IN THE POLICY DECLARATIONS PAGE BEADE
AS FOLLOWS:

ALL SECTIONS:

(A) MANAGING/OPERATING ENTITIES

BELL & HAYDEN ASSOCIATES
BOULDERS CAREFREE PARTNERS LIMITED PARTNERSHIP
BOULDERS CAREFREE SENIOR CORP.
THE BOULDERS JOINT VENTURE
LOWEST
CANYON INVESTORS
CLOVERDALE ENTERPRISES
EAST MESA ASSOCIATES
GREENDALE ASSOCIATES
1-10 ASSOCIATES
INA & LACHOLLA ASSOCIATES, A GENERAL PARTNERSHIP
JAMOCA WESTECH GENERAL PARTNERSHIP
LYONS VENTURE, INC.
METROCENTER, INC.
MOHAVE FARMS
MSR PROPERTIES
PARADISE ASSOCIATES
PARADISE PARTNERS LTD. PARTNERSHIP
PARADISE VILLAGE INVESTMENT CO ("PVIC")
PARADISE VILLAGE INVESTMENT CO ("PVIC") VILLAGE CENTER
RUSS LYON REALTY/WESTCOB VENTURE I
RUSS LYON REALTY/WESTCOB VENTURE II
RUSS LYON TRUSTEE (THE LUCKY CENTER)
SCOTTSDALE CAREFREE PROPERTIES

CONTINUED.....

CHUBB CUSTOM MARKET, INC.
(INSURANCE SERVICE)

All Other Terms and Conditions Remain Unchanged

Authorized Representative



ENDORSEMENT

Date Issued 2-25-87 gc/la

Endorsement No. 2 (PAGE 2)

Insured WESTCOR PARTNERS, ETAL

Policy No. 7936-70-29

Name of Company FEDERAL INSURANCE COMPANY

Effective Date 12-31-86

Producer STEWART SMITH WEST, INC.

NAMED INSURED ENDORSEMENT - CONTINUED

TATUM & SHEA ASSOCIATES
WESTBAR LIMITED PARTNERSHIP
WESTCOR AVIATION, INC.
THE WESTCOR COMPANY LIMITED PARTNERSHIP
WESTCOR PARTNERS
WESTCOR PROPERTIES
WESTCOR TELLURIDE, AN ARIZONA PARTNERSHIP

WESTECH CHANDLER PARTNERS
WESTECH PROPERTIES, INC.
WESTECH PROPERTIES, INC. AND THE WESTCOR CO. LTD. PARTNERSHIP
WESTROTH ASSOCIATE

MIDCOR ASSOCIATES, A PARTNERSHIP

ALL SECTIONS

(B) NEIGHBORHOOD SHOPPING CENTERS

EVERWEST DBA FOOTHILLS CONVENIENCE CENTER
METRO VILLAGE LIMITED PARTNERSHIP
CB INVESTMENT, LTD., DBA SNOW LOW PLAZA
THE LUCKY CENTER
EAST FLAGSTAFF PLAZA ASSOCIATES DBA EAST FLAGSTAFF PLAZA
MONTENELLO PLAZA ASSOCIATES DBA CHRIS TOWN PLAZA
PVIC DBA VILLAGE CENTER
PROMENADE ASSOCIATES DBA PROMENADE
THE WESTCOR COMPANY LIMITED PARTNERSHIP DBA:
CATALINA PLAZA
EAST CACTUS PLAZA
FAIRLANES SHOP CENTER
NORTH PARK PLAZA
VILLAGE PLAZA
VILLAGE SQUARE I
VILLAGE SQUARE II
WESTLINC ASSOCIATES DBA HILTON VILLAGE

CHUBB CUSTOM MARKET, INC.
(INSURANCE SERVICE)

All Other Terms and Conditions Remain Unchanged

Authorized Representative



ENDORSEMENT

Date Issued 2-25-87 qc/la

Endorsement No. 2 (PAGE 3)

Insured WESTCOR PARTNERS, ETAL

Policy No. 7936-70-23

Name of Company FEDERAL INSURANCE COMPANY

Effective Date 12-31-86

Producer STEWART SMITH WEST, INC.

NAMED INSURED ENDORSEMENT - CONTINUED

ALL SECTIONS

(C) REGIONAL SHOPPING CENTERS

BERRIES ASSOCIATES DBA THE ORCHARDS MALL
CAMELBACK SHOPPING CENTER LIMITED PARTNERSHIP DBA THE COLONNADE
DVM CO. DBA METROCENTER
EAST MESA ASSOCIATES
EVEREST DBA POOTHILLS FASHION MALL
FLAGSTAFF MALL ASSOCIATES FLAGSTAFF MALL
LOS ARCOS INVESTMENTS LIMITED PARTNERSHIP DBA LOS ARCOS MALL
LOS ARCOS MANAGEMENT
HEP RIVER ASSOCIATES (LAND ONLY)
THE WESTCOR COMPANY LIMITED PARTNERSHIP DBA:
THE BORGATA
SCOTTSDALE FASHION SQUARE
WESTDAY ASSOCIATES DBA PARADISE VALLEY MALL
WESTPEN ASSOCIATES DBA WESTRIDGE MALL

ALL SECTIONS

(D) OFFICE BUILDING/OTHERS

DESIGN ASSOCIATES LIMITED PARTNERSHIP DBA SOUTHWEST
INTERIOR DESIGN CENTER
METROCENTER BUSINESS PARK I LIMITED PARTNERSHIP DBA
METROCENTER BUSINESS PARK I
PARADISE ASSOCIATES DBA PARADISE VILLAGE OFFICE PARK II
PARADISE PARTNERS DBA PARADISE VILLAGE OFFICE PARK III
PARADISE VILLAGE INVESTMENT COMPANY (11411 N. TATUM BLVD)

WESTBAR LIMITED PARTNERSHIP - OWNS BLDG. 10030 METRO PARKWAY WEST (PPP)
WESTBAR LIMITED PARTNERSHIP - OWNS BLDG. 10215 N. 28th DR., PHX (COST PLUS)
WESTCOR LIMITED - OWNS HANGAR - SCOTTSDALE, AIRPORT
WESTECH PROPERTIES, INC DBA GILL PLAZA
WESTLINC ASSOCIATES DBA HILTON VILLAGE OFFICE BLDG.

CHUBB CUSTOM MARKET, INC.
(INSURANCE SERVICE)

THIS POLICY MAY CONTAIN CLAIMS MADE COVERAGE. THIS POLICY MAY ALSO CONTAIN VARIOUS PROVISIONS THAT LIMIT COVERAGE. PLEASE READ CAREFULLY.

COMMERCIAL EXCESS LIABILITY POLICY

COVERAGE

Subject to all the terms of this policy, the Company agrees to pay on behalf of the insured **loss** resulting from an occurrence insured by all of the policies scheduled in Item 5 of the Declarations. The insurance afforded by this policy shall apply:

- a. only excess of **Underlying Insurance** as scheduled in Item 5 of the Declarations, and
- b. only after all **Underlying Insurance** has been exhausted by payments of the Limits of Liability of such insurance, and
- c. only if the **Underlying Insurance** pays such a **loss**.

The terms, conditions, definitions, endorsements, exclusions, and limitations of the first **Underlying Insurance** policy as stated in Item 5a of the Declarations are made part of this policy unless they are inconsistent with provisions of this policy or relate to any duty to investigate and defend, the Limits of Liability, premium, cancellation, our right to recover payment, Extended Reporting Periods, any renewal agreement and any exclusion or limitation attached to this policy by endorsement or included in the Exclusion section of this policy.



With respect to the exceptions as stated above, the provisions of this policy will apply.

With respect to the first scheduled **Underlying Insurance** policy:

1. **Occurrence**

If the coverage afforded by that policy applies on the basis of injury or damage which occurs during the policy period and is caused by an occurrence, then this policy will provide coverage on the same basis to injury or damage which occurs during the policy period and is caused by an occurrence.

2. **Claims Made**

If the coverage afforded by that policy applies on the basis of claims which are first made against the insured during the period of that policy, then this policy will provide coverage on the same basis providing that such claim is first made against the insured on or after the Retroactive Date and before the Termination Date of this policy and the injury or damage takes place on or after the Retroactive Date shown on the Declarations page and prior to the termination of this policy.

Extended Reporting Periods

If scheduled Underlying Policy(ies) provide coverage on a claims made basis and if such policies provide coverage under an Extended Reporting Period then this policy will provide coverage on the same basis providing that:

- a. this policy is cancelled or not renewed;
- b. the injury or damage takes place on or after the Retroactive Date of this policy and prior to the Termination Date of this policy;
- c. this policy's Extended Reporting Period will NOT apply for a longer period of time than the shortest Extended Reporting Period provided by an **Underlying Insurance**; or
- d. if you are required to submit a written request to any **Underlying Insurance** company to obtain an Extended Reporting Period endorsement, then:
 - (1) You must give us a written request for the endorsement within sixty (60) days after the termination of this policy period, and
 - (2) an additional premium will be required in accordance with our rates. You must pay this additional premium promptly when due.

Your failure to comply with the above conditions will void the Extended Reporting Period coverage under this policy and we would promptly refund any additional premium you paid for the Extended Reporting Period coverage.

DEFENSE

1. We will NOT be obligated to assume charge of the investigation, settlement or defense of any claim made, or suit brought, or proceedings instituted against you. We will, however, have the right to participate in the defense and trial of any claims, suits or proceedings which relate to any occurrence that we feel may create liability on our part under the terms of this policy. We will NOT defend any suit or claim after we have exhausted the Limit of Liability as stated in Item 4 of the Declarations.
2.
 - a. When defense expense payments of any **Underlying Insurance** reduce the Limit of Liability provided by that policy, then any such expense payment made under this policy will reduce the Limit of Liability provided by this policy as stated in Item 4 of the Declarations.
 - b. When defense expense payments of none of the **Underlying Insurance** reduce the Limit of Liability provided by those policies, then any such expense payment made under this policy will NOT reduce the Limit of Liability provided by this policy as stated in Item 4 of the Declarations.
3. We will NOT pay any expense except as follows:
 - a. If the insured becomes legally liable for interest that accrues on a judgment after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Liability, then we will pay the interest on the part of the judgment to which this policy applies.
 - b. Expenses that are incurred directly by this Company and at the sole discretion of this Company will be paid by this Company.
 - c. Pre-judgment interest awarded against the insured on that part of the judgment we pay.

If we make an offer to pay the applicable Limit of Liability, we will NOT pay any pre-judgment interest based on that period of time after the offer providing that all **Underlying Insurance** pays pre-judgment interest.

LIMITS OF LIABILITY

1. Our total Limit of Liability for **loss** from any one occurrence will NOT exceed the amount specified in Item 4 of the Declarations.
2. Our Limit of Liability only applies in excess of the **Underlying Insurance** specified in Item 5 of the Declarations.

3. The General Aggregate specified in Item 4 of the Declarations is the most we will pay during each annual period of this policy for all damages to which this policy applies and to which a General Aggregate applies for damages in any **Underlying Insurance**.
4. a. If the first **Underlying Insurance** policy specified in Item 5a of the Declarations provides coverage on the basis of claims first made or brought during its policy period and the Limits of Liability of that policy become reduced or exhausted by payments for claims first made or brought during the policy period of this policy (or any Extended Reporting Period provided by this policy) then this policy will apply as excess of the reduced or exhausted limit. This provision applies to occurrences which take place after the Retroactive Date of this policy as stated in Item 2 of the Declarations and prior to the Termination Date of this policy as stated in the Declarations.
- b. If the first **Underlying Insurance** policy specified in Item 5a of the Declarations provides coverage on other than a claims made basis and if the Limits of Liability of that policy become reduced or exhausted by payments for occurrences which take place during the policy period of this policy as stated in the Declarations, then this policy will apply as excess of the reduced or exhausted limit.

EXCLUSIONS

This policy will NOT apply to the following, regardless of whether or not such coverage was or would have been afforded by any **Underlying Insurance** policy:

1. Nuclear Energy Liability

to Nuclear Energy Liability as defined on pages 9 and 10 of this policy.

2. Pollution Liability

- a. to any liability arising out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants:
 - (1) at or from premises you own, rent or occupy;
 - (2) at or from any site or location used by or for you or others for the handling, storage, disposal, processing or treatment of waste;
 - (3) which are at any time transported, handled, stored, treated, disposed of or processed as waste by or for you or any person or organization for whom you may be legally responsible; or
 - (4) at or from any site or location on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations;

- i. if the pollutants are brought on or to the site or location in connection with such operations; or
 - ii. if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants.
- (5) for which you become liable solely because of any contract or agreement you enter or entered into.
- b. Any loss, cost or expense arising out of any governmental direction or request that you test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

CONDITIONS

1. Appeals

We can appeal a judgment against any insured under this agreement if:

- a. the judgment is for more than the Limits of Liability provided by the **Underlying Insurance**; or
- b. the insured and any underlying insurers do not appeal it.

If we appeal the judgment, we will pay the costs of the appeal and any expenses incurred for the appeal but in NO event will our liability for **loss** exceed the Limit of Liability as stated in Item 4 of the Declarations plus the expenses applicable to the appeal.

2. Cancellation

- a. The first named insured may cancel this policy at any time by sending us a written request or by returning the policy stating the date of cancellation.
- b. We may cancel this policy at any time by sending to the first named insured a notice of thirty (30) days (ten (10) days in the event of non-payment of premium) in advance of the cancellation date. Our notice of cancellation will be mailed to the first named insured's last known address and will indicate the date on which coverage is terminated.

- c. If cancellation is at the request of the first named insured, return premium will be computed at 90% of pro rata. If we cancel, return premium will be computed pro rata. If this policy insures more than one named insured, cancellation may be effected by the first of such named insureds for the account of all named insureds. Notice of cancellation by us to such first named insured will be deemed notice to all insureds and payment of any return premium to such first named insured will be for the account of all interests.

3. Duties in the Event of Occurrence, Claim or Suit

- a. You MUST see to it that we and your underlying insurers:
 - (1) are notified as soon as possible of any occurrence which may result in a claim if the claims may involve this policy or any underlying policy.
 - (2) receive notice of the claim or suit as soon as possible.
 - (3) are helped, at our request, to enforce any right against any person or organization which may be liable to you because of injury or damage to which this insurance may also apply.
 - (4) receive your full cooperation as stated in this policy or any underlying policy.
- b. It is a requirement of this policy that:
 - (1) you do NOT make any admission of liability.
 - (2) you do NOT, unless we agree, incur any expense or make any payment. If you do, this expense or payment will be at your own cost.

4. Maintenance of Underlying Insurance

While this policy is in effect, you agree to maintain the **Underlying Insurance** in full force. This means that:

- a. **Underlying Insurance** may NOT be cancelled or not renewed by either you or the insurance company without notifying us;
- b. renewals or replacements will NOT be more restrictive in coverage;
- c. terms, conditions and endorsements of the **Underlying Insurance** will NOT materially change;

- d. collectability of the **Underlying Insurance** limits as stated in Item 5 of the Declarations or replacements thereof **MUST** be available to you regardless of the bankruptcy or insolvency of the underlying insurers.
- e. Limits of Liability will **NOT** change except for any reduction in the Aggregate Limits of Liability:
 - (1) by payment of claims for occurrences happening during the policy period of this policy;
 - (2) by payment of claims which are first made against the insured during this policy period or the Extended Reporting Period if that option is exercised under the **Underlying Insurance** and if the **Underlying Insurance** provides coverage on a claims made basis.

Your failure and/or your underlying insurers' failure to comply with this condition will **NOT** invalidate this policy but in the event of such failure, we will only be liable to the same extent as if there had been compliance with this condition.

4. **Our Right to Recover Payment**

- a. Any persons or organizations for whom we make a payment under this insurance must transfer to us their right to recovery against any other party. After a **loss**, they must do everything necessary to secure, and nothing to impair, these rights.
- b. Any amount recovered will be apportioned in the inverse order of payment of **loss** to the extent of actual payment. The expenses of all such recovery proceedings will be apportioned in the ratio of respective recoveries.

5. **Premium**

The premium for this policy as stated in Item 3 of the policy Declarations is a flat premium and not subject to adjustment unless a Premium Basis and Rate is stated in Item 3 of the policy Declarations. If the Premium Basis and Rate is stated, then the premium is an estimated premium only.

6. **When Loss is Payable**

This policy will **NOT** apply until the insured or the underlying insurer is obligated to pay the full amount of the underlying limit for an occurrence which is also covered by this policy. When the amount of the **loss** has finally been determined, we will promptly pay on behalf of the insured, the amount of **loss** which falls within the terms of this policy. The bankruptcy or insolvency of the insured will **NOT** relieve us of any of our obligations under this policy.

DEFINITIONS

1. **Loss**

Means

all sums actually paid or sums which the insured is legally obligated to pay in the settlement or satisfaction of a claim to which this insurance applies after making proper deductions for all recoveries and salvage. **Loss** will include defense expense payments made by the underlying insurers if such expense payments are included within the limit of the **Underlying Insurance**.

2. **Underlying Insurance**

Means

the policy or policies as stated in Item 5 of the Declarations including their Extended Reporting Period(s) if provided.

NUCLEAR ENERGY LIABILITY EXCLUSION

This policy does NOT apply:

1. to bodily injury or property damage
 - a. with respect to which an insured under this policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - b. resulting from the hazardous properties of nuclear material and with respect to which:
 - (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (2) the insured is entitled to indemnity from the United States of America, or any agency thereof, with any person or organization.
2. to bodily injury or property damage resulting from the hazardous properties of nuclear material if:
 - a. the nuclear material:
 - (1) is at any nuclear facility owned by, or operated by or on behalf of an insured; or
 - (2) has been discharged or dispersed therefrom;
 - b. the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - c. the bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operations or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion c. applies only to property damage to such nuclear facility and property thereat.
3. As used in this exclusion:

hazardous properties include radioactive, toxic or explosive properties;

nuclear materials *means* source material, special nuclear material or by-product material;

source material, special nuclear material, and by-product material have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof;

spent fuel *means* any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

waste *means* any waste material;

- a. containing by-product material and
- b. resulting from the operations by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph a. or b. thereof;

nuclear facility *means*:

- a. any nuclear reactor;
- b. any equipment or device designed or used for:
 - (1) separating the isotopes of uranium or plutonium;
 - (2) processing or utilizing spent fuel; or
 - (3) handling, processing or packaging waste;
- c. any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

nuclear reactor *means* any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

Property damage includes all forms of radioactive contamination of property.



Certificate of Insurance

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO LIABILITY UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES LISTED BELOW.

| | | |
|--|--------------------------------------|--|
| NAME AND ADDRESS OF AGENCY Fred. S. James & Co. of Georgia, Inc. 3333 Peachtree Road, N.E. - Suite 500 Atlanta, Georgia 30326 | COMPANIES AFFORDING COVERAGES | |
| | COMPANY LETTER A | NATIONAL UNION FIRE OF PITTSBURGH, PA. |
| | COMPANY LETTER B | LONDON UNDERWRITERS |
| | COMPANY LETTER C | |
| | COMPANY LETTER D | |
| NAME AND ADDRESS OF INSURED BROWNING-FERRIS INDUSTRIES OF ARIZONA 1580 E. ELWOOD INC. PHOENIX, AZ 85040 | COMPANY LETTER E | |

This is to certify that policies of insurance listed below have been issued to the insured named above and are in force at this time. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

| COMPANY LETTER | TYPE OF INSURANCE | POLICY NUMBER | POLICY EXPIRATION DATE | Limits of Liability in Thousands (000) | | |
|----------------|---|-----------------------------------|------------------------|--|---------------------------------|-----------|
| | | | | | EACH OCCURRENCE | AGGREGATE |
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMPREHENSIVE FORM <input checked="" type="checkbox"/> PREMISES-OPERATIONS <input checked="" type="checkbox"/> EXPLOSION AND COLLAPSE HAZARD <input checked="" type="checkbox"/> UNDERGROUND HAZARD <input checked="" type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS HAZARD <input checked="" type="checkbox"/> CONTRACTUAL INSURANCE <input checked="" type="checkbox"/> BROAD FORM PROPERTY DAMAGE <input checked="" type="checkbox"/> INDEPENDENT CONTRACTORS <input checked="" type="checkbox"/> PERSONAL INJURY <input checked="" type="checkbox"/> ASBESTOS | GLA 19 79 432 | 10/01/89 | BODILY INJURY | \$ (See below) | |
| | | | | PROPERTY DAMAGE | \$ below) | |
| | | | | BODILY INJURY AND PROPERTY DAMAGE COMBINED | \$ 2,500 | |
| | | | | PERSONAL INJURY | \$ Incl. | |
| N/A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> COMPREHENSIVE FORM <input checked="" type="checkbox"/> OWNED <input checked="" type="checkbox"/> HIRED <input checked="" type="checkbox"/> NON-OWNED | Self-Insured | 10/01/89 | BODILY INJURY (EACH PERSON) | \$ (See below) | |
| | | | | BODILY INJURY (EACH ACCIDENT) | \$ below) | |
| | | | | PROPERTY DAMAGE | \$ below) | |
| | | | | BODILY INJURY AND PROPERTY DAMAGE COMBINED | \$ 2,500 | |
| B | EXCESS LIABILITY INCLUDING AUTO & GENERAL <input checked="" type="checkbox"/> OTHER THAN UMBRELLA FORM | PY078486 | 10/01/89 | BODILY INJURY AND PROPERTY DAMAGE COMBINED | \$ 5,000 | \$ 5,000 |
| | | | | | | |
| A | WORKER'S COMPENSATION and EMPLOYER'S LIABILITY | WC 1126468 (IN CA. WC 1126444) | 10/01/89 | STATUTORY | | |
| | | | | | \$2500 (EACH ACCIDENT) | |
| | | | | | \$2500 (DISEASE - POLICY LIMIT) | |
| B | <input checked="" type="checkbox"/> ALL RISK PROPERTY INCL. PHYS. DAMAGE ON VEHICLES | NA 4104-8 | 10/01/89 | \$25,000 EACH OCCURRENCE | | |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES

Cancellation: Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.

NAME AND ADDRESS OF CERTIFICATE HOLDER:
 Tempe Buttes Hotel Limited Partnership
 dba Westcourt In The Buttes
 2000 W. Westcourt Way
 Tempe, AZ 85802

DATE ISSUED: August 2, 1989

F. Pizzolli
AUTHORIZED REPRESENTATIVE

C86-105

ADDENDUM NO. 1

THIS ADDENDUM NO. 1 made this 10th day of May, 1986, between the CITY OF TEMPE, a municipal corporation of the State of Arizona, hereinafter referred to as "LESSOR" or "CITY," and WESTCOX HOTEL COMPANY, an Arizona corporation, hereinafter referred to as "LESSEE."

WHEREAS, the parties entered into a Lease Agreement on or about November 20, 1984, wherein the LESSOR, among other things, demised and leased to LESSEE for and in consideration of certain rental payments and upon the terms, conditions and covenants set forth in such Lease Agreement, a tract of land which is a part of Tempe Diablo Stadium and which tract is more particularly described on Exhibits A-1 (Parcel 1) and A-2 (Parcel 2), and

WHEREAS, LESSOR leased to LESSEE said above described premises for a term of sixty (60) years commencing on the 1st day of October, 1984, and ending the 30th day of September, 2044, for use and occupancy by LESSEE, and

WHEREAS, the Lease Agreement is silent insofar as any extensions of the leasehold period from and after the 30th day of September, 2044, and

WHEREAS, the parties by this Addendum No. 1 desire to amend such Lease Agreement insofar as the term is concerned for both Parcels A-1 (Parcel 1) and A-2 (Parcel 2).

NOW THEREFORE, in consideration of the mutual promises, covenants and undertakings, as more particularly set forth in the Lease Agreement, the parties do hereby agree as follows:

Paragraph 2.1 be and same is hereby added to read as follows:

2.1. Request for Extension of Leasehold Period
by LESSEE (Phase/Parcel 1 (A-1) and Phase/
Parcel 2 (A-2))

LESSOR, upon expiration of this lease, expressly reserves the right to utilize the leased premises for commercial, non-commercial, public or quasi-public purposes. If LESSOR elects to utilize the property for other than commercial purposes, the lease agreement shall expire September 30, 2044.

If LESSOR, elects to utilize the property for commercial purposes, notice of said election shall be provided to LESSEE not later than October 1, 2043. LESSEE may, upon receipt of said notice, request LESSOR to extend the lease period for fifteen (15) years beyond the 30th day of September, 2044, for the continued use and occupancy by LESSEE. Such request shall be made no later than March 1, 2044. Upon receiving such request, LESSOR may, at LESSEE'S expense, cause the leased property to be reappraised for its highest and best commercial use. If, using the appraisal as a guideline, (1) LESSOR concludes that the continued operation of a first class conference resort hotel is in its best

interests, and if (2) the parties can mutually agree on the fair market rental value of such lease extension, the lease agreement may be extended for such additional fifteen (15) years.

IN WITNESS WHEREOF, the parties hereto have set forth their hands in the City of Tempe, Arizona, on the day and date first above written.

CITY OF TEMPE, a municipal corporation,

By: Harry E. Mitchell
Mayor

ATTEST:

Virginia J. Thompson
City Clerk

APPROVED AS TO FORM:

David R. Weiskel
City Attorney

WESTCOX HOTEL COMPANY, an Arizona corporation,

By: Joe Cop
Its: President

C86-105

86 565646

ADDENDUM NO. 1

1186-100

THIS ADDENDUM NO. 1 made this 30th day of May, 1986, between the CITY OF TEMPE, a municipal corporation of the State of Arizona, hereinafter referred to as "LESSOR" or "CITY," and WESTCOX HOTEL COMPANY, an Arizona corporation, hereinafter referred to as "LESSEE."

WHEREAS, the parties entered into a Lease Agreement on or about November 20, 1984, wherein the LESSOR, among other things, demised and leased to LESSEE for and in consideration of certain rental payments and upon the terms, conditions and covenants set forth in such Lease Agreement, a tract of land which is a part of Tempe Diablo Stadium and which tract is more particularly described on Exhibits A-1 (Parcel 1) and A-2 (Parcel 2), and

WHEREAS, LESSOR leased to LESSEE said above described premises for a term of sixty (60) years commencing on the 1st day of October, 1984, and ending the 30th day of September, 2044, for use and occupancy by LESSEE, and

WHEREAS, the Lease Agreement is silent insofar as any extensions of the leasehold period from and after the 30th day of September, 2044, and

WHEREAS, the parties by this Addendum No. 1 desire to amend such Lease Agreement insofar as the term is concerned for both Parcels A-1 (Parcel 1) and A-2 (Parcel 2).

EXHIBIT "A"

NOW THEREFORE, in consideration of the mutual promises, covenants and undertakings, as more particularly set forth in the Lease Agreement, the parties do hereby agree as follows:

Paragraph 2.1 be and same is hereby added to read as follows:

2.1. Request for Extension of Leasehold Period
by LESSEE (Phase/Parcel 1 (A-1) and Phase/
Parcel 2 (A-2))

LESSOR, upon expiration of this lease, expressly reserves the right to utilize the leased premises for commercial, non-commercial, public or quasi-public purposes. If LESSOR elects to utilize the property for other than commercial purposes, the lease agreement shall expire September 30, 2044.

If LESSOR, elects to utilize the property for commercial purposes, notice of said election shall be provided to LESSEE not later than October 1, 2043. LESSEE may, upon receipt of said notice, request LESSOR to extend the lease period for fifteen (15) years beyond the 30th day of September, 2044, for the continued use and occupancy by LESSEE. Such request shall be made no later than March 1, 2044. Upon receiving such request, LESSOR may, at LESSEE'S expense, cause the leased property to be reappraised for its highest and best commercial use. If, using the appraisal as a guideline, (1) LESSOR concludes that the continued operation of a first class conference resort hotel is in its best

86 565646

interests, and if (2) the parties can mutually agree on the fair market rental value of such lease extension, the lease agreement may be extended for such additional fifteen (15) years.

IN WITNESS WHEREOF, the parties hereto have set forth their hands in the City of Tempe, Arizona, on the day and date first above written.

CITY OF TEMPE, a municipal corporation,

BY: Henry E. Mitchell
Mayor

ATTEST:

Virginia J. Thompson
City Clerk

APPROVED AS TO FORM:

David R. Meekel
City Attorney

WESTCOX HOTEL COMPANY, an Arizona corporation,

By: J. O. Cop
Its: President

Collar, Williams & White Engineering, Inc.

JOHN H. COLLAR, PE
President
ROBERT E. HORNOR, PE, RLS
Vice President

Consulting Engineers

2002 NORTH 20TH STREET
SCOTTSDALE, ARIZONA 85251 565646

GEORGE J. HAY, PE
ROBERT E. HORNOR, PE
WILLIAM ROSE NELSON, RLS
OFFICE: DASHUSSEN, RLS
DAVID H. HORNOR, RLS
JAY H. VAUGHN, RLS

Description Of
Parcel 1 (A-1)

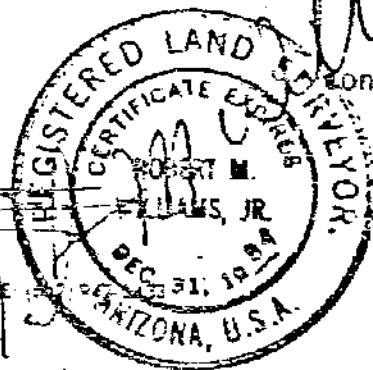
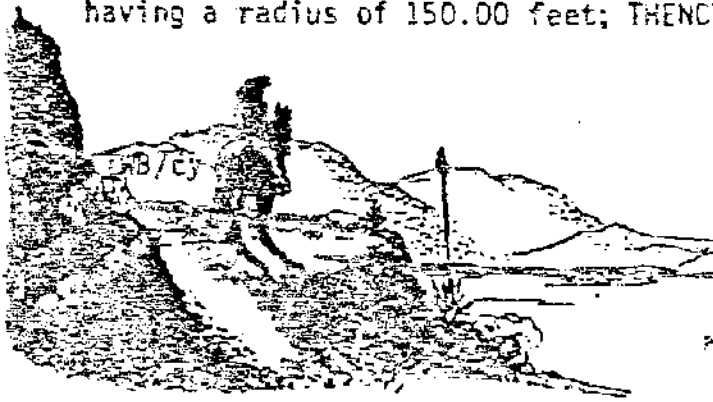
CW No. 840804

FOR THE WESTCOX HOTEL COMPANY

September 10, 1984

A portion of the North One-Half of Section 29, T. 1 N., R. 4 E., G. & S. R. B. & M. Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the NW corner of said Section 29; THENCE S 00°17'40" W, along the West line of said Section 29, 1324.93 feet; THENCE N 29°37'23" E, along the South line, and its prolongation, of the NW½ of the NW½ of said Section 29, 1797.65 feet to the True Point of Beginning; said point beginning a non-tangent curve, the center of which bears N 84°05'07" E, 621.98 feet; THENCE Northerly, along said curve, through a central angle of 3°41'27", a distance of 40.07 feet; THENCE N 02°13'26" W, 38.95 feet to the beginning of a tangent curve to the left having a radius of 210.00 feet; THENCE Northwesterly along said curve through a central angle of 45°07'56" a distance of 165.42 feet; THENCE N 42°38'38" E, 164.17 feet to the beginning of a tangent curve to the right having a radius of 250.00 feet; THENCE Northeasterly and easterly along said curve, through a central angle of 46°00'28" a distance of 209.47 feet; THENCE S 89°20'54" E, 154.65 feet to the beginning of a tangent curve to the right, having a radius of 300.00 feet; THENCE Southeasterly, along said curve through a central angle of 32°21'02" a distance of 169.39 feet; THENCE S 56°59'52" E, 18.05 feet to the beginning of a tangent curve to the left having a radius of 50.00 feet; THENCE Southeasterly and Northerly along said curve through a central angle of 122°21'02" a distance of 106.77 feet; THENCE N 00°39'06" E, 127.05 feet; THENCE S 89°20'54" E, 143.50 feet; THENCE S 00°39'06" W, 145.41 feet; THENCE S 89°20'54" E, 139.00 feet; THENCE S 00°39'06" W, 120.00 feet THENCE S 81°17'36" W, 85.63 feet to the beginning of a tangent curve to the left, having a radius of 22.88 feet; THENCE Southwesterly and Southeasterly, through a central angle of 130°30'45", a distance of 52.12 feet to a point of reverse curvature beginning a tangent curve to the right, having a radius of 150.00 feet; THENCE Southerly through a central angle of 94°40'52",



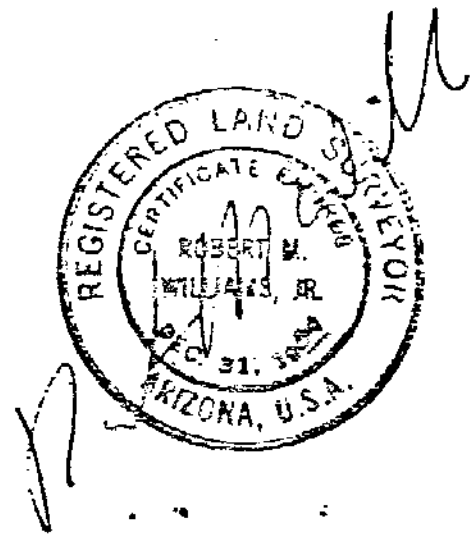
continued

Exhibit B

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a distance of 247.87 feet; THENCE S 45°27'42"W, 225.37 feet; THENCE N 44°32'18"W, 128.00 feet; THENCE S 45°27'42"W, 67.34 feet to the beginning of a tangent curve to the left, having a radius of 200.00 feet; THENCE Southwesterly, along said curve through a central angle of 27°21'03" a distance of 95.47 feet; THENCE S 18°06'40" W, 160.12 feet to the beginning of a tangent curve to the left having a radius of 100.00 feet; THENCE Southeasterly along said curve through a central angle of 81°15'49" a distance of 141.83 feet THENCE S 63°09'09" E, 39.76 feet to the beginning of a tangent curve to the right having a radius of 74.05 feet; THENCE Southeasterly along said curve through a central angle of 56°44'01" a distance of 73.35 feet to a point beginning a non-tangent curve, the center of which bears S 06°25'09" E, 1200.00 feet; THENCE Southwesterly, along said curve through a central angle of 16°01'58" a distance of 377.68 feet; THENCE S 65°32'54" W, 212.48 feet THENCE N 24°27'06" W, 76.01 feet; THENCE N 55°21'03" W, 155.75 feet to a point beginning a non-tangent curve, the center of which bears S 55°21'08" E 303.76 feet; THENCE Northeasterly, along said curve through a central angle of 13°12'13", a distance of 70.00 feet THENCE N 47°51'05" E, 91.45 feet to the beginning of a tangent curve to the left, having a radius of 260.00 feet; THENCE Northeasterly and Northerly, through a central angle of 50°04'32", a distance of 227.23 feet; THENCE N 02°13'26" W, 54.26 feet to the beginning of a tangent curve to the left, having a radius of 541.98 feet; THENCE Northerly, along said curve through a central angle of 12°24'57" a distance of 117.45 feet to a point of reverse curvature beginning a tangent curve to the right, having a radius of 621.98 feet THENCE, Northerly, along said curve through a central angle of 8°43'30", a distance of 94.72 feet to the TRUE POINT OF BEGINNING.

Containing 16.600 Acres, more or less.



86 565046
Collar, Williams & White Engineering

DONALD H. COLLAR, PE, RLS.
President
ROBERT R. WADSWORTH, PE, RLS.
Vice President

Consulting Engineers
2702 N. 44th Street, Suite 205-B
Phoenix, Arizona 85008
(602) 957-3350

Description

For

CWV No. 340804-5

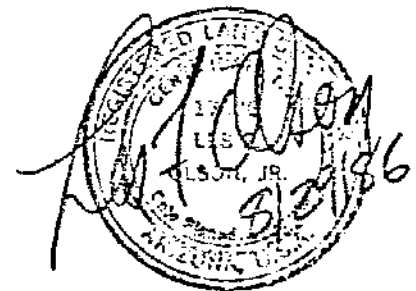
Corroyer-Bedrick

August 29, 1986

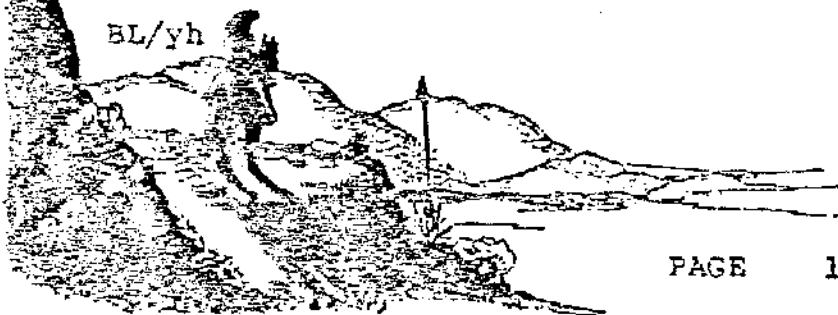
PARCEL AII AT WESTCOURT IN THE BUTTES

Being a portion of the north one-half of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the north quarter corner of said Section 29;
THENCE S00°07'15"W, along the north-south mid-section line of said Section 29, a distance of 567.14 feet;
THENCE, N89°52'45"W, 180.60 feet to the TRUE POINT OF BEGINNING and a point marking the beginning of a non-tangent curve, the central point of which bears S56°55'59"W, 3569.72 feet;
THENCE southeasterly along the arc of said curve through a central angle of 12°12'07", having an arc distance of 760.20 feet;
THENCE S07°58'18"W, 404.28 feet;
THENCE N82°01'42"W, 127.00 feet;
THENCE N07°58'18"E, 230.86 feet;
THENCE N37°01'42"W, 162.25 feet;
THENCE N52°58'18"E, 67.00 feet;
THENCE N37°01'42"W, 197.93 feet;



BL/yh



Description For
Corneyer-Bedrick
PARCEL A11 AT WESTCOURT IN THE BUTTES
CWN No. 840804-5
August 29, 1986

86 565646

THENCE N82°01'42"W, 120.23 feet;
THENCE N22°01'42"W, 120.23 feet;
THENCE N67°01'42"W, 290.25 feet;
THENCE S67°58'18"W, 213.34 feet;
THENCE N22°01'42"W, 59.57 feet;
THENCE N59°35'22"E, 234.84 feet;
THENCE N88°28'22"E, 320.00 feet;
THENCE N31°47'29"E, 186.49 feet to the TRUE POINT OF BEGINNING.

Comprising 6.40000 Acres, more or less, subject to all easements
of record.

8 - 505646

N 24 00' SEC 29
T. 14. N. R. 4 E.

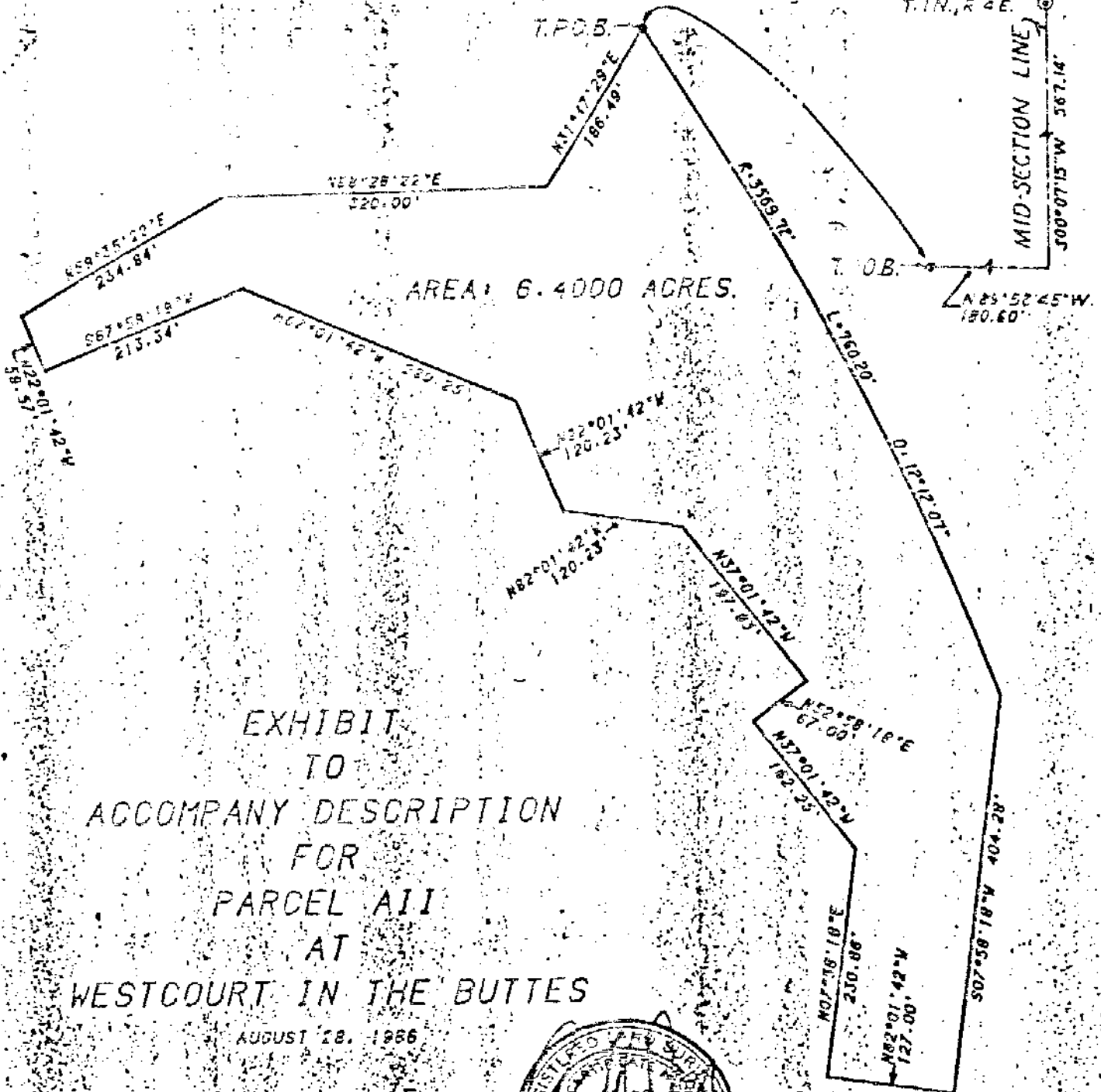


EXHIBIT
TO
ACCOMPANY DESCRIPTION
FOR
PARCEL A11
AT
WESTCOURT IN THE BUTTES

AUGUST 28, 1986



SCALE 1" = 150'

Collar, Williams & White Engineering, Inc.
 Consulting Engineers
 1708 N. 20TH STREET, SUITE 200-B
 PHOENIX, ARIZONA 85016
 PHONE 948-2228
 1712 N. 20TH STREET
 SCOTTSDALE, ARIZONA 85251
 PHONE 948-4428

DESIGN NO. 846804-6

86 565646

Collar, Williams & White Engineering

DONALD H. COLLAR, P.E., R.L.S.
President
ROBERT E. WAGNER, P.E., R.L.S.
Vice President

Consulting Engineers
2702 N. 44th Street, Suite 205-B
Phoenix, Arizona 85008
(602) 957-3350

Description

For

CWV No. S40804-5

Cornoyer-Bedrick

August 29, 1986

PARCEL B AT WESTCOURT IN THE BUTTES

Being a portion of the northwest one-quarter of Section 29, Township 1 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the north quarter corner of said Section 29; THENCE S00°07'15"W, along the north-south mid-section line of said Section 29, a distance of 567.14 feet;

THENCE N89°52'45"W, 180.60 feet to the TRUE POINT OF BEGINNING;

THENCE S31°47'29"W, 185.49 feet;

THENCE S88°28'22"W, 320.00 feet;

THENCE N01°31'36"W, 494.43 feet;

THENCE N41°15'48"E, 129.35 feet;

THENCE S62°58'04"E, 44.92 feet to a point marking the beginning of a non-tangent curve, the central point of which bears S48°47'29"W, 3569.72 feet;

THENCE southeasterly along the arc of said curve through a central angle of 08°08'30", having an arc distance of 507.25 feet to the TRUE POINT OF BEGINNING.

Comprising 3.95540 Acres, more or less, subject to all easements of record.



N 1/4 COR. SEC. 25
T. 1 N., R. 4 E.

86 565646

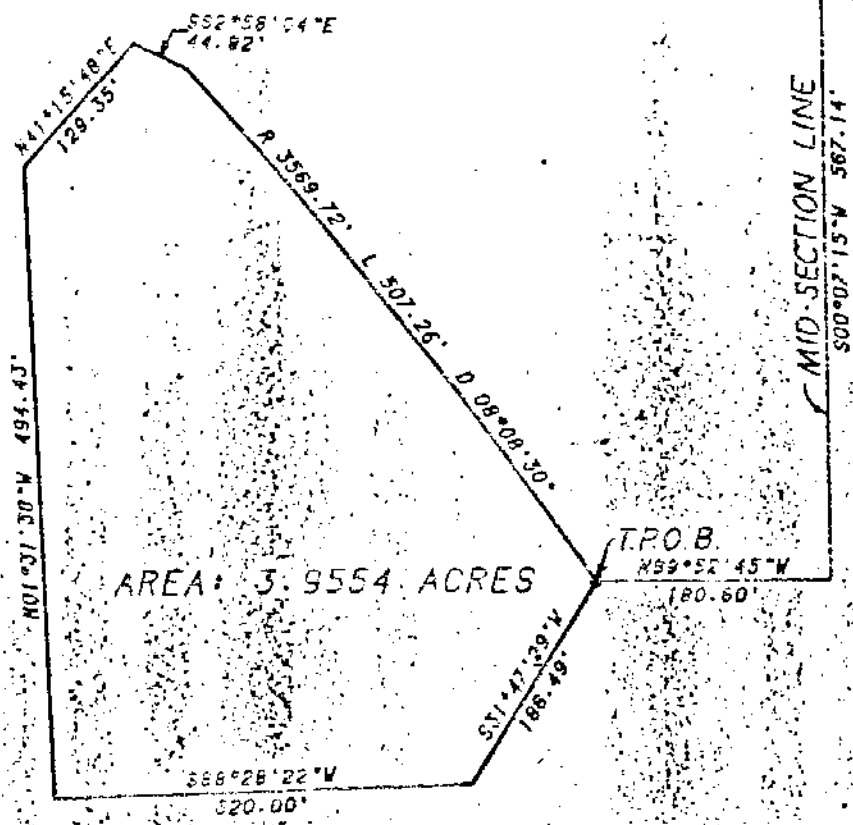
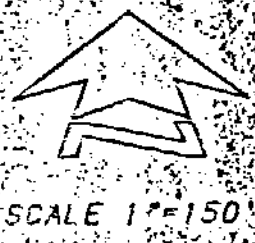


EXHIBIT TO ACCOMPANY DESCRIPTION
 FOR
 PARCEL B
 AT
 WESTCOURT IN THE BUTTES
 AUGUST 28, 1986



Collar, Williams & White Engineering, Inc.
 Consulting Engineers
 1022 N. 44TH STREET SUITE 1000
 PHOENIX, ARIZONA 85018
 (602) 567-2340
 1221 NORTH 70TH STREET
 SCOTTSDALE, ARIZONA 85251
 (602) 567-6628

DESIGN PROJ. NO. _____ SURVEY PROJ. NO. 840904-5

When recorded, return to:

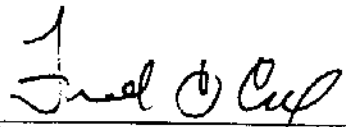
MURPHY & POSNER (DAD)
3200 East Camelback Road
Suite 300
Phoenix, AZ 85018

ASSIGNMENT

The undersigned, WESTCOX HOTEL COMPANY, an Arizona corporation, does hereby assign to TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, an Arizona limited partnership, whose principal place of business is 11411 North Tatum Boulevard, Phoenix, Arizona 85028, all of its leasehold estate and interest as Lessee under that certain Lease dated November 20, 1984, executed by the City of Tempe, a municipal corporation of the State of Arizona, as Lessor, and the undersigned as Lessee (a Memorandum of which Lease was recorded on October 15, 1986 at Document No. 86-565646, official records of Maricopa County, Arizona).

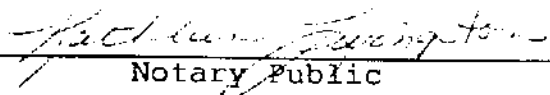
DATED as of November 15, 1986.

WESTCOX HOTEL COMPANY, an Arizona corporation

By 
Fred O. Cox, President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 17 day of NOVEMBER, 1986, by Fred O. Cox, President of WESTCOX HOTEL COMPANY, an Arizona corporation, on behalf of the corporation.


Notary Public

My Commission Expires: 3-8-87

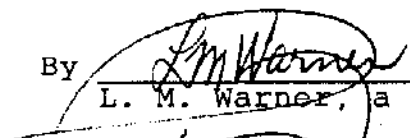
ASSUMPTION

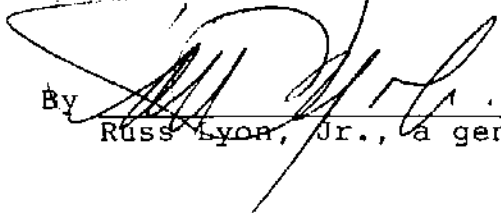
The undersigned, TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, does hereby accept the assignment of and assumes and agrees to perform all the terms, covenants and conditions contained in that certain Lease dated November 20, 1984, executed by the City of Tempe, a municipal corporation of the State of Arizona, as Lessor, and WESTCOX HOTEL COMPANY, an Arizona corporation, as Lessee (a Memorandum of which was recorded on October 15, 1986 at Document No. 86-565646, official records of Maricopa County, Arizona).

DATED as of November 15, 1986.

TEMPE BUTTES HOTEL LIMITED PARTNERSHIP,
an Arizona limited partnership

By The Westcor Company Limited Partner-
ship, general partner

By 
L. M. Warner, a general partner

By 
Russ Lyon, Jr., a general partner

By Shimizu Land Corporation, a New York
corporation

By 
Tadao Kobatsu, President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 17 day of NOVEMBER, 1986, by L. M. Warner and Russ Lyon, Jr., general partners of The Westcor Company Limited Partnership, a general partner of TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, an Arizona limited partnership, on behalf of the limited partnership.

William F. Johnston
Notary Public

My Commission Expires: 5-8-84

STATE OF New York)
) ss.
COUNTY OF NEW YORK)

The foregoing instrument was acknowledged before me this 8TH day of DECEMBER, 1986, by Tadao Komatsu, President of Shimizu Land Corporation, a New York corporation, a general partner of TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, on behalf of the limited partnership.

JEFFREY S. WIRTH
Notary Public, State of New York
No. 014602303
Qualified in New York County
Commission Expires May 12, 1988

Jeffrey S. Wirth
Notary Public

My Commission Expires:

MAY 12, 1988

CONSENT TO ASSIGNMENT OF LEASE

The undersigned, CITY OF TEMPE, a municipal corporation of the State of Arizona, as Lessor under that certain Lease dated November 20, 1984, executed by the undersigned as Lessor, and WESTCOX HOTEL COMPANY, an Arizona corporation, as Lessee (a Memorandum of which was recorded October 15, 1986 at Document No. 86-565646, official records of Maricopa County, Arizona), does hereby consent to the assignment by Westcor Hotel Company of its leasehold estate and interest as Lessee under said Lease to TEMPE BUTTES HOTEL LIMITED PARTNERSHIP, an Arizona limited partnership.

DATED as of November 15, 1986.

CITY OF TEMPE, a municipal corporation

By Harry E. Mitchell
Harry E. Mitchell, Mayor

ATTEST:

Virginia Thompson
City Clerk

APPROVED:

David R. Meskel
City Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 15th day of December, 1986, by Harry E. Mitchell, Mayor of the CITY OF TEMPE, a municipal corporation of the State of Arizona, on behalf of the corporation.

Virginia Thompson
Notary Public

My Commission Expires:

8-2-92

9-10-84

LEASE AGREEMENT

THIS LEASE AGREEMENT made this 20th day of November, 1984, between the CITY OF TEMPE, a municipal corporation of the State of Arizona, hereinafter referred to as "LESSOR" or "CITY" and WESTCOX HOTEL COMPANY, an Arizona corporation, hereinafter referred to as "LESSEE."

In consideration of the mutual premises, covenants, and undertakings as more particularly set forth below, the parties do hereby agree as follows:

1. Description of Premises

CITY does hereby demise and lease to LESSEE for and in consideration of the rental payments and upon the terms, conditions and covenants herein in this Lease Agreement set forth, a tract of land which is a part of Tempe Diablo Stadium Property (hereinafter referred to as the "Stadium Property"), located in Tempe, Arizona and owned by CITY, which tract of land (hereinafter sometimes referred to as "the premises" or "the leased premises") is more particularly described on attached Exhibit "A" incorporated herein by reference, subject, however, to any easement or other right which any person, firm, corporation or governmental entity or agency has in or to the leased premises for sewer, water, gas, telephone, electric, or other utility lines or facility, and further subject to a right in the city which is hereby reserved to install and maintain or permit the installation or maintenance in and on the leased

C 86-105

premises, or any part or portion thereof, sewer line or lines, pipe or pipes or cables, when necessary or desirable to serve the Stadium Property or any area, part or portion of the Stadium Property; provided, however, that any injury or damage resulting therefrom to the leased premises will be repaired or replaced by the person, firm, corporation or governmental entity or agency constructing or repairing such utility lines, pipes or cable, and subject further to the right of CITY within thirty (30) days from the date hereof to move or permit the moving of any fence, building or structure situated upon the leased premises.,

Attached hereto as Exhibit "B" and made a part hereof is a plat of a portion of the Stadium Property, showing the location of the proposed area in which a two hundred sixty (260) room conference resort will be constructed. The parties hereto have initialed said plat indicating their approval of the area being leased to LESSEE. As used in this Lease Agreement, the term "conference resort" shall mean a resort hotel catering, among other things, to conferences and meetings of all types.

2. Term, Purpose, and Use (Phase I)

LESSOR leases to LESSEE said above-described premises for the purposes and upon the terms, conditions and covenants in this Agreement set forth for a term of sixty (60) years commencing on the first day of October, 1984, and ending the thirtieth day of September, 2044, for use and occupancy by LESSEE for the following uses and purposes and no other without the consent of the CITY, which consent will not be unreasonably withheld:

(a) For construction, erection, maintenance, repair, reconstruction, replacement, alteration and operation in strict conformity with this Agreement of a first class conference resort (hereinafter referred to as the "conference resort") consisting of at least two hundred sixty (260) rooms and at least 15,000 square feet of state-of-the-art conference facilities, together with appurtenant asphalt or concrete paving, sidewalks and all necessary and appurtenant structures, machinery and equipment.

(b) For the operation within said conference resort one or more kitchens and one or more dining rooms for the purpose of selling food and drink on the leased premises for human consumption there or elsewhere.

(c) For the sale on the lease premises of cigarettes, cigars, gifts, tobacco, tobacco products, flowers, magazines, periodicals, novelties and the like.

(d) For the maintenance and operation within said conference resort of a cocktail lounge and bar for the sale of alcoholic beverages.

(e) For the furnishing of parking space upon the leased premises to guests and others utilizing such conference resort facilities.

(f) For the operation of a health facility, boutique, hair salon, car rental and airline ticket office.

(g) Such other facilities as may be consistent with the operation of a conference resort.

Any approvals necessitated by this Lease Agreement which are delegable by law shall be performed by the City

Manager. Other approvals which by law are non-delegable shall be performed by the City Council and/or its boards and commissions (i.e., Planning and Zoning Commission, Board of Adjustment, Design Review Board, technical advisory boards, etc.)

3. Construction of Phase I

LESSEE will within thirty-six (36) months from the date of this Agreement substantially complete construction upon Parcel A-1 of the leased premises, at no cost to CITY, of a conference resort of not less than two hundred sixty (260) rooms, with at least fifteen thousand (15,000) square feet of state-of-the-art conference facilities, a dining room, bar and other facilities in accordance with plans and specifications approved by CITY as hereinafter set out. Within twelve (12) months from the date of this Agreement, LESSEE will deliver to CITY for its approval construction plans and specifications for the construction of said conference resort in accordance with said general description. CITY will approve or disapprove said plans and specifications without undue delay, and, if disapproved, will specify in detail in what way or manner such plans are not satisfactory to it so that LESSEE may change or correct said plans to meet CITY's requirements. If said plans are disapproved by CITY in any respect, LESSEE will without delay, make such changes in said plans as required by CITY, and CITY will approve plans which meet such requirements. LESSEE will commence construction of said conference resort within twelve (12) months after CITY has approved said plans, diligently pursue such construction and substantially complete said

construction within thirty-six (36) months from the date of this Agreement. "Substantial completion" shall mean completion of construction except for what are commonly known in the industry as "punch list" items.

If at any time before expiration of eighteen months (18) from the date of this Agreement, LESSEE determines that it is no longer economically feasible to complete Phase I as originally planned, it shall notify CITY of such determination. LESSEE and CITY shall then meet to determine if the plans, use or nature of the project may be altered so as to make the project feasible, and may agree, by written amendment to this Lease Agreement, to alter the plans or use. If LESSEE and CITY are unable to agree to such changes within sixty (60) days of notice of determination of nonfeasibility by the LESSEE, then LESSEE may either proceed and complete Phase I as originally planned or return the property to CITY in its original condition or in a condition otherwise acceptable to CITY. If LESSEE should elect to return the property to CITY, it shall pay the CITY the sum of One Hundred Thousand Dollars (\$100,000.00) as liquidated damages (offset by rental payments made to CITY) and thereupon this Lease Agreement and all rights, duties, obligations and liabilities thereunder shall terminate.

4. Construction of Phase II

LESSEE shall, within the time periods specified below, construct Phase II of the conference resort on Parcel A-2. The parties envision Phase II to consist of an additional number of guest rooms sufficient to bring the total number of rooms in both

Phases I and II to at least five hundred (500) rooms. The Phase II buildings will be constructed so as to be synergistically compatible with Phase I construction and environmentally harmonious with the surrounding terrain. Phase II construction shall commence no later than January 1, 1992, be diligently pursued and completed not later than twenty-four (24) months from commencement of construction. If Phase II construction has not commenced by January 1, 1992, LESSEE shall pay, as accelerated Minimum Annual Rent for Parcels A-1 and A-2, the sum of Three Hundred Thirteen Thousand Dollars (\$313,000.00) per year, for lease years 1992, 1993, and 1994. If Phase II construction has not commenced by January 1, 1995, Parcel A-2 shall be released from the scope and operation of this Lease Agreement and the CITY shall be free to deal with Parcel A-2 in any manner that it desires subject to the limitations set forth below. The accelerated Minimum Annual Rent of Three Hundred Thirteen Thousand Dollars (\$313,000.00) per year, due to LESSEE'S failure to commence construction of Phase II by January 1, 1992, shall continue in full force and effect until such time as Parcel A-2 is released from the scope and operation of this Lease Agreement. Should Parcel A-2 be released from the scope and operation of this Lease, the Minimum Annual Rent shall be reduced to Two Hundred Twenty-five Thousand Dollars (\$225,000.00) per year subject to adjustment under the provisions of Section 7.

If Parcel A-2 is released from the scope and operation of this Lease Agreement, CITY may re-lease this property to any party for any purpose provided, however, such subsequent re-lease

of this Parcel A-2 must be synergistically compatible with Phase I construction and environmentally harmonious with the surrounding terrain; provided, further, that CITY shall not re-lease Parcel A-2 for hotel or motel facilities unless LESSEE has attained an annual occupancy rate of eighty (80%) percent or more of Phase I facilities for two (2) years next preceding the date of the re-lease of Parcel A-2. After completion of Phase II, its rooms and other facilities shall be included within the term "conference resort" as used in this Agreement.

Prior to commencement of construction of Phase II, LESSEE shall submit its plans and specifications to CITY for approval, which approval shall not be unreasonably withheld or delayed. It is the intent of CITY to encourage the construction of Phase II so long as Phase II maintains the general standard established by Phase I and complies with other applicable laws, rules and regulations.

5. Development of Parcel B

LESSEE also desires to utilize the remaining acreage (Parcel B) to develop a campus-styled office park for quality "high-tech" tenants and possibly a heart institute. LESSEE shall no later than January 1, 1986, submit a proposal for development of Parcel B. It is understood that under this provision the CITY shall have the absolute right to veto or prohibit this type of utilization of the remaining acreage should the CITY deem such development not to be in its best interests. Should the CITY approve such proposal, the rental, together with other terms and conditions, for this Parcel B shall be agreed upon by the parties

by subsequent Addendum to this Lease Agreement. If the parties are unable to reach an agreement for the leasing and utilization of Parcel B by July 1, 1986, the LESSEE's interest therein shall thereupon terminate.

6. Operation of Facilities

LESSEE covenants that throughout the term of this Lease and after the completion of the construction of said conference resort, it will conduct and operate upon the leased premises a conference resort, including a bar and cocktail lounge and a restaurant, and will keep and maintain on the premises only modern equipment for the operation and conduct of such businesses. LESSEE will sell or serve on the premises only such articles, wares, commodities and food as are sanitary, wholesome, clean and of the best character. LESSEE will operate and conduct its conference resort, cocktail lounge, bar, and restaurant and such other businesses as may elect to do so, in such manner as to insure prompt, efficient and courteous service to patrons and customers, and will keep said conference resort open for business twenty-four (24) hours per day, seven (7) days a week and will operate its cocktail lounge, bar and restaurant business on the premises at all hours at which there may be a reasonable, probable and substantial demand for such service by the guests at its conference resort.

7. Computation of Annual Rent

LESSEE covenants to pay as annual rent to CITY for each year of this Lease for the premises leased hereunder an amount which is the higher of either (1) Minimum Annual Rent in

which is the higher of either (1) Minimum Annual Rent in accordance with the following Schedule OR (2) three percent (3%) of gross room rent plus one percent (1%) of gross food and beverage sales for that year. "Gross room rent" and "gross food and beverage sales" shall mean the total amount(s) received for room, food and beverage sales less only applicable excise taxes. Rent shall commence on October 1, 1985.

SCHEDULE

| <u>YEAR</u> | <u>PHASE I</u> | <u>PHASE II</u> | <u>TOTAL</u> |
|---------------|----------------|-----------------|--------------|
| 10-1-85 | | | |
| 12-31-85 | \$ 28,000 | \$2,000 | \$ 30,000 |
| Calendar Year | | | |
| 1986 | \$123,000 | \$8,000 | 131,000 |
| 1987 | 143,000 | 16,000 | 159,000 |
| 1988 | 164,000 | 24,000 | 188,000 |
| 1989 | 184,000 | 32,000 | 216,000 |
| 1990 | 205,000 | 40,000 | 245,000 |
| 1991 | 225,000 | 48,000 | 273,000 |
| 1992* | 225,000 | 56,000 | 281,000 |
| 1992** | | | 313,000 |
| 1993* | 225,000 | 64,000 | 289,000 |
| 1993** | | | 313,000 |
| 1994* | 225,000 | 72,000 | 297,000 |
| 1994** | | | 313,000 |

| <u>YEAR</u> | <u>PHASE I</u> | <u>PHASE II</u> | <u>TOTAL</u> |
|-------------|----------------|-----------------|--------------|
| 1995* | 225,000 | 80,000 | 305,000 |
| 1995** | | | 313,000 |
| 1996 | 225,000 | 88,000 | 313,000 |

*If Phase II construction commences on or before 1-1-92.
 **If Phase II construction does not commence on or before 1-1-92.

For calendar year 1997 and each year thereafter, Minimum Annual Rent shall equal the preceding year's Minimum Annual Rent adjusted by the percentage of change in the Consumer Price Index (the "CPI") determined in accordance with this paragraph. In determining the percentage of change in the CPI for the adjustment of the Minimum Annual Rent for any year, the CPI for the month of October in the preceding year, as shown in the column for "All Items" in the table entitled "All Urban Consumers" under the "United States City Averages" as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be compared with the corresponding index number for the month of October one (1) year earlier. In no event, however, will this CPI adjustment cause the Minimum Annual Rent for any year to increase by more than six percent (6%) over the preceding year's Minimum Annual Rent.

In addition to the Minimum Annual Rent set forth above, a Municipal Service Fee shall be assessed against LESSEE in the amount of Two Hundred Dollars (\$200.00) per room per year, commencing when the conference resort shall open for business, provided that in no calendar year shall the Municipal Service Fee

to be paid by LESSEE exceed One Hundred Thousand Dollars (\$100,000.00) (the "ceiling"), except as provided below. This Municipal Service Fee and the ceiling of One Hundred Thousand Dollars (\$100,000.00) shall be adjusted annually by the percentage of change in the CPI, determined in the same manner as adjustments in the Minimum Annual Rent. In no event, however, shall this CPI adjustment cause the Municipal Service Fee and the ceiling to increase by more than six percent (6%) over the preceding year. One-twelfth (1/12) of such Municipal Service Fee shall be paid to CITY by LESSEE each month along with the rent.

Should future laws require the imposition and payment of CITY ad valorem taxes (whether on real and/or secured and/or unsecured personal property), the Municipal Service Fee shall be offset by the amount of such taxes.

8. Percentage Rent Payment Dates; Annual Accounting

LESSEE shall pay to CITY, at the Office of the Management Services Director of CITY, on or before the last day of each month, an amount equal to the next preceding month's rental payment. Until such time as the percentage rent exceeds the Minimum Annual Rent, LESSEE shall pay one-twelfth (1/12) of such Minimum Annual Rent each month. At such time as the percentage rent exceeds the Minimum Annual Rent, LESSEE shall pay the actual amounts due CITY for the preceding month (including one-twelfth (1/12) of the Municipal Service Fee for that month).

Within thirty (30) days after the end of each lease year there shall be an accounting between LESSEE and CITY to determine whether the total rent for such year has been paid. LESSEE

shall pay to CITY such additional amounts, if any, as may be required to pay the total annual rent due to CITY under Section 7 hereof for such lease year, and if such accounting shows that LESSEE, in making its monthly installments, has paid to CITY an amount in excess of the total annual rent due for such year, CITY shall give LESSEE credit for such overpayment.

9. Records and Books

LESSEE covenants that for the purpose of ascertaining the amount of percentage rent payable hereunder, it will keep records and books of account substantially in accordance with generally accepted accounting practices, and with such changes as may be reasonably required from time to time by the Management Services Director to reflect accurately its gross receipts in each category upon which rent under this Lease is based; that all of its gross receipts from every source shall be accurately recorded on its books and that its books may be audited from time to time by such person as the CITY may designate. LESSEE shall cause an audit to be made by an independent certified public accountant of its books and records within ninety (90) days after the close of each lease year, and as a part of the audit shall also require such accountant to ascertain, on the basis of the independent examination and verification of its books and records, the total amount of LESSEE's gross receipts in each category upon which rent under this Lease is based and to deliver to CITY a certified copy of such audit promptly upon its completion.

10. Access to Books and Records

LESSEE shall give to CITY and its representatives reasonable access to all books, records, accounts and reports, including all tax returns, both State and Federal, as may be relevant to the determination or enforcement of any account or obligation of LESSEE hereunder, and shall also permit CITY to have an examination made at its expense by any reputable independent accountants or accountants selected by CITY at any reasonable time and upon reasonable notice provided, however, said examination does not constitute an unreasonable interference with the business of the luxury conference resort. LESSEE further covenants that it will keep its books, records and accounts at an office maintained by it on the leased premises and that books, records and accounts pertaining to each lease year shall be maintained intact for a period of not less than three (3) years thereafter.

11. Casualty Insurance

LESSEE shall maintain at its own expense fire and extended coverage insurance on the improvements constructed on the leased premises with insurance underwriters authorized to do business in the state of Arizona and reasonably acceptable to CITY. Such insurance shall run in favor of CITY, LESSEE and any mortgagee as their interests may appear and shall be in an amount of not less than the reasonable value of the improvements on the premises. LESSEE shall deliver a complete copy of each policy of insurance to the CITY Management Services Director to be kept by CITY. If LESSEE elects to maintain insurance under a "blanket

policy," it shall furnish CITY with a complete copy of such "blanket policy" with endorsements, riders or other documents or instruments showing that such insurance covers the leased premises. LESSEE will have provided in each such policy of insurance a provision that it cannot be cancelled without thirty (30) days prior written notice of such cancellation being given to the CITY Management Services Director. LESSEE shall carry rent insurance running in favor of the CITY on the leased premises written by a company authorized to do business in Arizona so as to indemnify the CITY for any loss of rent (room, food and beverage revenues or minimum annual rent, whichever is greater) which it might suffer as a result of the destruction of the improvements by fire or other casualty. In case the improvements erected on the premises shall be partially damaged (less than fifty percent (50%) of replacement costs) by fire or other casualty, LESSEE shall repair the same as speedily as possible at the expense of LESSEE. In case the improvements erected on the premises are damaged by fire or other casualty to an extent of fifty percent (50%) or more of replacement costs, LESSEE may within sixty (60) days of such damage elect to repair or rebuild the same at its expense or to terminate this Lease. If LESSEE elects to repair or rebuild the same at its expense, it shall complete such repair or rebuilding within twenty-four (24) months from the date of such damage. If LESSEE fails to elect within said sixty (60) days to repair or rebuild the said improvements or if after having made such election fails to complete such repair or rebuilding of the building within said

twenty-four (24) months, CITY may, any other provision or section of this Lease to the contrary notwithstanding, terminate this Lease by giving to LESSEE not less than sixty (60) days written notice thereof.

The face amount of such fire and casualty insurance shall be the replacement cost of the leasehold improvements adjusted at least annually.

Such rental insurance shall provide monthly payments to the CITY for a term of not less than two years. The amount of such monthly payments shall be an amount equal to the average monthly payment paid to the CITY for the twelve full calendar months immediately preceding the date of the casualty loss.

12. Liability and Property Damage Insurance

LESSEE shall at all times during the term of this Lease carry public liability, products liability and property damage insurance with a company authorized to do business in the state of Arizona insuring LESSEE and CITY as the insured therein against any and all loss or claims arising out of the operation of LESSEE's businesses on the leased premises or any act or omission of LESSEE, its agents, servants, employees or invitees. A complete copy of said policies of public liability, products liability and property damage insurance shall be filed with the Management Services Director of CITY and shall provide that no cancellation thereof shall be permitted without thirty (30) days' prior notice thereof given to said CITY Management Services Director. If LESSEE elects to maintain insurance under a "blanket policy," it shall furnish CITY with a complete copy of

such "blanket policy" with endorsements, riders or other documents or instruments showing that such insurance covers the leased premises. Said policies of insurance shall be in the following minimum amounts, to wit: Public liability insurance of One Million Dollars (\$1,000,000.00) for one person; Three Million Dollars (\$3,000,000.00) for one accident; Product liability insurance - minimum of One Million Dollars (\$1,000,000.00) for one person; Three Million Dollars (\$3,000,000.00) for one accident and Five Hundred Thousand Dollars (\$500,000.00) for property damage. Such public liability and products liability insurance shall be primary to the CITY's public and products liability coverage which shall be secondary. The foregoing minimum limits shall be subject to adjustment at five (5) year intervals upon the reasonable request of the CITY in order to reflect changes in economic conditions.

13. Indemnity

LESSEE shall indemnify and save harmless CITY from and against any liability or loss, of any nature whatsoever, arising out of or relating to LESSEE's occupancy of the premises or operation of the improvements or facilities thereon, including without limiting the generality of the foregoing, any act or omission of LESSEE, its agents, servants, employees or invitees.

14. Right to Ingress and Egress

LESSEE, its employees, invitees, guests, furnishers of materials and supplies, shall have the right of reasonable expeditious ingress and egress to and from the leased premises. CITY shall take necessary actions in the way of street

dedications and/or the granting of easement rights to LESSEE to assure LESSEE of such access from 48th Street.

15. Maintenance of Premises

LESSEE covenants and agrees to keep the leased premises and all improvements constructed thereon in a good state of repair and not to commit, or suffer or permit to be committed any waste of the premises and to promptly abate any nuisance which may arise or exist on the premises.

16. Compliance with Laws

LESSEE shall not permit or suffer the premises to be used for any unlawful purpose or for any purpose in violation of any valid law, ordinance or regulation of the United States, any agency of the United States, the state of Arizona, any agency of the state of Arizona, the City of Tempe or any agency of the City of Tempe now or hereafter in effect, and LESSEE shall comply and cause its employees to comply with all health and other laws, ordinances and regulations of the state of Arizona and the Board of Health of Maricopa County, Arizona, while in or on the premises, and shall cause all things within the premises and under its control to conform with said laws, ordinances and regulations.

17. Assignment, Sale and Subletting;

17.1 The officers, directors and partners of LESSEE are listed on Exhibit C attached hereto. The LESSEE shall notify the CITY in writing of changes of more than five percent (5%) in ownership interest in the LESSEE. The CITY hereby approves any change in ownership of LESSEE which results in rearrangement of

percentage interest of the parties listed on Exhibit C. The CITY further hereby approves any changes which result in additional ownership in the LESSEE by any foreign or domestic banks, lending institutions, insurance companies, pension funds or major corporations or the operator or management firm of this project. The CITY shall have the right to specifically review and approve transfer of a five percent (5%) or greater interest to private individuals or entities, provided that the only reason for disapproving such a transfer shall be that the proposed transferee is an individual or entity of disreputable character or who is inimical to the public welfare. The CITY shall act within twenty (20) days of receiving notice from the LESSEE of any proposed transfer as to which the CITY has the specific right of approval. The CITY shall state its disapproval and the reasons therefore in written notice to the LESSEE.

Any person, firm or corporation entering into a sublease or operational agreement with LESSEE under the provisions of this section shall be subject to each and every provision of this Lease to the same extent and in the same manner that LESSEE is subject thereto. Any assignment, sale, transfer, or sublease in violation of this section, except as hereinabove provided, shall be null and void.

17. 2 LESSEE shall not at any time assign, sell or transfer this Lease or any interest therein or sublease or sublet the premises or any part thereof, without prior written permission of CITY given by the City Manager or his designee, which permission

shall not be unreasonably withheld. However, such permission shall not be required for:

(a) A sublease of a portion of the premises for the operation of any of the businesses permitted in subparagraphs (b), (c), (d), (f) and (g) of Section 2 above.

(b) An assignment or transfer of this Lease to an affiliate, parent or subsidiary of LESSEE. As used in this Lease, an "affiliate" shall be any entity in which the majority interest is owned by officers, directors or partners of LESSEE or by partners of Westcor Partners or the Wescor Company Limited Partnership.

(c) An assignment or transfer of this Lease to a partnership, joint venture, corporation or other entity in which at least twenty-five percent (25%) of the interest is owned by LESSEE or an affiliate, parent or subsidiary of LESSEE and the remaining interest is held by an entity which will not participate in active management.

Notwithstanding any assignment, transfer or subletting permitted under this section, the percentage rent shall be computed upon all of the receipts from gross room rent and gross food and beverage sales upon the premises, whether received by LESSEE or by an assignee, transferee or sublessee.

Any sublease, operational agreement, assignment or other arrangement permitted by this section to the contrary notwithstanding, LESSEE shall be and continue to be liable to CITY under each and every provision of this Lease.

18. Hypothecation of Leasehold Estate:

18.1. LESSEE shall have the right to mortgage its interest in this Lease (but in no event the fee, which may be assigned, encumbered and mortgaged only by LESSOR) to a bank, insurance company, savings and loan association, pension fund or other bona fide lender provided that any leasehold mortgage shall be subject and subordinate to the rights of LESSOR hereunder. As used in this Section and throughout this Lease, the noun "mortgage" shall include a deed of trust, the verb "mortgage" shall include the creation of a deed of trust, the words "mortgagee" and "leasehold mortgagee" shall include the beneficiary under a deed of trust, and the words "foreclose" and "foreclosure" shall include a trustee's sale under a deed of trust and the procedural steps preceding such a sale.

18.2 If LESSEE mortgages its interest under this Lease as provided in Section 18.1, then LESSEE or the leasehold mortgagee shall immediately notify LESSOR in writing that LESSEE has mortgaged its interest hereunder. Such notice shall give the name and mailing address of the mortgagee and, if desired by the mortgagee, the person to whose attention notices should be sent by LESSOR.

18.3 After receiving notice that LESSEE has mortgaged this Lease in accordance with Section 18.1, then LESSOR shall not be empowered to terminate this Lease by reason of the occurrence of any default hereunder, unless LESSOR shall have given the mortgagee under such leasehold mortgage a copy of its notice to LESSEE of such default and the default shall not have been cured

as hereinafter provided. Any such notice to the leasehold mortgagee shall be given in accordance with the provisions of Section 29 hereof and shall be addressed to the attention of the person, if any, designated to LESSOR in the notice of the leasehold mortgage provided to LESSOR pursuant to Section 18.2. No notice of a default to LESSEE shall be deemed to have been given unless and until notice to the leasehold mortgagee required hereunder has been given.

18.4 The leasehold mortgagee shall have the right to remedy any default under this Lease, and LESSOR shall accept such performance by or at the instance of such leasehold mortgagee as if the same had been made by LESSEE. The leasehold mortgagee shall have the same period to remedy any default as the period provided to LESSEE under Section 25.

18.5 If any default (other than one that can be cured by payment of money) cannot be cured by the leasehold mortgagee within the time permitted by LESSEE to cure, the leasehold mortgagee shall have the right to postpone and extend any date of termination of this Lease by reason of such default for a period of not more than thirty (30) days from the expiration of the time permitted by LESSEE to cure. The leasehold mortgage shall exercise this right to postpone and extend the date of any termination, by giving LESSOR, prior to expiration of the time permitted by LESSEE to cure, written notice of such postponement and extension, accompanied by (i) payment of the amount necessary to cure all defaults then existing that can be cured by payment of money and (ii) an agreement, duly executed by or on behalf of

the leasehold mortgagee, to pay or cause to be paid as and when due, the rent, additional charges and other sums that LESSEE is required to pay under this Lease for the period during which termination has been postponed and extended. The leasehold mortgagee shall then proceed to remedy or cure all defaults that can be remedied or cured by the leasehold mortgagee and, if necessary to remedy or cure any such defaults, to institute foreclosure or similar proceedings and proceed continuously and diligently to foreclose the leasehold mortgage. If at the end of the period for which the leasehold mortgagee has postponed termination of this Lease the leasehold mortgagee is actively engaged in steps to acquire the leasehold estate by foreclosure or similar proceedings, and if the leasehold mortgagee has then cured or remedied all defaults that it can cure or remedy (including without limitation all defaults that can be cured by payment of money) and has paid all rent, additional charges and other sums that LESSEE is then required to have paid, the leasehold mortgagee may further postpone the date of any termination of this Lease for such period as may be reasonably necessary to complete these steps with diligence and continuity, by giving LESSOR written notice of such further postponement and extension, accompanied by an agreement, duly executed by or on behalf of the leasehold mortgagee, to pay or cause to be paid as and when due the rent, additional charges and other sums that LESSEE is required to pay under this Lease for the period during which termination is postponed and extended. If within the time permitted and upon the terms contained in this Lease the

leasehold mortgagee acquires the leasehold estate created by this Lease or the leasehold estate is sold to a purchaser at foreclosure or similar proceedings, any default of the prior LESSEE that is impossible for the leasehold mortgagee or the purchaser at foreclosure or similar proceedings (as the case may be) to cure shall cease to constitute a default under this Lease. If the leasehold mortgagee fails to pay or cause to be paid when due any rent, additional charges, or other sums that LESSEE is required to pay during any period for which termination of this Lease is postponed and extended, LESSOR may proceed to terminate this Lease notwithstanding the postponement and extension.

18.6 Upon becoming the owner and holder of the leasehold estate hereunder by foreclosure or as a result of the assignment of this Lease in lieu of foreclosure, the leasehold mortgagee or a purchaser at foreclosure sale shall have all rights, privileges, obligations and liabilities of the original LESSEE, except as hereinafter provided. The leasehold mortgagee shall be liable for and obligated to perform and comply with all duties, obligations and responsibilities of LESSEE under this Lease only for so long as such leasehold mortgage remains the owner of the leasehold estate.

18.7 In the event of foreclosure of a leasehold mortgage, all rights, title and interest encumbered by such leasehold mortgage may, without the consent of LESSOR, be assigned and conveyed to, and vested in, the purchaser at such foreclosure sale. Any purchaser at such a foreclosure sale shall be vested with any and all rights, duties and obligations of LESSEE. In

addition, the leasehold mortgagee shall have the right to convey or assign any or all of its right, title or interest under this Lease without any consent of LESSOR.

18.8 Within fifteen (15) days after written request therefor, LESSOR shall execute and deliver to the leasehold mortgagee, any purchaser at a foreclosure sale, or any assignee of LESSEE's leasehold estate estoppel certificates, duly executed, certifying that: (i) this Lease is in full force and effect and has not been modified, or, if it has been modified, specifying and identifying each such modification; and (ii) to the best of the knowledge of LESSOR, no default by LESSEE exists under this Lease, or if a default does exist, specifying and describing such default.

18.9. In order to facilitate LESSEE'S obtaining favorable terms for its construction financing and long-term financing and refinancing of its leasehold estate, LESSOR agrees to favorably consider such modifications of this Lease as a potential leasehold mortgagee may reasonably require as a condition of its making a loan to LESSEE, provided that no such modification shall cause or permit LESSEE to encumber the interest of LESSOR.

19. Improvements

All improvements and additions to the leased premises shall become a part of the leased premises and shall thereupon become the property of CITY, with the exception, however, of such additions as are usually classed as furniture or trade fixtures. Such furniture and trade fixtures shall remain the property of LESSEE and may be removed from the premises by LESSEE upon the

expiration or termination of this Lease, provided all other conditions and covenants of this Lease shall have been complied with by LESSEE and LESSEE shall not then be in default under this Lease in any respect.

20. Surrender of Possession

LESSEE will upon the termination or expiration of this Lease surrender the quiet and peaceable possession of the leased premises, including all the improvements and additions which shall have adhered thereto in good condition and repair.

21. Attorney Fees; Waiver of Exemption from Levy

LESSEE will pay CITY a reasonable attorney's fee in the event CITY employs an attorney to collect any rents due hereunder and secures a judgment in connection with the collection of said rent, or to protect the interest of CITY in the event LESSEE is adjudged a bankrupt, or legal process is levied upon the goods, furniture, effects or personal property of LESSEE upon the leased premises, or upon the interest of LESSEE in this Lease or in said premises, or in the event LESSEE violates any of the terms, conditions, or covenants on the part of LESSEE herein contained, provided said LESSEE fails promptly to correct the violation of any term, condition or covenant after receipt of notice that it is in violation thereof. In order to further secure the prompt payment of said rents as and when the same become due, and the faithful performance by LESSEE of all and singular the terms, conditions and covenants on the part of LESSEE herein contained, and all damages and costs that CITY may sustain by reason of the violation of said terms, conditions, covenants, or any of them,

LESSEE does hereby waive any and all right to claim personal property as exempt from levy and sale.

22. Schedule of Charges

LESSEE will adopt and promulgate from time to time a schedule of charges for the various services and accommodations offered by LESSEE upon the leased premises and shall deliver to CITY a copy of the first such schedule and at any time a change is made in the schedule or a new schedule is adopted or promulgated LESSEE shall deliver a copy of such change or new schedule to CITY. LESSEE's charges shall at all times be consistent with charges generally imposed for similar services and accommodations elsewhere at comparable locations.

23. Employees and Manager

LESSEE shall employ competent, courteous and efficient help in such numbers as to properly conduct its business upon the leased premises. LESSEE shall also furnish on the leased premises throughout the term of this Lease a skilled and responsible manager who shall be authorized to receive all official notices and communications addressed to LESSEE from CITY.

24. Infrastructure, Repairs and Utilities

CITY is not obligated or required by this Agreement or otherwise to construct any infrastructure or to make any repairs or do any work on or about the leased premises. LESSEE will provide at no cost to CITY all infrastructure including utilities required or desired by LESSEE. LESSOR will reimburse LESSEE for the lessee of (1) fifty percent (50%) of the infrastructure cost

that benefits the Stadium Property other than the leased premises, or (2) \$350,000.00. LESSEE will maintain the infrastructure and pay all bills for water, light, heat, electricity and gas used on the leased premises during the term of this Lease. LESSEE will pay all bills for sewer rental or charges resulting from the use of the leased premises by LESSEE under this Lease. Exhibit "D" incorporated herein by this reference lists the infrastructure improvements contemplated by the parties.

25. Default

Upon the happening of an event of default, as in this section of the Lease defined, CITY shall have the right to terminate this Lease not less than thirty (30) days after written notice to LESSEE, in addition to any other remedy or remedies provided by law. For the purpose of this provision, the following shall be deemed to be defaults:

(a) Nonpayment of any installment of rent due under this Lease, or delay in the payment of any such installment of rent beyond a period of thirty (30) days after the date when payment is due.

(b) Failure of LESSEE to complete construction of the conference resort building on the leased premises within thirty-six (36) months from the date of this Agreement.

(c) The filing of a petition in bankruptcy by LESSEE or the adjudication of LESSEE as a bankrupt, or the making of LESSEE of an assignment for the benefit of its creditors, or the appointment of a receiver for its properties, which is not

dismissed, relieved, corrected or reversed within a period of one hundred twenty (120) days after the date of such filing, adjudication, assignment or appointment.

(d) The breach by LESSEE of any of its other obligations or liabilities hereunder which is not corrected within the period or periods hereinafter specified.

Except as to defaults of the types specified in items (a), (b) and (c) above, no default by LESSEE under this Lease shall be deemed to have occurred, and CITY shall have no right to terminate this Lease or to take any action by litigation or otherwise against LESSEE for or on account of an asserted default, unless CITY shall first give to LESSEE written notice by United States registered mail of the asserted default or defaults, and unless thereafter LESSEE shall fail or neglect to correct such an asserted default within sixty (60) days after the receipt by it of such notice; provided that if the asserted default shall be of such a character that it cannot be corrected within said sixty (60) day period, the taking or commencement by LESSEE promptly after receipt of such notice of action to correct the default and diligent prosecution by it of the action taken shall be effective to extend said period for such time as may be reasonably sufficient to enable LESSEE to correct the asserted default.

26. Changes and Repairs

CITY shall not be under any duty to make any changes, alterations or repairs in or on the premises. LESSEE shall at all times maintain the premises in a clean, sanitary and safe

condition and shall at no time permit the premises or any part thereof to become unsightly or in a state of disrepair.

27. Licenses and Taxes

Nothing in this Lease shall be construed to evidence intent to exempt LESSEE from payment of transaction privilege, privilege license, sales, use, occupational licenses or other similar licenses or excise taxes imposed upon LESSEE by any ordinance or other law of the State of Arizona or the City of Tempe or to evidence an intent that rent herein required of LESSEE shall include any such state or municipal taxes.

28. Waiver of Covenants or Options

The failure of CITY to insist, in any one or more instances, upon a strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option, but the same shall continue and remain in full force and effect. The receipt by CITY of rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the CITY of any provision hereof shall be deemed to have been made unless expressed in writing and signed by CITY.

29. Notices

All notices herein provided for, and all communications pursuant to this Lease, shall be given by LESSEE to CITY in care of the City Manager, 31 East 5th Street, Tempe, AZ 85281. All notices herein provided for and other communications pursuant to this Lease shall be sent by CITY to LESSEE at 11411 North Tatum

Blvd., Phoenix, AZ 85028, in writing. Notices may either be mailed or delivered. If mailed, certified or registered mail shall be used, return receipt requested, and service shall be complete from the mailing of such notice. If delivered, service shall be complete from the date of delivery.

30. Rights of LESSEE on Breach by LESSOR

No breach by CITY of any provision of this Lease shall give rise to a cause of action or claim against CITY for damages, but LESSEE shall have a right to specific performance, mandamus, injunction, declaratory judgment, or other similar relief with respect to any breach or threatened breach by the CITY.

31. Free Lodging; Food and Services

It is understood that LESSEE will engage in certain promotional activities in order to further the business of the conference resort and to that end may, from time to time, supply free lodging, food and other services on behalf of persons who can be instrumental in enhancing the business of the conference resort for the mutual benefit of CITY and LESSEE. No such free accommodations or food will be furnished, however, except in the manner and in keeping with the custom and practice of other first class and properly run conference resorts. Whenever any free accommodation, food or other services are furnished, LESSEE agrees to and will supply a full accounting to CITY at the time each monthly report is made, and in the event CITY shall give notice to LESSEE within thirty (30) days after receipt of such accounting that CITY considers that LESSEE has rendered an excessive amount of such free accommodations the fair value

thereof will be determined and added to the gross receipts of LESSEE for which payment will be made to CITY under the appropriate provision hereof.

32. Eminent Domain

32.1. If the whole of the leased premises and the improvements thereon shall be taken or condemned under the right of eminent domain or if such a substantial part of the leased premises and the improvements thereon shall be taken as shall result in the portion remaining being unsuitable for the permitted uses, then this Lease shall terminate as of the date upon which title shall vest in the condemning authority or immediate possession is granted to the condemning authority, whichever first occurs. The net award or payments on account of any taking shall be apportioned as follows:

(a) LESSEE shall receive that portion attributed to the then value of the buildings and improvements constructed by LESSEE, reduced by the value of LESSOR'S reversionary right, and to the then value of LESSEE'S possessory interest in the land.

(b) LESSOR shall receive the remainder of the net awards or payments.

32.2 If only part of the leased premises shall be so taken or condemned and the part not so taken can be adapted for the permitted uses, this Lease shall remain in full force and effect without any abatement or reduction in rent except as provided in Section 32.3. In such event LESSEE shall promptly commence and diligently complete the restoration of the buildings and

improvements on the leased premises as nearly as possible to their value, condition and character immediately prior to such taking or condemnation, and the net award or payments received or receivable by LESSEE and LESSOR shall be applied pro rata to pay the cost of restoration.

32.3 In the event of a partial taking which shall not result in termination of this Lease, the Minimum Annual Rent hereunder shall be reduced, commencing with the first day of the lease year following the date of such taking, by a fraction the numerator of which shall be the total square footage of the land taken and the denominator of which shall be the total square footage in the leased premises prior to the taking.

32.4 If the award or payments on account of any taking shall not be divided or apportioned by the court or the condemning authority into the portions set forth in Section 32.1, and if LESSOR and LESSEE shall be unable to agree on such apportionment, then such apportionment shall be determined by appraisers. LESSOR and LESSEE shall each appoint an appraiser, and the two appraisers so appointed shall promptly appoint a third appraiser. The three appraisers shall jointly determine the appropriate apportionment and shall render their decision within thirty (30) days after the appointment of the third appraiser. The appraisal agreed upon by a majority shall be binding upon the parties. All appraisers shall be members of the American Institute of Real Estate Appraisers (M.A.I.) or, if such Institute shall not then exist, members of its successor organization or an organization of substantially equivalent stature. The fees of the appraisers

shall be borne equally by LESSOR and LESSEE. Arbitration shall be under the auspices of the American Arbitration Association and the Rules of Commercial Arbitration shall apply.

33. Non-Subordination

(a) It is contemplated by the parties that LESSEE will finance the total development and construction cost of the project by means of a mortgage or deed of trust of the leasehold estate created by this Lease and of LESSEE's entire interest in the demised premises, but it is also contemplated that such mortgage or deed of trust will be subordinate to CITY'S interest as LESSOR under this Lease. LESSEE shall also have the right from time to time during the term of this Lease to place any substitute or additional mortgage or deed of trust on the leasehold estate created by this Lease and on LESSEE's interest in the demised premises, but all such mortgages or deeds of trust shall be subordinate to CITY's interest as LESSOR under this Lease.

(b) In the event that at any time during the term of this Lease the leasehold interest of developer is subject to a mortgage or deed of trust in accordance with the provisions of paragraph (a) next above of this Lease, then so long as such mortgage or deed of trust is outstanding and unreleased a copy of any notices at any time required or permitted under the terms of this Lease to be given by CITY to LESSEE shall at the same time be sent by CITY to the mortgagee or trustee under said deed of trust provided that prior thereto LESSEE shall have given written notice to CITY's Management Services Director of the existence of

said mortgage or deed of trust and have stated in said notice the address of the mortgagee or trustee under said deed of trust to which copies of all notices under this Lease shall be delivered or made.

34. Mechanics' Liens

At all times during and after construction, the leased premises shall (except as expressly permitted in this Lease) be kept free by the LESSEE from any and all mechanics' and other liens, charges and claims for the payment of money or otherwise, real estate and chattel mortgages, conditional bills of sale, security agreements, or of violations of governmental requirements and of any other encumbrances of any and all kind, nature and description growing out of or connected with construction of the luxury conference resort; provided, however, that if the LESSEE shall adequately secure and protect the LESSOR and the leased premises therefrom by bond or other means satisfactory to LESSOR, LESSEE shall have the right to contest by appropriate legal proceedings in connection therewith. Nothing contained in this paragraph shall be applicable to furniture and furnishings (as defined in this Lease), and LESSEE shall have the right in connection with any purchase of furniture and furnishings to execute chattel mortgages, conditional contracts or bills of sale or security agreements of any nature pertaining to said furniture and furnishings, provided the same shall impose no liability on the LESSOR and shall not constitute a lien or encumbrance of any kind upon the leased premises.

35. No Partnership or Joint Venture

Nothing contained in this Lease shall constitute or be construed to be or create a partnership or joint venture between the LESSOR, its successor or assigns, on the one part, and the LESSEE, its successors or assigns, on the other part.

36. Enforced Delay in Performance

In addition to specific provisions of this Lease Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by the CITY and LESSEE.

37. Net Lease

It is the intention of the parties hereto that this Lease shall be a net Lease and that CITY shall receive the rents herein reserved and all sums which shall or may become payable

hereunder by LESSEE free from all charges, expenses and deductions of every kind or sort whatsoever; and LESSEE shall and hereby expressly agrees to pay all such sums which, except for the execution and delivery of this Lease, would have been chargeable against the leased premises and payable by CITY.

IN WITNESS WHEREOF, the parties hereto have set forth their hands in the City of Tempe, Arizona, on the day and date first above written.

CITY OF TEMPE, a municipal corporation,

By Harry E. Mitchell
MAYOR

ATTEST:

Virginia J. Thompson
City Clerk

APPROVED AS TO FORM:

David R. Mitchell
City Attorney

WESTCOX HOTEL COMPANY, an Arizona corporation,

By Fred O Cox
Its President

Collar, Williams & White Engineering, Inc.

DONALD H. COLLAR, P.E.
President
ROBERT R. WAGONER, P.E., R.L.S.
Vice President

Consulting Engineers

2922 NORTH 70TH STREET
SCOTTSDALE, ARIZONA 85251

GEORGE J. TEPY, P.E.
ROBERT E. MOHNING, P.E.
WM. ROSS NELSON, R.L.S.
GERALD RASMUSSEN, R.L.S.
DAVID H. HORNOR, R.L.S.
JAY N. VAUGHN, R.L.S.

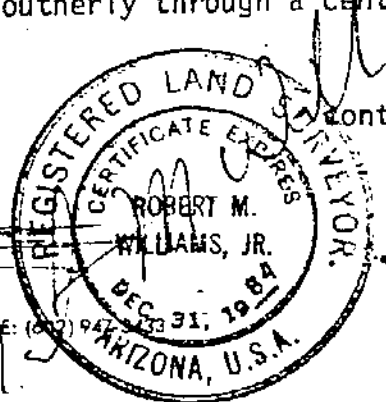
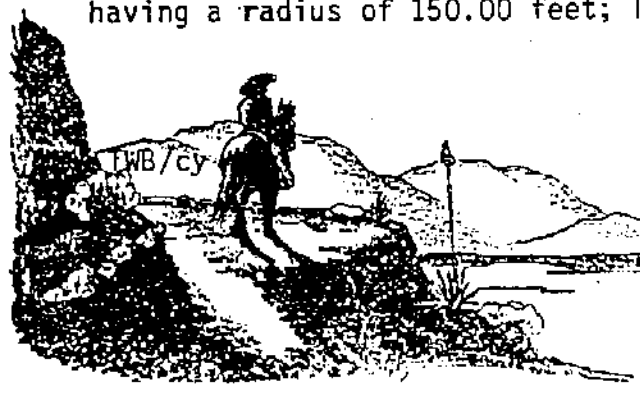
Description Of Parcel 1 (A-1)

CWW No. 840804 FOR THE WESTCOX HOTEL COMPANY September 10, 1984

A portion of the North One-Half of Section 29, T. 1 N., R. 4 E., G. & S. R. B. & M Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the NW corner of said Section 29; THENCE S 00°17'40" W, along the West line of said Section 29, 1324.93 feet; THENCE N 89°37'23" E, along the South line, and its prolongation, of the NW¼ of the NW¼ of said Section 29, 1797.65 feet to the True Point of Beginning; said point beginning a non-tangent curve, the center of which bears N 84°05'07" E, 621.98 feet; THENCE Northerly, along said curve, through a central angle of 3°41'27", a distance of 40.07 feet; THENCE N 02°13'26" W, 38.96 feet to the beginning of a tangent curve to the left having a radius of 210.00 feet; THENCE Northwesterly along said curve through a central angle of 45°07'56" a distance of 165.42 feet; THENCE N 42°38'38" E, 164.17 feet to the beginning of a tangent curve to the right having a radius of 250.00 feet; THENCE Northeasterly and easterly along said curve, through a central angle of 48°00'28" a distance of 209.47 feet; THENCE S 89°20'54" E, 154.65 feet to the beginning of a tangent curve to the right, having a radius of 300.00 feet; THENCE Southeasterly, along said curve through a central angle of 32°21'02" a distance of 169.39 feet; THENCE S 56°59'52" E, 18.05 feet to the beginning of a tangent curve to the left having a radius of 50.00 feet; THENCE Southeasterly and Northerly along said curve through a central angle of 122°21'02" a distance of 106.77 feet; THENCE N 00°39'06" E, 127.05 feet; THENCE S 89°20'54" E, 143.50 feet; THENCE S 00°39'06" W, 145.41 feet; THENCE S 89°20'54" E, 139.00 feet; THENCE S 00°39'06" W, 120.00 feet THENCE S 81°17'36" W, 85.63 feet to the beginning of a tangent curve to the left, having a radius of 22.88 feet; THENCE Southwesterly and Southeasterly, through a central angle of 130°30'45", a distance of 52.12 feet to a point of reverse curvature beginning a tangent curve to the right, having a radius of 150.00 feet; THENCE Southerly through a central angle of 94°40'52",

continued



PHONE: (602) 947-1111

Description of
Parcel 1

FOR THE WESTCOX HOTEL A. W. WY

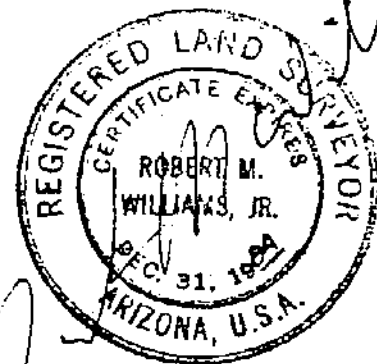
September 10, 1984

CWW No. 840804

Page Two

a distance of 247.87 feet; THENCE S 45°27'42"W, 225.37 feet; THENCE N 44°32'18"W, 128.00 feet; THENCE S 45°27'42"W, 67.34 feet to the beginning of a tangent curve to the left, having a radius of 200.00 feet; THENCE Southwesterly, along said curve through a central angle of 27°21'03" a distance of 95.47 feet; THENCE S 18°06'40"W, 160.12 feet to the beginning of a tangent curve to the left having a radius of 100.00 feet; THENCE Southeasterly along said curve through a central angle of 81°15'49" a distance of 141.83 feet; THENCE S 63°09'09" E, 39.76 feet to the beginning of a tangent curve to the right having a radius of 74.08 feet; THENCE Southeasterly along said curve through a central angle of 56°44'01" a distance of 73.35 feet to a point beginning a non-tangent curve, the center of which bears S 06°25'09" E, 1200.00 feet; THENCE Southwesterly, along said curve through a central angle of 18°01'58" a distance of 377.68 feet; THENCE S 65°32'54" W, 212.48 feet; THENCE N 24°27'06" W, 76.01 feet; THENCE N 55°21'08" W, 155.75 feet to a point beginning a non-tangent curve, the center of which bears S 55°21'08" E 303.76 feet; THENCE Northeasterly, along said curve through a central angle of 13°12'13", a distance of 70.00 feet; THENCE N 47°51'05" E, 91.45 feet to the beginning of a tangent curve to the left, having a radius of 260.00 feet; THENCE Northeasterly and Northerly, through a central angle of 50°04'32", a distance of 227.23 feet; THENCE N 02°13'26" W, 54.26 feet to the beginning of a tangent curve to the left, having a radius of 541.98 feet; THENCE Northerly, along said curve through a central angle of 12°24'57" a distance of 117.45 feet to a point of reverse curvature beginning a tangent curve to the right, having a radius of 621.98 feet; THENCE, Northerly, along said curve through a central angle of 8°43'30", a distance of 94.72 feet to the TRUE POINT OF BEGINNING.

Containing 16.600 Acres, more or less.



Collar, Williams & White Engineering, Inc.

DONALD H. COLLAR, P.E.
President
ROBERT R. WAGONER, P.E., R.L.S.
Vice President

Consulting Engineers
2922 NORTH 70TH STREET
SCOTTSDALE, ARIZONA 85251

GEORGE J. TEPY, P.E.
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GERALD RASMUSSEN, R.L.S.
DAVID H. HORNOR, R.L.S.
JAY N. VAUGHN, R.L.S.

Description Of Parcel 2 (A-3)

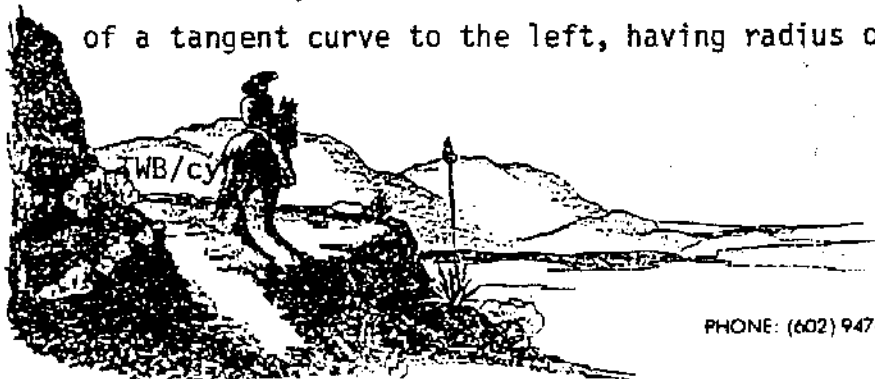
CWW No. 840804

FOR THE WESTCOX HOTEL COMPANY

September 10, 1984

A portion of the North One-Half of Section 29, T. 1 N., R. 4 E., G. & S. R. B. & M. Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the NW corner of said Section 29; THENCE S 00°17'40" W, along the West line of said Section 29, 1324.93 feet; THENCE N 89°37'23" E along the South line, and its prolongation, of the NW¼ of the NW¼ of said Section 29, 1797.65 feet to the beginning of a non-tangent curve, the center of which bears N 84°05'07" E, 621.98 feet; THENCE Northerly, along said curve, through a central angle of 3°41'27", a distance of 40.07 feet; THENCE N 02°13'26" W, 38.96 feet to the beginning of a tangent curve to the left having a radius of 210.00 feet; THENCE Northwesterly, along said curve through a central angle of 45°07'56" a distance of 165.42 feet to the True Point of Beginning; THENCE N 47°21'22" 142.13 feet; THENCE N 50°01'22" E, 16.66 feet; THENCE N 59°33'03" E, 458.21 feet to the beginning of a tangent curve to the right having a radius of 359.36 feet; THENCE Easterly along said curve, through a central angle of 31°06'04", a distance of 195.06 feet; THENCE S 89°20'54" E, 265.26 feet to the beginning of a tangent curve, to the right, having a radius of 225.00 feet; THENCE Southeasterly, along said curve, through a central angle of 61°06'18", a distance of 239.96 feet; THENCE S 28°14'36" E, 222.77 feet to the beginning of a tangent curve to the right, having a radius of 284.54 feet; THENCE Southerly, along said curve, through a central angle of 36°48'59", a distance of 182.83 feet to a point of reverse curvature beginning a tangent curve to the left, having a radius of 646.57 feet; THENCE Southerly along said curve, through a central angle of 17°57'40", a distance of 202.69 feet to a point of reverse curvature beginning a tangent curve to the right having a radius of 225.00 feet; THENCE Southwesterly along said curve, through a central angle of 40°19'57", a distance of 158.39 feet; THENCE S 30°56'40" W, 67.50 feet to the beginning of a tangent curve to the left, having radius of 400.00 feet; THENCE Southwesterly, also



PHONE: (602) 947-5433



Description Of
Parcel 2
FOR THE WESTCOX HOTEL COMPANY
September 10, 1984
CWW No. 840804
Page Two

through a central angle of $13^{\circ}56'31''$, a distance of 97.33 feet to a point beginning a non-tangent curve, the center of which bears $N 17^{\circ}00'09'' E$, 199.27 feet; THENCE Northwesterly along said curve, through a central angle of $58^{\circ}22'37''$, a distance of 203.03 feet; THENCE $N 14^{\circ}37'14'' W$, 154.96 feet; THENCE $N 45^{\circ}27'42'' E$, 120.56 feet to the beginning of a tangent curve, to the left, having a radius of 150.00 feet; THENCE Northerly, along said curve, through a central angle of $94^{\circ}40'52''$, a distance of 247.87 feet to a point of reverse curvature beginning a tangent curve, to the right having a radius of 22.88 feet; THENCE Northerly and Northeasterly, along said curve, through a central angle of $130^{\circ}30'45''$, a distance of 52.12 feet; THENCE $N 81^{\circ}17'36'' E$, 85.63 feet; THENCE $N 00^{\circ}39'06'' E$, 120.00 feet; THENCE $N 89^{\circ}20'54'' W$, 139.00 feet; THENCE $N 00^{\circ}39'06''$ 145.41 feet; THENCE $N 89^{\circ}20'54'' W$, 143.50 feet; THENCE $S 00^{\circ}39'06'' W$, 127.05 feet to the beginning of a tangent curve to the right, having a radius of 50.00 feet; THENCE Southerly and Northwesterly, along said curve, through a central angle of $122^{\circ}21'02''$ a distance of 106.77 feet; THENCE $N 56^{\circ}59'52'' W$, 18.05 feet to the beginning of a tangent curve, to the left, having a radius of 300.00 feet; THENCE Northwesterly and Westerly, through a central angle of $32^{\circ}21'02''$, a distance of 169.39 feet; THENCE $N 89^{\circ}20'54'' W$, 154.65 feet to the beginning of a tangent curve, to the left, having a radius of 250.00 feet; THENCE Southwesterly, along said curve, through a central angle of $48^{\circ}00'28''$, a distance of 209.47 feet; THENCE $S 42^{\circ}38'38'' W$, 164.17 feet to the TRUE POINT OF BEGINNING
Containing 6.400 Acres, more or less.

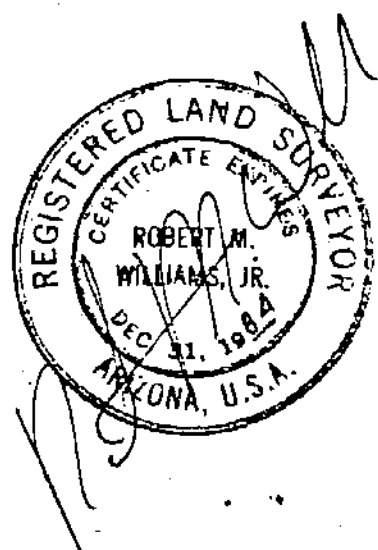


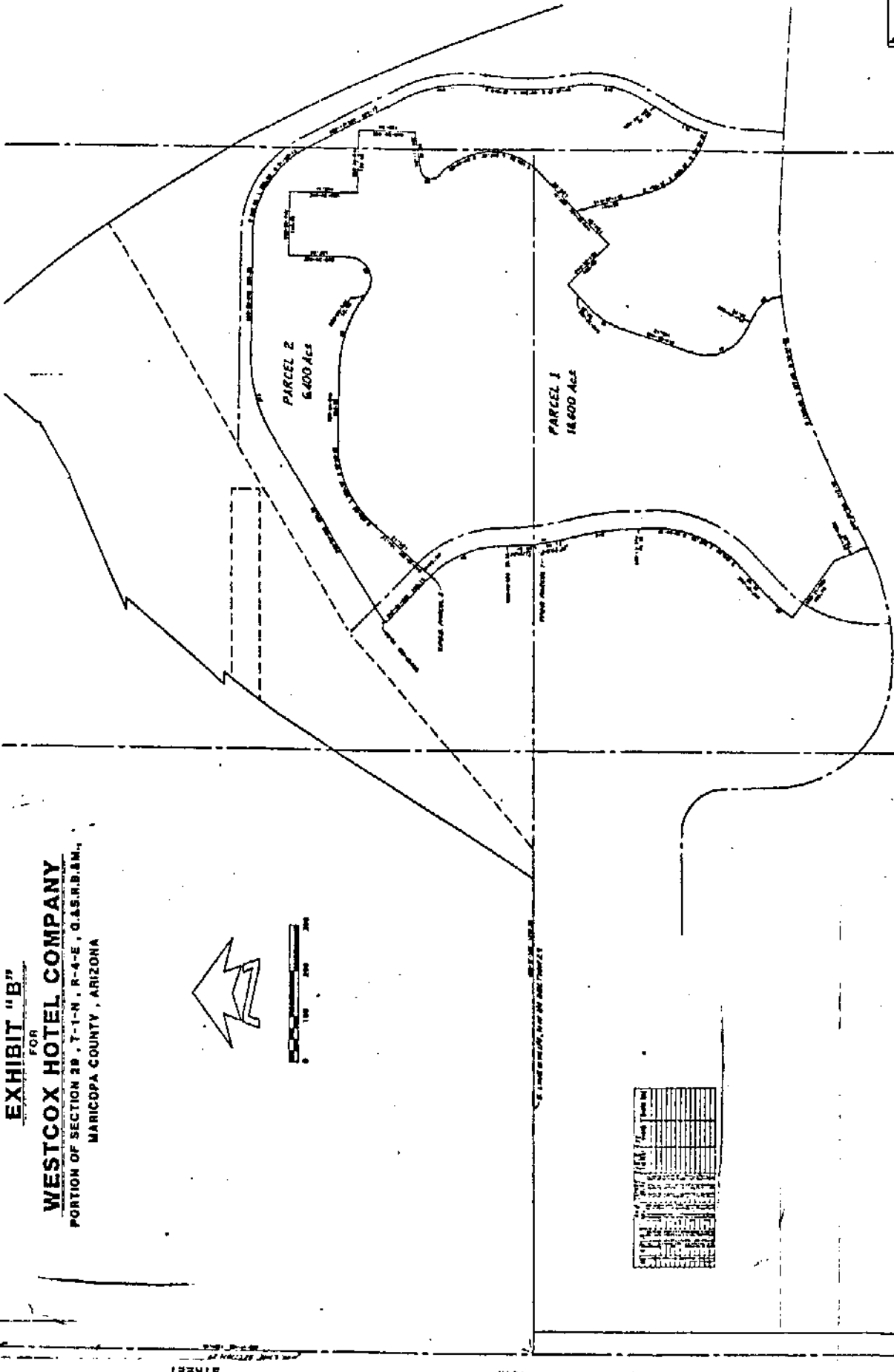
EXHIBIT "B"

FOR

WESTCOX HOTEL COMPANY

PORTION OF SECTION 28, T-1-N, R-4-E, Q.45-R.16-AM.,

MARICOPA COUNTY, ARIZONA



| NO. | DESCRIPTION | ACRES | REMARKS |
|-----|-------------|-------|---------|
| 1 | ... | ... | ... |
| 2 | ... | ... | ... |
| 3 | ... | ... | ... |
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| 37 | ... | ... | ... |
| 38 | ... | ... | ... |
| 39 | ... | ... | ... |
| 40 | ... | ... | ... |



WESTCOX HOTEL C

Fred O. Cox
President

EXHIBIT C

August 31, 1984

RECEIVED
AUG 31 1984
CITY ATTORNEY'S OFFICE

Mr. David R. Merkel
City Attorney
CITY OF TEMPE
P.O. Box 5002
Tempe, AZ 85281

RE: Officers of The Westcox Hotel Company

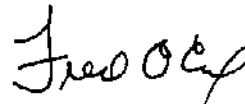
Dear Dave:

The Westcox Hotel Company, a corporation organized and existing under the laws of the State of Arizona, has two (2) shareholders. The shareholders are Fred O. Cox and The Westcor Company Limited Partnership. Each shareholder owns 50%. The Westcor Company Limited Partnership consists of the following partners:

Russ Lyon, Jr.
John C. Auther
Robert L. Ward
A. T. LaPrade, Jr.
Edwin C. Lynch
Roy A. Brown
John F. Rasor
Gilbert W. Chester
L. M. Warner, Jr.
Dayton W. Adams

The address for all of the above is 11411 N. Tatum Blvd., Phoenix, AZ 85028.

Very truly yours,



Fred O. Cox

FOC:kl

EXHIBIT D
WESTCOURT IN THE BUTTES

Main entrance street including intersections from 48th Street to hotel entrance. Street to be constructed of two 26' face to face traffic lanes with concrete curbs and gutter and a 14' median.

TOTAL COST \$193,304

New 8" diameter water line including valves, fittings and rock excavation from existing water main at Alameda northward approximately 2000 lf to future office park location.

TOTAL COST \$ 53,820

New 8" diameter V.C.P. sanitary sewer line including manholes and rock excavation from existing 12" diameter line in Alameda northward approximately 2000 lf to proposed office site.

TOTAL COST \$ 86,580

New gas main from 48th Street along main entrance street right-of-way to hotel entrance including necessary rock excavation.

TOTAL COST \$ 50,462

Street lighting, electrical power, and communication cables including necessary rock excavation.

TOTAL COST \$28,840

Professional engineering design, layout and inspection fees.

TOTAL COST \$34,000

Landscaping and irrigation along main entrance street from 48th Steet to hotel entrance.

TOTAL COST \$162,728

Landscaping and irrigation of buffer zone between cemetary and future office park site.

TOTAL COST \$ 23,400

Project Contingency \$ 66,866

TOTAL OFF-SITE
COSTS \$700,000

11411 North Tatum Boulevard
Phoenix, Arizona 85028
November 19, 1984

Mr. James L. Alexander
Manager, City of Tempe
P. O. Box 5002
Tempe, Arizona 85281

Re: Lease - City of Tempe to
Westcox Hotel Company

Dear Jim:

This will confirm the understanding reached by our respective attorneys regarding the interpretation of certain provisions contained in the above Lease Agreement.

1. Since Westcox Hotel Company is a corporation, it has no partners. Therefore, the reference to "partners of LESSEE" in the first line of Section 17.1, on page 17, should refer to "partners in the shareholders of LESSEE".

2. The same comment applies to the second sentence in subparagraph (b) of Section 17.2, on page 19. That sentence should read:

". . . As used in this Lease, an "affiliate" shall be any entity in which the majority interest is owned by officers or directors of LESSEE or by partners of Westcor Partners or The Westcor Company Limited Partnership."

3. In Section 24, in the last line on page 26, the word "LESSOR" should be "lesser".

4. The second sentence of Section 23 is not intended to supersede or conflict with Section 29. It was agreed that any notices or communications delivered to the hotel manager pursuant to Section 23 must also be given to Lessee in the manner and at the address provided in Section 29.

If you concur in the above interpretation, please sign the acceptance and approval on the attached copy of this letter

and return that copy to me. This letter will provide the appropriate clarification of these points until such time as a formal modification of the Lease Agreement is required for more substantive reasons.

Very truly yours,

WESTCOX HOTEL COMPANY

By Fred O. Cox
Fred O. Cox
President
WESTCOX HOTEL COMPANY

APPROVED AND ACCEPTED this 28th
day of November, 1984

CITY OF TEMPE

By James L. Alexander
James L. Alexander
City Manager

When recorded, return to:
MURPHY & POSNER, (DAD)
3200 E. Camelback Rd., Ste. 300
Phoenix, AZ 85018

482

86 505646

MEMORANDUM OF LEASE

WITNESSETH: This is a Memorandum of that certain Ground Lease, identified below, wherein the Lessor demised and leased and does by these presents demise and lease to Lessee those certain premises hereinafter described:

LESSOR: CITY OF TEMPE, a municipal corporation of the State of Arizona
LESSEE: WESTCOX HOTEL COMPANY, an Arizona corporation
DATE OF LEASE: November 20, 1984
TERM: Sixty (60) years
OPTION TO RENEW: See Exhibit "A" attached hereto
DEMISED PREMISES: See Exhibit "B" attached hereto

Complete and executed duplicate agreements of the Ground Lease containing all of the agreements, terms, covenants and conditions are available in the offices of Lessor and Lessee as follows:

LESSOR: City of Tempe
c/o City Manager
31 East 5th Street
Tempe, Arizona 85281
LESSEE: Westcox Hotel Company
11411 North Tatum Boulevard
Phoenix, Arizona 85028

IN WITNESS WHEREOF the undersigned Lessor and Lessee have executed this Memorandum of Lease on the 15th day of August, 1986.

CITY OF TEMPE

WESTCOX HOTEL COMPANY

By Harry E. Mitchell
Mayor LESSOR

By Fred U. Cox
President LESSEE

ATTEST:

Helin Fowler
Dep. City Clerk

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
OCT 15 '86 - 4 30
KEITH POLETIS, County Recorder
FEE 16.00 PGS 12 I.G.

86 565646

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 2 day of October, 1986, by Harry E. Mitchell, the Mayor of the CITY OF TEMPE, an municipal corporation of the State of Arizona, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Donna J. Mills
Notary Public

My Commission Expires:

May 21, 1989

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 4th day of September, 1986, by Fred O. Cox, the President of WESTCOX HOTEL COMPANY, an Arizona corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jennifer A. Snyder
Notary Public

My Commission Expires:

My Commission Expires Nov 14, 1989