

AGREEMENT AND MORTGAGE

WHEREAS, EUREKA COUNTY (hereinafter called "Mortgagor") has applied to, received and accepted from the United States Department of Commerce, Economic Development Administration (EDA) a grant in the amount of SIX HUNDRED FIFTY THOUSAND Dollars (\$ 650,000 Grant Amount) pursuant to a Financial Assistance Award dated FEB. 2, 1996, and bearing EDA Project Number 07-11-03554 (the Project); and

WHEREAS, pursuant to the application filed by Mortgagor requesting said grant and pursuant to the Financial Assistance Award, FOUR HUNDRED SEVENTY SEVEN THOUSAND FIVE HUNDRED Dollars (\$ 477,500) of the Grant Amount is to be used for the purpose of making improvements consisting of CONSTRUCTION OF A BUILDING OF APPROXIMATELY 10,000 SQUARE FEET on the real Property described in Exhibit "A", attached hereto and made a part hereof (the Property); and

WHEREAS, any transfer or conveyance of a project by an EDA Recipient must have the prior written approval of EDA. However, EDA, under authority of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. Section 3121, is not authorized to permit transfer or conveyance of a project to parties which are not eligible to receive EDA grants unless EDA is repaid its share of the fair market value of the project or unless the authorized purpose of the EDA grant was to develop land in order to sell or lease it for a specific use, in which case EDA may authorize a sale or lease of the Property if certain conditions are met; and

WHEREAS, the aforesaid grant from EDA provides that the authorized purpose for which FOUR HUNDRED SEVENTY SEVEN THOUSAND FIVE HUNDRED Dollars (\$ 477,500) of the Grant Amount may be used is to develop and improve the Property in order to sell or lease it for a specific use while further providing, inter alia, that Mortgagor will not sell, mortgage, or otherwise use or alienate any right to, or interest in the Property, (other than by lease agreement which has been previously approved by EDA), or use the Property for purposes other than and different from those purposes set forth in the Financial Assistance Award and the application made by Mortgagor therefor, such alienation or use being prohibited by 13 CFR Part 314, 15 CFR Part 24 or by Office of Management and Budget Circular A-110, Attachment N, (the OMB Circular); and

WHEREAS, at this time, Mortgagor and EDA desire to establish a value for EDA's share of the Project in the event that the Property is used, transferred or alienated in violation of the Financial Assistance Award, applicable OMB Circular, 13 CFR Part 314 or 15 CFR Part 24;

NOW THEREFORE, Mortgagor does hereby grant and convey unto EDA, its successors and assigns, a mortgage on said Property to

secure a debt that shall become due and payable by Mortgagee to EDA upon the use, transfer or alienation of the Property in violation of the Financial Assistance Award or in violation of the regulations set forth in 13 CFR Part 314, 15 CFR Part 24 or the applicable OMB Circular, as such Financial Assistance Award, regulations or Circular may be amended from time to time; provided, however, that the Lien and encumbrance of this AGREEMENT AND MORTGAGE shall terminate and be of no further force and effect 15 years from the date of the Financial Assistance Award as noted above, which period of years has been established as the useful life of the improvements to the Property. The amount of the Lien, encumbrance and debt created by this Agreement shall be FOUR HUNDRED SEVENTY SEVEN THOUSAND FIVE HUNDRED _____ Dollars (\$ 477,500) or an amount determined pursuant to 13 CFR Part 314 whichever is greater. Mortgagee does hereby acknowledge that said debt shall accrue and be due and payable upon any use, transfer, or alienation prohibited by the Financial Assistance Award, applicable OMB Circular, 13 CFR Part 314 or 15 CFR Part 24, and does, moreover, agree that such debt shall be extinguished only through the full payment thereof to the United States.

Mortgagee further covenants and agrees as follows:

1. Sale or Lease of Property:

If the Grant Application and Financial Assistance Award authorizes Mortgagee to sell or lease the Property, the making of any sale or lease, consistent with the authorized general and special purpose of the grant and with EDA policies concerning, but not limited to, nondiscrimination, nonrelocation, excessive profits and adequate consideration, is an authorized use of the Project Property, provided that the sale or lease is pursuant to a sales or lease agreement that is approved by EDA. Any such sales or lease agreement entered into by Mortgagee shall be subordinate, junior and inferior to this AGREEMENT AND MORTGAGE.

2. Charges; Liens:

Mortgagee shall protect the title and possession of the Property, pay when due all taxes, assessments, and other charges, fines and impositions now existing or hereafter levied or assessed upon the Property and preserve and maintain the priority of the Lien hereby created on the Property including any improvements hereafter made a part of the realty.

3. Hazard Insurance:

Mortgagee shall insure and keep insured all improvements now or hereafter created upon the Property against loss or damage by fire and windstorm and any other hazard or hazards included

within the term "extended coverage". The amount of insurance shall be the full insurable value of said improvements. Any insurance proceeds received by Mortgagor due to loss shall be applied to restoration or repair of the property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, Mortgagor shall use said insurance proceeds to compensate EDA for its fair share. EDA's fair share shall be a percentage of said insurance proceeds equal to its grant percentage in the total cost of the grant program for which the damaged or destroyed real property was acquired or improved.

4. Preservation and Maintenance of the Property:

Mortgagor shall keep the Property in good condition and repair and shall not permit or commit any waste, impairment, or deterioration of the Property.

5. Inspection:

EDA may make or cause to be made reasonable entries upon and inspection of the Property.

6. Condemnation:

The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for any conveyance in lieu of condemnation shall be used by Mortgagor to compensate EDA for its fair share. EDA's fair share shall be a percentage of said condemnation proceeds equal to its grant percentage in the total cost of the grant program for which the condemned property was acquired or improved.

7. Forbearance by EDA Not a Waiver:

Any forbearance by EDA in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder.

8. Recording of Mortgage - Mortgagor's Copy:

Mortgagor shall record this AGREEMENT AND MORTGAGE in the County where the Property is located, thereby securing to EDA an estate in the Property. Mortgagor shall be furnished a conformed copy of this Mortgage at the time of execution or after recordation thereof.

All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

9. Remedies Cumulative:

10. Notice:
Any Notice from EDA to Mortgagee provided for in this Mortgage shall be mailed by certified mail to Mortgagee's last known address or at such address as Mortgagee may designate to EDA by certified mail to EDA's address, except for any Notice given to Mortgagee in the manner as may be prescribed by applicable law as provided hereafter in this Mortgage.

11. Remedies:

Upon Mortgagee's breach of any covenant or agreement of Mortgagee in this AGREEMENT AND MORTGAGE, EDA, its designees, successors or assigns may declare the entire indebtedness secured hereby immediately due, payable and collectible. This AGREEMENT AND MORTGAGE may be enforced by the Secretary of Commerce of the United States of America, the Assistant Secretary of Commerce for Economic Development or their designees, successors or assigns, by and through a foreclosure action brought either in a United States District Court, or in any State Court having jurisdiction, but such action shall not be deemed to be a waiver of the aforesaid debt or of any possible further or additional action to recover repayment thereof.

After any breach on the part of Mortgagee, EDA, its designees, successors or assigns shall, upon bill filed or the proper legal proceedings being commenced for the foreclosure of this Mortgage, be entitled, as a matter of right, to the appointment by any competent court, without notice to any party, of a receiver of the rents, issues and profits of the property, with power to lease and control the property, and with such other powers as may be deemed necessary.

12. Governing Law; Severability:

This AGREEMENT AND MORTGAGE shall be governed by applicable Federal law and nothing contained herein shall be construed to limit the rights the EDA, its designees, successors or assigns is entitled to under applicable Federal law. In the event that any provision or clause of this instrument conflicts with applicable law, such conflict shall not affect other provisions of this instrument which can be given effect without the conflicting provision, and to this end the provisions of this instrument are declared to be severable.



Notary Public in and for the State of NEVADA (Seal or stamp)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

On this 6TH day of AUGUST, 1997, before me personally appeared PETE GOICOECHEA, to me, or proven to me on oath, to be the CHAIRMAN, EUREKA COUNTY COMMISSIONERS of the entity that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

State of NEVADA
County of EUREKA

For Deputy District Attorney

Attorney for Mortgagor

Approved: *For Stanley N. Niles*

Attorney for Mortgagor

Its: CHAIRMAN, EUREKA COUNTY COMMISSIONERS

By: *John Niles*

Mortgagor

IN WITNESS WHEREOF, Mortgagor has hereunto set its hand and seal on this the 6TH day of AUGUST, 19 97.

LEGAL DESCRIPTION

AIRPORT IMPROVEMENT AREA

All that certain real property situate within a portion of the NE 1/4 of Section 16, Township 20 North, Range 53 East, M.D.M., County of Eureka, State of Nevada, more particularly described as follows:

BEGINNING at the NE corner of said Section 16;

THENCE S 61° 21' W, a distance of 1785.69 feet to the TRUE POINT OF BEGINNING.

THENCE S 10° 57' W, a distance of 200.00 feet;

THENCE N 79° 03' W, a distance of 180.00 feet;

THENCE S 10° 57' W, a distance of 260.34 feet;

THENCE S 73° 44' W, a distance of 323.80 feet;

THENCE N 16° 16' W, a distance of 638.63 feet;

THENCE N 73° 44' E, a distance of 307.36 feet;

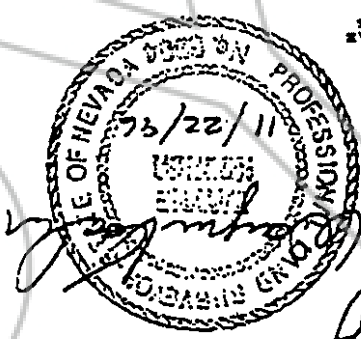
THENCE S 79° 03' E, a distance of 763.07 feet;

THENCE S 54° 52' W, a distance of 138.80 feet;

THENCE N 79° 03' W, a distance of 180.00 feet; to the TRUE POINT OF BEGINNING.

CONTAINING 8.4 acres, more or less.

John S. Smith
County Clerk



ON EUREKA
COUNTY, NEVADA
April 4, 1996

BOOK 310 PAGE 282
OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
Eureka County
97 AUG - 6 PM 4: 25

EUREKA COUNTY NEVADA
M.N. REBALANCE RECORDER
FILE NO. *167589*
FEES *no fee*