

APPENDIX C

Holdback Agreement

B. RENTAL ACHIEVEMENT HOLDBACK

Section 7(e) of the Commitment provides for rental achievement holdbacks for both Phase I and Phase II of the Project. The Phase I Rental Achievement Holdback has been released to you. The sum of One Million One Hundred Forty Thousand (\$1,140,000.00) Dollars has been held back from the Phase II funding of the Project, concurrently herewith, which funds shall be invested in The Insurance Company Corporation Money Market Liquidity Pool. Insurance Company will disburse the holdback funds, including any interest accrued thereon, to you upon compliance with the following:

1. Release of Fifty (50%) Percent of the Holdback

- a. No event of default under the Note, Mortgage, or any of the other Loan Documents shall exist and no event shall exist which, with the passage of time or the giving of notice or both, would constitute an event of default. Compliance with this item may, at Insurance Company's option, be evidenced by your signed and sworn affidavit.
- b. You have fully performed, are not in default, and continue to comply with your obligations under the Commitment.
- c. Issuance of a date down endorsement to Insurance Company's; mortgage title insurance policy insuring: (a) there are no additional exceptions to title; (b) the Mortgage shall constitute a valid first lien on Phase I and on Phase II for the total amount disbursed; (c) against mechanic liens; and (d) such other items or coverage and endorsements as Insurance Company may require.
- d. Evidence acceptable to Insurance Company that the "Gross Rental Income," as defined in Paragraph 7(e)vi of the Commitment, actually collected from Phase I and Phase II on an annualized basis for the three (3) preceding consecutive months is One Million Six Hundred Twenty Thousand (\$1,620,000.00) Dollars. Such evidence to include, but not be limited to:
 - (1) Rent Rolls from the preceding three (3) consecutive months certified by you as true, accurate, and complete, and further certifying that all tenants are in possession and continue to occupy their respective leased premises.
 - (2) Certified duplicate originals or certified copies of all leases which shall be:
 - (a) In form acceptable to Insurance Company.
 - (b) Minimum term of one (1) year.
 - (c) With independent third parties not affiliated with you in any way.

Insurance Company will disburse the holdback funds, including any interest accrued thereon, to you upon compliance with the following:

1. No event of default under the Note, Mortgage, or any of the other Loan Documents shall exist and no event shall exist which, with the passage of time or the giving of notice, or both, would constitute an event of default. Compliance with this item may, at Insurance Company's option, be evidenced by your signed and sworn affidavit.
2. You have fully performed, are not in default, and continue to comply with your obligations under the Commitment.
3. Completion of all of the work set forth in Exhibit "C" and approval of such completion by Insurance Company's architect/engineer.
4. Final and permanent certificates of occupancy for Building 14 and the Community Building are obtained.
5. Issuance of a date down endorsement to Insurance Company's mortgage title insurance policy insuring: (a) there are no additional exceptions to title; (b) the Mortgage shall constitute a valid first lien on Phase I and on Phase II for the total amount disbursed; (c) against mechanic liens; and (d) such other items or coverage and endorsements as Insurance Company may require.
6. Payment of all costs, fees, and expenses you have incurred in compliance with this Agreement, the Commitment, and the Loan Documents, including those incurred by Insurance Company or its counsel.
7. Satisfaction of the above on or before _____, 1997, time being of the essence, in a manner acceptable to Insurance Company.
8. Completion of any other applicable items required by the Commitment, Loan Documents, or Insurance Company as a condition to release of the construction completion funds.

Insurance Company may apply the construction completion holdback including any interest accrued thereon to reduce the Loan and/or complete construction, at its option, in the event items 1-8 above are not completed to Insurance Company's satisfaction on or before _____, 1997. In the event of this or any other default under the Loan Documents, Insurance Company shall have the right, in addition to, and not in lieu of its other rights and remedies, to apply the construction completion holdback as a partial prepayment of the Note. Any amounts so applied shall be subject to the same prepayment premium that would be due under the Note if such an amount were a voluntary prepayment.

Loan No. _____

INSURANCE COMPANY ("Insurance Company")

777 Adams Road
Saturn, Michigan 48000

HOLDBACK AGREEMENT/PHASE II FUNDING

_____, 199__

Brian Henry, Inc. ("Borrower")

444 Hill Drive

Rochester Hills, Michigan 48000

Re: \$10,000,000 Mortgage Loan (the "Loan") evidenced by a \$10,000,000 Promissory Note dated _____, 1997 (the "Note"), and secured by a Mortgage dated _____, 1997 (the "Mortgage").

Brian Henry, Inc.:

You have previously accepted our Application and Commitment Terms and Conditions dated _____, 1997 (the "Commitment"), with respect to the mortgage financing of Brian Henry Apartments, Auburn Hills, Michigan (the "Project"). You have previously executed and delivered the Note, Mortgage and Security Agreement, Assignment of Rents and Leases, Guaranty Agreement, and other loan documents to evidence and secure the Loan (collectively, the "Loan Documents").

Phase I of the Project (as described in Exhibit "A" attached hereto) has already been funded in the amount of \$8,000,000.00.

The purpose of this Holdback Agreement (the "Agreement") is to set forth the conditions precedent to release of funds held back from the funding of Phase II of the Project (as described on Exhibit "B" attached hereto), concurrently herewith.

A. CONSTRUCTION COMPLETION HOLDBACK

Section 3(q) of the Commitment provides for a construction completion holdback in the event a final and permanent certificate of occupancy is not available for Phase II of the Project. The sum of Twenty-three Thousand Five Hundred and no/100 (\$23,500.00) Dollars has been held back from the Phase II funding of the Project, concurrently herewith, to complete those items described in Exhibit "C," which funds shall be invested in the Insurance Corporation Money Market Liquidity Pool.

- (d) In full force and effect and not in default.
- e. Payment of all costs, fees, and expenses you have incurred in compliance with this Agreement, the Commitment, and the Loan Documents, including those incurred by Insurance Company or its counsel.
- f. Satisfaction of the above on or before _____, 1997, time being of the essence, in a manner acceptable to Insurance Company.
- g. Completion and satisfaction of any other applicable items required by the Commitment, Loan Documents, or Insurance Company as a condition to release of the rental achievement funds.

2. Release of Balance of Phase II Holdback

- a. No event of default under the Note, Mortgage, or any of the other Loan Documents shall exist and no event shall exist which, with the passage of time or the giving of notice, or both, would constitute an event of default. Compliance with this item may, at Insurance Company's option, be evidenced by your signed and sworn affidavit.
- b. You have fully performed, are not in default, and continue to comply with your obligations under the Commitment.
- c. Issuance of a date down endorsement to Insurance Company's mortgage title insurance policy insuring: (a) there are no additional exceptions to title; (b) the Mortgage shall constitute a valid first lien on Phase I and on Phase II for the total amount disbursed; (c) against mechanic liens; and (d) such other items or coverage and endorsements as Insurance Company may require.
- d. Evidence acceptable to Insurance Company that the Gross Rental Income actually collected from Phase I and Phase II on an annualized basis for the three (3) preceding consecutive months is One Million Eight Hundred Thousand (\$1,800,000.00) Dollars. Such evidence to include, but not be limited to:
 - (1) Rent Rolls from the preceding three (3) consecutive months certified by you as true, accurate, and complete, and further certifying that all tenants are in possession and continue to occupy their respective leased premises.
 - (2) Certified duplicate originals or copies of all leases which shall be:
 - (a) In form acceptable to Insurance Company.
 - (b) Minimum term of one (1) year.
 - (c) With independent third parties not affiliated with you in any way.

- (d) In full force and effect and not in default.
- e. Payment of all costs, fees, and expenses you have incurred in compliance with this Agreement, the Commitment, and the Loan Documents, including those incurred by Insurance Company or its counsel.
- f. Satisfaction of the above on or before June 30, 1990, time being of the essence, in a manner acceptable to Insurance Company as a condition to release of the rental achievement funds.
- g. Completion and satisfaction of any other applicable items required by the Commitment, Loan Documents, or Insurance Company as a condition to release of the rental achievement funds.

Insurance Company may apply the rental achievement holdback, including any interest accrued therein, to reduce the Loan in the event those items set forth in 2.a.-g. above are not completed to Insurance Company's satisfaction on or before _____, 1997. In the event of this or any other default under the Loan Documents, Insurance Company shall have the right, in addition to, and not in lieu of its other rights and remedies, to apply the rental achievement holdback as a partial prepayment of the Note. Any amounts so applied as a partial prepayment shall be subject to the same premium that would be due under the Note if such amount were a voluntary prepayment.

C. GENERAL PROVISIONS

The terms and provisions of this Holdback Agreement shall be in addition to, and not in substitution of any of the terms, conditions and requirements of the Commitment and Loan Documents.

Please sign in the space provided below if you are in agreement with the terms of this Holdback Agreement.

Sincerely,
 INSURANCE COMPANY,
 a Michigan corporation

By: _____

Its: _____

Accepted and agreed to this
 _____ day of _____, 1997.

BRIAN HENRY, INC.,
a Michigan corporation

By: _____

Brian P. Henry , President
and not individually

Acknowledgement and Agreement of Escrow Agent

The Local Title Company (“Escrow Agent”) acknowledges that Insurance Company will subsequently deliver written instructions to it as Escrow Agent setting forth the terms under which it shall receive the Phase II Funds in its escrow account and disburse such funds to Brian Henry, Inc. Upon receipt of such written instructions from Insurance Company, Escrow Agent shall issue its endorsement as set forth in paragraphs A.5, B.1.c., and B.2.c. hereof and shall otherwise disburse the funds in accordance with Insurance Company’s written instructions.

Acknowledged and Agreed

this _____ day of _____, 1997

LOCAL TITLE INSURANCE COMP ANY

By: The Local Title Company,
its authorized agent

By: _____

Its: _____

Exhibit "A"

The legal description for Phase I is shown on Local Title Commitment No. _____, together with certain easement rights which benefit Phase I.

Phase I covers Buildings X, Y, Z and T. These four buildings contain 100 apartment units, total.

Exhibit "B"

The legal description for Phase II is shown on Local Title Commitment No. _____, together with certain easement rights which benefit Phase II.

Phase II covers Buildings A, B, C, D, E and F and the clubhouse and pool. Buildings A through F contain 120 units, total.