

33555

m
Vol. 72 Page 12144

OPTION AGREEMENT

From

SIXTH TOTTENHAM PROPERTIES, INC.

To

THE NATIONAL SHAWMUT BANK OF BOSTON

And

L. H. BAKER,
as Trustees

Dated as of September 1, 1972

SEP 19 8 34 AM 1972

28-5740

12145

OPTION AGREEMENT

THIS AGREEMENT, dated as of September 1, 1972, between SIXTH TOTTENHAM PROPERTIES, INC., a Delaware corporation, having an address at c/o The Prentice-Hall Corporation System, Inc., 229 South State Street, Dover, Delaware (herein, together with its successors and assigns, called the Company) and THE NATIONAL SHAWMUT BANK OF BOSTON, a national banking association having its principal office at 40 Water Street, Boston, Massachusetts 02109 (herein, together with its successors and assigns, called the Trustee), and L. H. Baker, having a residence at 114 School Street, Whitman, Massachusetts 02382 (herein, together with his successors and assigns, called the Individual Trustee), as trustees (herein called the Trustees), under an Indenture of Mortgage and Deed of Trust, dated as of September 1, 1972 (herein, together with all supplements and amendments thereto, called the Indenture), from the Company to the Trustees.

PRELIMINARY STATEMENT

At or about the time of delivery hereof, the Company is acquiring fee simple title to the parcels of land, together with the improvements thereon, described in Schedule A hereto (the Properties). The Company has financed the cost of acquiring the Properties by borrowing an amount not to exceed \$3,100,000 from certain institutional investors (the Note Purchasers) listed in Schedule B of this Agreement. In order to evidence such borrowing, the Company has issued and sold to the Note Purchasers its 9% Secured Notes Due August 1, 1997 (the Notes) in an aggregate principal amount not to exceed \$3,100,000. The Notes have been issued under, and are secured by, the Indenture. As further security for the Notes, the Company has assigned to the Trustees its rights, title and interest as lessor

12146

under the leases of the Properties, dated as of September 1, 1972 (herein together with all amendments and supplements thereto, called the Lease), between the Company, as lessor and FRANCHISE REALTY INTERSTATE CORPORATION, an Illinois corporation or McDONALD'S CORPORATION, a Delaware corporation, as the case may be, as lessee, (herein, in each case, together with any person succeeding thereto by merger, consolidation or acquisition of all or substantially all of its assets, called the Lessee).

In order to induce the Note Purchasers to purchase the Notes and the Trustees to enter into the Indenture and this Option Agreement, and in consideration therefor and for other good and valuable consideration, receipt whereof is hereby acknowledged, the Company hereby gives and grants to the Trustees, as agents for the Note Purchasers and for the holders (as defined in the Indenture) from time to time of the Notes (the Note Holders), the rights, powers, privileges and options hereinafter set forth:

1. Option Rights. (a) In the event that the Notes are paid or prepaid in full and such payment or prepayment is not by reason of (i) the Lessee making an offer to purchase the Property pursuant to paragraph 13(b), 15(b) or 17 of the Lease of such Property during the Primary Term thereof (as defined in such Lease) or (ii) the Lessee purchasing such Property pursuant to paragraph 16 of the Lease of such Property, the Trustee is hereby granted and may exercise, an option (herein called the Option) to purchase an undivided 25% interest in such Property for \$1.00 at any time within 90 days after such payment or prepayment (said period of the exercise of the Option being herein called the Option Period).

12147

(b) In the event that the Lessee makes an offer to purchase a Property (including for purposes of this paragraph the Net Award or Net Proceeds as defined in the lease of such Property) pursuant to paragraph 13(b), 15(b) or 17 of the Lease of such Property and such offer is rejected by the Company in compliance with Section 5.2(c)(i) or 5.4(c)(i) of the Indenture, the Trustee is hereby granted, and may exercise, an option (herein also called the Option) to purchase an undivided 25% interest in such Property (including the Net Award or Net Proceeds) for \$1.00 on any day occurring within 90 days after the termination date of the Lease of such Property pursuant to paragraph 13(b), 15(b) or 17 thereof (said period of the exercise of the Option being herein also called the Option Period).

(c) In the event that the Lessee purchases a Property pursuant to paragraph 16 of the Lease of such Property, the provisions of Section 5.3 of the Indenture shall be operable.

(d) In the event that the Lessee purchases a Property pursuant to paragraph 13(b), 15(b) or 17 of the Lease of such Property, the Trustee shall have no Option with respect to such Property.

2. Exercise of Option. The Trustee shall exercise the Option by delivering notice of the exercise thereof to the Company at its address set forth above (or at such other address as the Company shall have notified the Trustee in writing) at least 20 days prior to the expiration of the Option Period. The Company shall, within 20 days after the exercise of the Option by the Trustees, convey pursuant to paragraph 4, such undivided 25% interest in the Property to the Trustees or their designee or designees.

10148

3. Company's Additional Obligations. In the event that the Lessee makes an offer to purchase a Property (including for purposes of this paragraph any Net Award or Net Proceeds, as the case may be) pursuant to paragraph 13(b), 15(b) or 17 of the Lease of such Property and such offer is rejected by the Company pursuant to Section 5.2(d)(iv) or 5.4(d)(iv), as the case may be, of the Indenture, then (a) if the Company shall have given its irrevocable undertaking pursuant to Section 5.2(d)(i)(A) or Section 5.4(d)(i)(A) of the Indenture, it shall convey an undivided 25% interest in such Property (including the Net Award or Net Proceeds) to the Trustees or their designee or designees for \$1.00 or (b) if the Company shall have given its irrevocable undertaking pursuant to Section 5.2(d)(i)(B) or Section 5.4(d)(i)(B), as the case may be, of the Indenture, it shall convey a 100% interest in such Property (including the Net Award or Net Proceeds) to the Trustees or their designee or designees for \$1.00. In each such case, the Company shall convey such interest in such Property within 20 days after the date on which the Trustee shall have delivered to the Company its rejection of the Acceptance Notice (as defined in Section 5.2(b)(ii) and Section 5.4(b)(ii) of the Indenture) pursuant to Section 5.2(d)(iv) or Section 5.4(d)(iv) of the Indenture.

4. Closing. In the event that the Company is required to convey an interest in a Property (herein called a Property Interest) to the Trustees or their designee or designees, pursuant to paragraph 2 or 3, the Company shall, on the date for such conveyance, execute and deliver to the Trustees or their designee or designees, a deed conveying good and marketable fee simple title to such Property Interest, in form for recording and containing a covenant against the acts of the Company. Such title shall be insurable under an ALTA Extended Coverage Policy

12149

of title insurance with a title insurance company reasonably satisfactory to the Trustees and licensed to do business in the state in which such Property is located. Such title shall be free and clear of all liens, encumbrances and defects except:

- (a) the exceptions contained in the original Mortgage Title Insurance Policy issued by Chicago Title Insurance Company with respect to such Property and pursuant to Section 6.4 of the Note Purchase Agreements dated September 1, 1972 between the Note Purchasers and the Company and payable to the Trustees for the benefit of the Note Purchasers;
- (b) taxes and assessments which may be a lien on such Property but are not yet due and payable; and
- (c) Permitted Exceptions (as defined in Article I of the Indenture) which may exist at the time such transfer is effected.

5. Taxes and Other Charges. In the event of any conveyance of a Property Interest pursuant to paragraph 2 or 3, all taxes, assessments, sewer and water charges, insurance premiums, utility charges and other similar charges and expenses shall be pro-rated between the Company and the Trustees as of the date of such conveyance.

6. Default under Indenture. If the Company shall be entitled to receive any sums pursuant to clause FIFTH of Section 8.2(e) of the Indenture, the Trustees shall be entitled to receive, and there shall be paid to the Trustees by the Company, an amount equal to 25% of such sums.

7. Expenses. All expenses incurred by the Company or the Trustees pursuant to this Agreement, including without limitation expenses incurred in connection with any conveyance made pursuant to paragraph 4, shall be payable by the Company.

12150

8. Perpetuities. If and to the extent that any of the rights granted to the Trustees under this Agreement would, in the absence of the limitation imposed by this paragraph, be invalid or unenforceable as being in violation of the rule against perpetuities or any other rule of law relating to the vesting of interest in property or the suspension of the power of alienation of property, then, and only in such case, and notwithstanding any other provision of this Agreement, said rights (subject to the conditions set forth in this Agreement governing the exercise of such rights) shall be exercisable by the Trustees only during the period which shall end 20 years and 6 months after the date of the death of the last survivor of the following named persons:

- | | | |
|--------------------------|-------|----------------------------------------------|
| (A) Cheryl Lynn Huskins | Age 2 | 373 Hovenden Avenue
Brockton, Mass. 02402 |
| (B) Kristin Ann Pittaro | Age 1 | 12(B) Bartlet Drive
Woburn, Mass. 01801 |
| (C) Michael Paul Ellison | Age 3 | 3 Alderney Way
Lynnfield, Mass. 01940 |

9. Definition of Company. The term "Company" as used in this Agreement shall mean the Company, together with its successors and assigns, as the owner or owners of the fee estate in a Property.

10. Duration of Agreement. The rights, powers, privileges and options given and granted to the Trustees are irrevocable and shall continue throughout the Option Period, notwithstanding the payment or prepayment, in full or in part, of any Note or the satisfaction of the Indenture.

11. Conveyance by Company. Nothing in this Agreement shall limit the right of the Company to convey all or any part

12151

of its interest in a Property; provided that such conveyance shall be made expressly subject to this Agreement and to the rights of the Trustees and the Note Purchasers contained herein, and shall otherwise comply with Section 5.7 of the Indenture.

12. Assignment of Option. Any Option may be assigned by the Trustees, as agent for the Note Purchasers and the Note Holders, subject to the rights of the Note Purchasers and the Note Holders as the beneficial owners of said Option, and said Option shall run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto and all persons and parties claiming hereunder.

13. Rights and Powers of Trustees. Simultaneously, with the execution and delivery of this Agreement, the Trustees and the Note Purchasers shall execute and deliver an agreement (the Agency Agreement) substantially in the form set forth in Schedule C hereto, and this Agreement shall be subject to the Agency Agreement and the rights of the parties thereto (including, without limitation, the right to provide one or more agents in substitution for the Trustees).

14. Governing Law. This Agreement is made and delivered in Boston, Massachusetts to evidence a lending transaction negotiated, consummated and to be performed in the Commonwealth of Massachusetts; and this Agreement, its construction, legality and enforceability, and the respective rights and duties of the parties hereunder, shall be governed solely by the law of the Commonwealth of Massachusetts.

15. Schedules. The following are Schedules A, B and C referred to in this Agreement.

12152

SCHEDULE A

Lewiston, Nez Perce County,
Idaho

Lots 5 and 6, Block 4, Oxford Addition to the City of
Lewiston, Nez Perce County, Idaho, according to the recorded plat
thereof and that part of the Southwest Quarter of the Southwest
Quarter of Section 32, Township 36 North, Range 5 West of the Boise
Meridian, described as follows:

Commencing at the Southwest corner of said Section 32;
thence South $89^{\circ} 57'$ East along the South line of Section 32 a
distance of 40.0 feet to the East line of 21st Street, being the
Northwest corner of the Oxford Addition and the POINT OF BEGINNING;
thence North $0^{\circ} 10'$ East along the East line of 21st Street
a distance of 130.00 feet to a point;

thence South $89^{\circ} 57'$ East a distance of 110.00 feet to a
point;

thence South $0^{\circ} 10'$ West a distance of 130.00 feet to the
South line of said Section 32, said point being on the North line
of the Oxford Addition;

thence North $89^{\circ} 57'$ West along the South line of said
Section 32 a distance of 110.00 feet to the Northwest corner of the
Oxford Addition and the POINT OF BEGINNING.

28-3740

12153

SCHEDULE A

Pocatello, Bannock County,
Idaho

Lots 8, 9 and 10, IDA tracts, Bannock County, Idaho,
as the same appears on the official plat thereof, filed in the
office of the county recorder of Bannock County, Idaho.

28-5240

12154

SCHEDULE A

Evesham, Burlington County,
New Jersey

BEGINNING at a point in a curve in the northerly side of New Jersey State Highway No. 70, said point being the intersection of the said northerly line of Route No. 70 and the westerly line of Cropwell Road and running thence;

- (1) along the said westerly line of Cropwell Road (S 29° 56' W) a distance of (200 feet) to a point, thence;
- (2) along a line leaving Cropwell Road (N 71° 49' 45" W) a distance of (245.88 feet) to a point, thence;
- (3) along a line bearing (S 25° 20' E) a distance of (75 feet) to a point thence;
- (4) along a line (S 71° 15' 57" E) a distance of (100 feet) to a point, thence;
- (5) along a line (N 25° 20' E) a distance of (125 feet) to a point in a curve in the aforementioned southerly side of New Jersey Route No. 70, thence;
- (6) along Route No. 70 along a curve bearing to the right and having a radius of (3759.83 feet) an arc distance of (161.69 feet), chord of said curve bears (S 71° 14' 32" E) a distance of (161.69 feet) to the POINT AND PLACE OF BEGINNING.

28-3740

12155

SCHEDULE A

Flemington, Hunterdon County,
New Jersey

BEGINNING at an iron corner in the northerly right-of-way line of Reaville Avenue, corner to land of Circle Diner and Restaurant, Inc.,

and running thence (1) along land of Circle Diner and Restaurant, Inc., North $38^{\circ} 15'$ East, a distance of two hundred thirty feet (230.00') to an iron corner in line of the same, corner to land of D.M.B.W. Corporation;

thence (2) along land of D.M.B.W. Corporation, South $51^{\circ} 45'$ East, a distance of one hundred fifty feet (150.00') to an iron corner to the same;

thence (3) along the same, South $38^{\circ} 15'$ West, a distance of two hundred twenty-nine and eighty-eight one-hundredths feet (229.88') to an iron corner in line of the same, corner to a 0.014 Acre parcel being dedicated to the Borough of Flemington;

thence (4) along said parcel and the northerly right-of-way line of Reaville Avenue, North $51^{\circ} 48'$ West, a distance of one hundred fifty feet (150.00') to the PLACE OF BEGINNING and containing seven hundred ninety-six one-thousandths of an Acre (0.796 A.) be the same more or less as surveyed by Bohren and Bohren Engineering Associates, Inc., July, 1972.

28-5740

12156

SCHEDULE A

New Shrewsbury, Monmouth County,
New Jersey

ALL that certain lot, tract or parcel of land and premises, situate, lying and being in the Borough of New Shrewsbury, County of Monmouth and State of New Jersey, more particularly described as follows:

BEGINNING at the point of intersection of the westerly side line of Shrewsbury Avenue with the southerly side line of Apple Street; and from thence running

- (1) along the said westerly side line of said Shrewsbury Avenue, South $4^{\circ} 27'$ West 175.21 feet to a point; thence
- (2) North $85^{\circ} 4' 30''$ West 200 feet to a point; thence
- (3) North $4^{\circ} 27'$ East 200 feet to a point in the southerly side of Apple Street; and thence
- (4) along the same, South $85^{\circ} 4' 30''$ East 175.21 feet to the POINT AND PLACE OF BEGINNING.

28-3740

12157

SCHEDULE A

Clovis, Curry County, New Mexico

Lots 1, 2, 3 and 4 in Block 2 of the
Liebelt Addition to the City of Clovis, Curry County,
New Mexico.

28-3740

12158

SCHEDULE A

Tulsa, Tulsa County, Oklahoma

PARCEL I

A tract located in the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section 27, Township 19 North, Range 13 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, described as follows, to wit:

COMMENCING at a point 1190 feet south and 90 feet east of the northwest corner of said Section 27 (same being the point of intersection of the north line of 43rd Street and the east line of Yale Avenue as currently dedicated);

thence east along the north line of 43rd Street a distance of 150 feet;

thence north parallel to the east line of Yale Avenue a distance of 150 feet;

thence west parallel to the north line of 43rd Street a distance of 150 feet to the east line of Yale Avenue;

thence south along the east line of Yale Avenue 150 feet to the POINT OF BEGINNING, according to the U. S. Survey thereof.

PARCEL II:

Together with an easement appurtenant thereto described as follows, to wit:

COMMENCING at the northwest corner of the tract above described,

thence west and parallel to the north line of 43rd Street a distance of 90 feet to the west line of Section 27;

thence north along the west line of Section 27 a distance of 90 feet to a point;

thence in a southeasterly direction to the POINT OR PLACE OF BEGINNING.

28-3740

12159

SCHEDULE A

Corvallis, Benton County, Oregon

Lots 4, 5 and 6, Block 3, HIGHLAND LAWN ACRES,
in the City of Corvallis, County of Benton and State of
Oregon.

28-3740

12160

SCHEDULE A

Klamath Falls, Klamath County, Oregon

The following described real property in Klamath Falls, Klamath County, Oregon;

PORTION of Tracts 36 and 43 ENTERPRISE TRACTS, in the NW 1/4 NW 1/4 Section 3, Township 39 South, Range 9 East of the Willamette Meridian, more particularly described as follows:

BEGINNING at an iron pin on the South line of Shasta Way, which bears South $0^{\circ} 00' 1/2''$ East a distance of 73.0 feet and North $89^{\circ} 54'$ East a distance of 510 feet from the iron pipe which marks the Northwest corner of said Section 3, Township 39 South, Range 9 East of the Willamette Meridian; thence South $0^{\circ} 00' 1/2''$ East a distance of 647.38 feet to the Northwesterly corner of that certain parcel described in Mortgage given by Rickfalls, Inc., to the United States National Bank of Portland, dated March 28, 1961, recorded April 4, 1961 in Volume 201 page 355, Mortgage Records of Klamath County, Oregon;

thence South $59^{\circ} 21' 1/2''$ East a distance of 330.67 feet, more or less, to the Northwesterly line of Avalon Street and the TRUE POINT OF BEGINNING of this description;

thence North $30^{\circ} 38' 30''$ East along the Northwesterly line of Avalon Street, a distance of 140.0 feet to a point;

thence North $59^{\circ} 21' 30''$ West, at right angles to Avalon Street, a distance of 200.0 feet;

thence south $30^{\circ} 38' 30''$ West parallel with Avalon Street, a distance of 140.0 feet;

thence South $59^{\circ} 21' 30''$ East at right angles to Avalon Street, a distance of 200.0 feet to the POINT OF BEGINNING.

28-5740

12161

SCHEDULE A

Salem, Marion County, Oregon

BEGINNING on the East line of the relocated Pacific Highway (also know as Commercial Street) in Township 8 South, Range 3 West of the Willamette Meridian, Salem, Marion County, Oregon, at a point which is 461.15 feet South 18° 26' East of the intersection of said East line with the center line of Oakhill Avenue (formerly known as "A" Street) in Oakhill Tracts in said Township and Range;

thence South 18° 26' East, along the East line of said relocated Highway, 190.70 feet;

thence North 89° 49' 12" East 132.60 feet to a point on the East line of Lot 7, Block 2 of said Oakhill Tracts;

thence North 0° 11' East 180.50 feet;

thence West 193.47 feet to the POINT OF BEGINNING.

28-3240

12162

SCHEDULE A

Woods Cross, Davis County, Utah

BEGINNING on the West Line of a Highway 91, North $31^{\circ} 22'$ East 600.0 feet from the point of intersection of the West line of said Highway and the North line of 2600 South, at a point North $0^{\circ} 09'$ West 1,930.0 feet to the North line of said street and North $89^{\circ} 50'$ East 1,351.0 feet, more or less, to the West line of said Highway and North $31^{\circ} 22'$ East 600.0 feet from the South Quarter corner of Section 26, Township 2 North, Range 1 West, Salt Lake Meridian, in the City of Woods Cross,

and running thence North $31^{\circ} 22'$ East 207.0 feet along said highway;

thence West 214.2 feet, more or less, to the Easterly line of the former Bamberger Railroad Right of Way;

thence South $26^{\circ} 44'$ West 197.9 feet, more or less, along said right of way to a point due West of the point of beginning;

thence East 195.6 feet, more or less, to the POINT OF BEGINNING.

28-3740

12163

SCHEDULE A

Bellingham, Whatcom County, Washington

Lots 6, 7, 8, 9 and 10, Block 261, "Map of the First Addition to the town of New Whatcom, Whatcom County, Washington," according to the plat thereof, recorded in Volume 2 of Plats, page 36, in Whatcom County, Washington, EXCEPT that portion conveyed to the State of Washington for highway purposes by deed recorded under Whatcom County Auditor's File No. 827560.

28-3740

12164

SCHEDULE A

Bremerton, Kitsap County, Washington

The West 225 feet of Lot 12 and the West 225 feet
of Lot 13, Sylvan Park, as per plat recorded in Volume 6 of
Plats, Page 45, records of Kitsap County, Washington;
EXCEPT the South 120 feet of said Lot 12;

28-5740

12165

SCHEDULE A

Milwaukee, Milwaukee County, Wisconsin

Lots Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9) and Ten (10) in Block Thirteen (13) in Menick's Sub-division of the South Two (2) acres of the East Twenty (20) acres of Lots Twenty-one (21) to Twenty-seven (27) inclusive and the South Twenty-four (24) feet of Lot Twenty-eight (28) in Block Thirteen (13) in the South West One-quarter (1/4) of Section Seventeen (17), in Township Seven (7) North, Range Twenty-two (22) East, in the City of Milwaukee, Milwaukee County, Wisconsin.

28-3740

12166

SCHEDULE B
THE NOTE PURCHASERS

NAME AND ADDRESS

1. Massachusetts Mutual
Life Insurance Company
1295 State Street
Springfield, Massachusetts 01101
Attention: Mr. John B. Joyce
2. The Baltimore Life Insurance
Company
Baltimore Life Building
Mount Royal Plaza
Baltimore, Maryland 21201
Attention: Mr. Richard Banks
3. Monumental Life Insurance Company
Charles and Chase Streets
Baltimore, Maryland 21202
Attention: William Scott, Esquire
4. The Volunteer State Life
Insurance Company
c/o Monumental Life Insurance
Company
Charles and Chase Streets
Baltimore, Maryland 21202
Attention: William Scott, Esquire
5. Federal Life Insurance Company
(Mutual)
6100 North Cicero Street
Chicago, Illinois 60646
Attention: Mr. Joseph N. Warga

12187

SCHEDULE C
AGENCY AGREEMENT

AGREEMENT, dated as of September 1, 1972 between THE NATIONAL SHAWMUT BANK OF BOSTON (the Trustee), having an address at 40 Water Street, Boston, Massachusetts, and L. H. BAKER (the Individual Trustee), having a residence at 114 School Street, Whitman, Massachusetts 02382 and the addressees listed in Annex B hereto (the Note Purchasers).

WITNESSETH THAT:

SIXTH TOTTENHAM PROPERTIES, INC., a Delaware corporation (the Company), having an address at c/o The Prentice-Hall Corporation System Inc., 229 South State Street, Dover, Delaware, has simultaneously with the execution and delivery of this Agreement, granted to the Trustee and the Individual Trustee (herein collectively called the Trustees), as agents for the Note Purchasers and for the holders (as defined in the Indenture hereinafter referred to) from time to time of the 9% Secured Notes Due August 1, 1997 (the Notes) issued and to be issued under said Indenture, options to purchase interests (the Property Interests) in the properties described in Annex A hereto (the Properties), pursuant to the Option Agreement, dated as of September 1, 1972 (the Option Agreement), from the Company to the Trustees, as trustees under an Indenture of Mortgage and Deed of Trust (the Indenture), dated as of September 1, 1972, from the Company. Said holders of the Notes at any particular time are hereinafter called the Note Holders.

NOW, THEREFORE, the parties hereto agree as follows:

1. (a) Subject to provisions of this Agreement, the Trustees are granted the right to exercise all rights, powers, privileges and options given and granted to the Trustees under the Option Agreement, including (i) the right to exercise such

28-5740

12168

AGENCY AGREEMENT

AGREEMENT, dated as of September 1, 1972 between THE NATIONAL SHAWMUT BANK OF BOSTON (the Trustee), having an address at 40 Water Street, Boston, Massachusetts, and L. H. BAKER (the Individual Trustee), having a residence at 114 School Street, Whitman, Massachusetts 02382 and the addressees listed in Annex B hereto (the Note Purchasers).

WITNESSETH THAT:

SIXTH TOTTENHAM PROPERTIES, INC., a Delaware corporation (the Company), having an address at c/o The Prentice-Hall Corporation System Inc., 229 South State Street, Dover, Delaware, has simultaneously with the execution and delivery of this Agreement, granted to the Trustee and the Individual Trustee (herein collectively called the Trustees), as agents for the Note Purchasers and for the holders (as defined in the Indenture hereinafter referred to) from time to time of the 9% Secured Notes Due August 1, 1997 (the Notes) issued and to be issued under said Indenture, options to purchase interests (the Property Interests) in the properties described in Annex A hereto (the Properties), pursuant to the Option Agreement, dated as of September 1, 1972 (the Option Agreement), from the Company to the Trustees, as trustees under an Indenture of Mortgage and Deed of Trust (the Indenture), dated as of September 1, 1972, from the Company. Said holders of the Notes at any particular time are hereinafter called the Note Holders.

NOW, THEREFORE, the parties hereto agree as follows:

1. (a) Subject to provisions of this Agreement, the Trustees are granted the right to exercise all rights, powers, privileges and options given and granted to the Trustees under the Option Agreement, including (i) the right to exercise such

12169

Options referred to in paragraph 1(a) and paragraph 1(b), (ii) the right to receive an interest in a Property pursuant to paragraph 3 of the Option Agreement (herein called a Conveyance Right) and (iii) the right to receive any moneys pursuant to paragraph 6 of the Option Agreement.

(b) The Trustees shall notify each Note Holder of the right to exercise each Option within 15 days after the first date on which such Option may be exercised.

2. The Trustees will exercise the Option pursuant to paragraph 2 of the Option Agreement within 70 days after the date on which such Option accrues to the Trustees for the exercise thereof; provided, that the Trustees will not exercise such Option, if notified, in writing, not to exercise such Option, by all of the Note Holders at the time of the Trustee's notice referred to in this paragraph 2. Upon the exercise of any right, or the acceptance of any interest, referred to in paragraph 1(a)(i), (ii) or (iii) hereof, the Trustees will accept, or cause one or more designees of the Trustees to accept, the interest conveyed or transferred thereby for the benefit of the Note Holders and will, thereafter, hold or cause one or more of their designees to hold such interest in accordance with this Agreement and the Option Agreement.

3. The Trustees, the Note Purchasers and the Note Holders at any time agree that the beneficial interests (the Beneficial Interests) in any Property Interest or moneys referred to in the Option Agreement shall be owned by the Note Holders. The Beneficial Interest of each Note Holder in a Property Interest shall bear the same proportion to such Property Interest as the unpaid principal amount of the Notes held by

28-3740

12170

such Note Holder bears to the aggregate unpaid principal amount of all the Notes in each case outstanding immediately prior to the date the Trustees received an interest in the rights referred to in paragraph 1(a)(i), (ii) or (iii), as the case may be.

4. Each Property Interest referred to in the Option Agreement and all net income, proceeds, gains and other benefits allocable to such Property Interest shall be held for the benefit of the Note Holders in proportion to their respective Beneficial Interests in such Property Interest, as determined in paragraph 3 above.

5. With the written consent of, or at the written request of, Note Holders having, at any time, a 51% interest in the Beneficial Interests in any Property Interest, the Trustees may sell or otherwise dispose of such Property Interest, and the Trustees may enter into such contracts and execute such deed or other instruments and take such other actions as they may deem necessary or appropriate to effect such sale or other disposition.

6. The Trustees may employ brokers, appraisers, agents and attorneys, institute legal proceedings and otherwise incur expenses, and may pay taxes, all as they shall deem necessary or appropriate in connection with the acquisition, holding or disposition of a Property Interest, and may reimburse themselves for all expenses so incurred and taxes paid out from any moneys received in respect of such Property Interest. All such expenses and taxes for which the Trustees are not reimbursed shall be borne by the Note Holders in proportion to their respective Beneficial Interests in such Property Interest, as determined in paragraph 3.

12171

7. The Trustees shall be entitled to receive from any moneys received in respect of a Property Interest reasonable compensation for their services in the acquisition, holding and disposition of such Property Interest.

8. The Trustees shall distribute the net proceeds (after payment of costs, expenses and taxes) which they shall receive in respect of a Property Interest, whether received as rents, the proceeds of sale, a condemnation award or otherwise, to the Note Holders in proportion to their respective interests in such Property Interest, as determined in paragraph 3.

9. Any Note Holder, at its expense, may transfer all or any part of its Beneficial Interest in a Property Interest, provided, that it shall give written notice of such transfer and the name and address of the transferee to the Trustee. Upon any such transfer, the term "Note Holder" shall include the transferee of such interest. Each Note Holder shall have the right to require the conveyance, by the Trustees, to it of legal title to that portion of any Property Interest represented by its Beneficial Interest in such Property Interest, and, thereafter, such Note Holder shall not be deemed to have, for the purposes of this Agreement, a Beneficial Interest in such Property Interest, and shall not be deemed to be a Note Holder, in respect of such Property Interest (but shall continue to have a Beneficial Interest in any other Property Interest then held, or thereafter acquired, by the Trustees). All expenses arising in connection with each such conveyance shall be borne by such Note Holder.

10. All notices and other communications hereunder shall be in writing and shall be mailed by first-class, registered or certified mail, postage prepaid, (a) if to the Company at its address set forth above, or at such other address as the

12172

Company may notify the Trustees in writing, (b) if to the Trustees at their addresses set forth above, or at such other address as either of them may furnish the Company and the Note Purchasers in writing, (c) if to the Note Purchasers at their respective addresses set forth in Annex B hereto, or at such address as any of them may furnish the Trustee in writing or (d) if to a Note Holder, at its address appearing on the Register (as defined in Section 2.3 of the Indenture), or at its address specified in the notice delivered to the Trustee pursuant to paragraph 9, or at such other address as it shall furnish the Trustee in writing.

11. The Trustees shall have the right, in their discretion, to appoint one or more designee or designees to take and hold title to all or any part of any Property Interest.

12. The Trustees, by the execution of this Agreement, agree to act as agents for the Note Purchasers and the Note Holders, but only upon the following terms and conditions:

(a) Except as otherwise expressly provided in paragraphs 2 and 3, the Trustees shall be under no obligation to take any action with respect to the Property Interests or pursuant to the Option Agreement and this Agreement, unless and until the taking of such action is requested in writing by all of the Note Holders, nor shall the Trustees be under any obligations to take any such action which, in their opinion, shall be likely to involve them in any expense or liability, unless and until the Trustees shall be furnished with an indemnity satisfactory to them against any liability and expense in connection with the taking of such action.

(b) The Trustees may resign and may be discharged of their duties and obligations under the Option Agreement and this Agreement by sending to the Note Purchasers and the Note Holders, by prepaid registered or certified mail, written notice of such resignation, specifying a date (which shall not be less than 60 calendar days after the date such notice is sent) when such resignation shall take effect and such resignation shall take effect on the date so specified.

12173

13. This Agreement may not be changed, modified, discharged or revoked, except by a writing signed by all of the parties hereto. It is the intention of the parties hereto that the agencies created herein are irrevocable and coupled with an interest, the consideration for each agency created herein being, in part, each and every other agency created herein. Anything in this Agreement or in this paragraph 13 to the contrary notwithstanding, Note Holders holding, at any time, Notes in an aggregate unpaid principal amount at least equal to 51% of the aggregate unpaid principal amount of all Notes then outstanding, or, if no Notes are then outstanding, Note Holders holding at least 51% of all Beneficial Interests in all Property Interests, shall have the right, at any time, to substitute one or more persons (corporate, individual or otherwise) for the Trustees as agents hereunder; and, thereafter, the Trustees shall be relieved of all obligations under this Agreement and such person or persons shall act in the capacity of agents hereunder.

14. This Agreement may be executed by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, and all such counterparts shall together constitute but one and the same instrument.

15. The following are Annex A and Annex B referred to in this Agreement.

12174

ANNEX A
(Property Descriptions)

88-3240

12175

ANNEX B

THE NOTE PURCHASERS

NAME AND ADDRESS

1. Massachusetts Mutual
Life Insurance Company
1295 State Street
Springfield, Massachusetts 01101

Attention: Mr. John B. Joyce

2. The Baltimore Life Insurance
Company
Baltimore Life Building
Mount Royal Plaza
Baltimore, Maryland 21201

Attention: Mr. Richard Banks

3. Monumental Life Insurance Company
Charles and Chase Streets
Baltimore, Maryland 21202

Attention: William Scott, Esquire

4. The Volunteer State Life
Insurance Company
c/o Monumental Life Insurance
Company
Charles and Chase Streets
Baltimore, Maryland 21202

Attention: William Scott, Esquire

5. Federal Life Insurance Company
(Mutual)
6100 North Cicero Street
Chicago, Illinois 60646

Attention: Mr. Joseph N. Warga

28-3740

12176

IN WITNESS WHEREOF, the parties hereto have caused
this instrument to be duly executed as of the day and year
first above written.

[SEAL]

THE NATIONAL SHAWMUT BANK
OF BOSTON
Trustee

Attest:

By _____
Vice President

Assistant Secretary

By _____ (L.S.)
L. H. BAKER
Individual Trustee

28-5240

12177

MASSACHUSETTS MUTUAL LIFE INSURANCE
COMPANY

Attest:

By Vice President

(Seal)

Assistant Secretary

28-5740

12178

THE VOLUNTEER STATE LIFE INSURANCE
COMPANY

Attest:

By

Vice President

(Seal)

Assistant Secretary

28-3240

12179

THE BALTIMORE LIFE INSURANCE COMPANY

Attest:

By Vice President

Assistant Secretary

(Seal)

28-3740

12180

MONUMENTAL LIFE INSURANCE COMPANY

Attest:

By
Vice President

(Seal)

Assistant Secretary

28-5240

12181

FEDERAL LIFE INSURANCE COMPANY
(MUTUAL)

Attest:

By Vice President

(Seal)

Assistant Secretary

28-3740

12182

IN WITNESS WHEREOF, the parties hereto have caused
this Agreement to be signed, sealed and delivered in their
respective names by their respective officers thereunto duly
authorized, the day and year first above written.

SIXTH TOTTENHAM PROPERTIES, INC.

Attest:

Linda Krauer
Assistant Secretary

By Walter Hall

[SEAL]

Witnesses:

Gary E. Matheson
Mary A. Lecky

Attest:

THE NATIONAL SHAWMUT BANK OF BOSTON,
as Trustee

Bernard C. Webb
Assistant Secretary

By D. Wright

[Seal]

Witnesses:

Natalie A. Forrest
Carl A. Shuman

Witnesses:

Natalie A. Forrest
Carl A. Shuman

L. H. Baker (L. S.)
L. H. BAKER
as Individual Trustee

This document was prepared by
Messrs. Nessen & Csaplar
84 State Street
Boston, Massachusetts 02109

12183

STATE OF NEW YORK)
COUNTY OF NASSAU) SS.:

On this 6th day of October, 1972, before me, Perry V. Kaynes, a Notary Public in and for the said County and State, personally in said County and State, appeared Milton Hecht and Linda Kraker, to me personally known to me to be Vice President and Assistant Secretary, respectively, of SIXTH TOTTENHAM PROPERTIES, INC., a Delaware corporation, one of the parties named in and executing the foregoing instrument, who produced said instrument to me in said County and State aforesaid and who, by me being duly sworn, did severally depose, say and acknowledge, on their several oaths, in said County and State aforesaid, that said corporation executed said instrument; that they know the seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that they, being informed of the contents of said instrument, signed and sealed said instrument and that they executed the same in the name and on behalf of said corporation by order, authority and resolution of its Board of Directors and that they signed their names thereto by like order; that they executed the same as, and said instrument is, their free and voluntary act and deed and the free and voluntary act and deed of said corporation for the consideration, uses and purposes therein set forth and expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.

My place of residence is:
My commission expires:
3244 PERRY AVENUE
JAMAICA, N.Y. 11572

Perry V. Kaynes
Perry V. Kaynes
175-20 Wexford Terrace
Jamaica Estates, New York 11432
February 11, 1973
PERRY V. KAYNES
NOTARY PUBLIC, State of New York
No. 81-2033126
Qualified in Queens County
Certificate filed in Nassau County
Commission Expires March 28, 1975

28-3740

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF SUFFOLK) SS:

12184

On this 10th day of October, 1972, before me,
James J. Quigley, a Notary Public in and for the said County
and Commonwealth, personally in said County and Commonwealth,
appeared J. H. Wright and Bernard C. Welch to me, personally
known to me to be Vice President and Assistant Secretary, re-
spectively, of THE NATIONAL SHAWMUT BANK OF BOSTON, a National
Banking Association, one of the parties named in and executing
the foregoing instrument, who produced said instrument to me
in said County and Commonwealth aforesaid and who, by me being
duly sworn, did severally depose, say and acknowledge, on their
several oaths, in said County and Commonwealth aforesaid, that
said association executed said instrument; that they know the
seal of said association, that they, being informed of the con-
tents of said instrument, signed and sealed said instrument and
that they executed the same in the name and on behalf of said
association by order, authority and resolution of its Board of
Directors and that they signed their names thereto by like order;
that they execute the same as, and said instrument is, their free
and voluntary act and deed and the free and voluntary act and
deed of said association for the consideration, uses and pur-
poses therein set forth and expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal in the County and Commonwealth afore-
said the day and year above written.

My place of residence is:
204 West Eighth Street
South Boston, Massachusetts 02127
My commission expires:
February 11, 1977

James J. Quigley
James J. Quigley
[Seal]
NOTARY PUBLIC
COMMONWEALTH OF MASSACHUSETTS

12185

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF SUFFOLK) ss.:

On this 10th day of October, 1972, before me,
James J. Quigley, a Notary Public in and for the said
County and Commonwealth, personally appeared L. H. BAKER,
named in the foregoing instrument, which instrument was
produced to me in said County and Commonwealth by the said
L. H. BAKER, who is to me personally known and personally
known to be the identical person who is described in, whose
name is subscribed to and who executed and signed the within
and foregoing instrument as a party thereto, and he duly
acknowledged to me in said County and Commonwealth that,
being informed of the contents of said instrument, he
executed the within and foregoing instrument as his free
and voluntary act and deed and that he delivered the same
as such, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereto set my hand and
affixed my official seal in said County and Commonwealth
of the day year first above written.

James J. Quigley
James J. Quigley

(Seal)

My place of residence is:
204 West Eighth Street
South Boston, Massachusetts 02127
My commission expires:
February 11, 1977

(Seal)

STATE OF OREGON,)
County of Klamath) ss.

Filed for record at request of:
TRANSAMERICA TITLE INS. CO
on this 19th day of OCTOBER A.D. 1972
at 8:34 o'clock A.M. and duly
recorded in Vol. M 72 of DEEDS
Page 12144

WM. D. MILNE, County Clerk

By *Hazel Drayton*
Fee \$ 30.00 Deputy.