

(Loan No. 568475-8)

AFTER RECORDING RETURN TO: 1999 JUL 13 AM 11:46

Washington Mutual Bank
1191 Second Avenue, SAS0765
Seattle, Washington 98101

Attention: Elaine Wilcox

MTC 48491
LOAN MODIFICATION AGREEMENT

THIS AGREEMENT is made as of May 1, 1999 between DINO HERRERA ("Borrower") and WASHINGTON MUTUAL BANK, a Washington corporation ("Lender").

RECITALS

A. Borrower obtained a loan (the "Loan") from Washington Mutual Bank, in the original principal amount of Forty-Four Thousand Four Hundred and 00/100 Dollars (\$44,400.00).

B. The Note is secured by a Deed of Trust ("Deed of Trust") dated November 20, 1995, among Borrower as grantor, MOUNTAIN TITLE COMPANY, an Oregon corporation, as trustee, and WASHINGTON MUTUAL BANK, a Washington corporation, as beneficiary, recorded on December 5, 1995, in Klamath County, Oregon in Volume M95, page 33274. The Deed of Trust encumbers certain real property located in Klamath County, Oregon, more particularly described on Exhibit A attached hereto (the "Property").

C. The Note, the Deed of Trust, this Agreement and all other documents evidencing or securing the Loan are sometimes collectively referred to as the "Loan Documents."

D. Borrower has requested that Lender advance additional funds to pay outstanding accrued but unpaid interest, shortages in reserves, and fees and costs related to a pending foreclosure action that Lender has agreed to terminate upon execution of this Agreement. Lender has agreed on the terms and conditions contained herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to each, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Status of Loan.** As of the date of this Agreement, the current principal balance of the Loan is \$43,645.68. with interest paid through August 30, 1997. All agreed to advance to Borrower an additional Nine Thousand Three Hundred Fifty-Four and 32/100 (\$9,354.32) (the "Additional Advance"). The Additional Advance shall be applied as follows: \$5,637.60 to accrued but unpaid interest through March 31, 1999, \$2,121.64 for reserves for taxes and insurance, and the remainder to fees and costs incurred in connection with the foreclosure and the transactions contemplated by this Agreement.

2. **Payment by Borrower; Termination of Foreclosure.** Concurrently with the execution hereof, Borrower agrees to make a payment in the amount of \$2,000 to Lender to be applied remaining outstanding fees and costs incurred by Lender in connection with the prior defaults by Borrower and foreclosure action instituted by Lender. Upon Borrower's compliance with all of the terms and conditions contained herein, Lender agrees to terminate the current foreclosure action related to the Loan.

3. **Modifications to the Note.** The Note is modified as follows:

3.1 **Principal Balance.** Paragraph 1 of the Note (Borrower's Promise to Pay) is amended in its entirety to read as follows:

***1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$53,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is Washington Mutual Bank. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the 'Note Holder.'"

3.2 **Payment Amount.** Paragraph 3(B) of the Note (Monthly Payments) is amended in its entirety to read as follows:

"(B) Amount of My Monthly Payments

Beginning May 1, 1999, and continuing through May 1, 2029, each of my monthly principal and interest payments will be in the amount of U.S. \$379.71."

3.3 **Notices.** The following section is added as subsection F to Section 6 of the Note:

"Notwithstanding anything to the contrary contained herein or in the Security Interest (as defined herein), I shall be entitled to only two such default notices in any 12 month period, and if subsequent defaults occur within such period Note Holder may exercise its remedies for default hereunder and under the Security Instrument immediately and without further notice to me."

4. **Modifications to Deed of Trust.** The Deed of Trust is modified as follows:

4.1 **Amount Secured.** The fifth sentence of the first paragraph of the Deed of Trust is amended in its entirety to read as follows:

"Borrower owes Lender the principal sum of FIFTY-THREE THOUSAND AND 00/100 DOLLARS (\$53,000.00)."

4.2 **Obligations Secured.** The seventh sentence of the first paragraph on page 1 of the Deed of Trust is modified to read as follows:

"This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest advanced under paragraph 7 to protect the security of this Security Instrument; (c) the performance of Borrower's covenants and agreements under this Security Agreement and the Note; and (d) the performance of Borrower's covenants and agreements under the loan modification agreement dated as of May 1, 1999 between Borrower and Lender (the "Loan Modification Agreement")."

4.4 **Cross Default.** The first sentence of paragraph 21 on page 3 of the Deed of Trust is amended to read as follows:

"21. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in the Loan Modification Agreement or this Security Agreement (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise)."

4.5 **Notices.** The following sentence is hereby added to the end of the first paragraph of paragraph 21 of the Deed of Trust:

"Notwithstanding anything to the contrary contained herein or in the Note, Borrower shall be entitled to only two such default notices in any 12 month period, and if subsequent defaults occur within such period Lender may exercise its remedies for default hereunder and under the Note immediately and without further notice to Borrower."

5. **Liens Prohibited.** Borrower shall keep the Property free from liens and claims of all kinds, and whether or not superior to the Deed of Trust, except as provided herein.

6. **Full Force and Effect.** Except as herein modified, all of the terms, covenants and conditions of the Loan Documents are in full force and effect without modification or

change. Nothing herein shall be deemed to affect or modify the priority of the Deed of Trust. All references to the Note and the Deed of Trust in any document shall be deemed to mean the Note and the Deed of Trust as herein modified.

7. **Reaffirmation of Obligations.** Borrower hereby covenants ratifies and reaffirms each and every of his and her obligations under the Loan Documents, as herein modified, including, but not limited to the obligation of Borrower to pay the indebtedness evidenced and secured thereby.

8. **Indemnification.** Borrower hereby indemnifies, defends and agrees to hold Lender harmless from the claims of any third parties arising in any way out of the Property or the Loan Documents.

9. **Encumbrances.** Borrower warrants and represents to Lender that the only financial encumbrances affecting the Property as of the date hereof those described on Exhibit B attached hereto.

10. **Expenses.** All fees, charges and expenses associated with the transactions contemplated by this Agreement, including but not limited to recording fees, title insurance premiums, escrow fees, appraisal and inspection costs and attorneys' fees shall be paid for in their entirety by Borrower. Lender shall incur no expense in connection with the transactions contemplated by this Agreement.

11. **Release.** In consideration of Lender's entering into this Agreement, Borrower does for himself and his heirs, legatees, representatives, successors, transferees and assigns, hereby forever fully release, discharge and acquit Lender and its predecessors, successors, assigns, employees, representatives, directors, officers, shareholders, attorneys, parents, subsidiaries, affiliates and agents of and from any and all claims, demands, sums of money, actions, rights, causes of action, obligations and liabilities of any kind whatsoever, whether known or unknown, at law or in equity which any of Borrower may have had, claims to have had or now has or claims to have, or might in the future have or assert that are or may be based on any facts, acts, conduct, representations, omissions, contracts, claims, events, causes, matters or other things occurring or at any time on or before the date of this Agreement. Borrower acknowledges that this Agreement is entered into freely and voluntarily after having carefully read it, with full knowledge of all relevant facts and the nature, extent and duration of his rights and claims, if any, with advice of competent counsel independently selected by him, and without duress or coercion of any kind on the part of Lender, and Lender's agreements and undertakings contained in this Agreement constitute substantial and sufficient consideration for the foregoing release and waiver of claims.

12. **Attorneys' Fees and Legal Expenses.** In the event of any default under the Note or the other Loan Documents, or in the event that any dispute arises relating to the interpretation, enforcement or performance of the Loan Documents, Lender shall be entitled to collect from Borrower on demand all fees and expenses incurred in connection therewith, including but not limited to fees of attorneys, accountants, appraisers, environmental

inspectors, consultants, expert witnesses, arbitrators, mediators and court reporters. Without limiting the generality of the foregoing, Borrower shall pay all such costs and expenses incurred in connection with: (a) arbitration or other alternative dispute resolution proceedings, trial court actions and appeals; (b) bankruptcy or other insolvency proceedings of Borrower, any guarantor or other party liable for any of the obligations of the Note or the other Loan Documents or any party having any interest in any security for any of those obligations; (c) judicial or nonjudicial foreclosure on, or appointment of a receiver for, any property securing the Note; (d) post-judgment collection proceedings; (e) all claims, counterclaims, cross-claims and defenses asserted in any of the foregoing whether or not they arise out of or are related to the Loan or any security for the Note; (f) all preparation for any of the foregoing; and (g) all settlement negotiations with respect to any of the foregoing.

13. **Final and Complete Expression.** This Agreement, and the various other documents executed in connection herewith, constitutes the final and complete expression of the parties with respect to the transactions contemplated herein and may not be modified, amended, altered or superseded except by an agreement in writing signed by all parties hereto.

14. **Captions.** The headings to the various sections of this Agreement have been inserted for convenience of reference only and do not modify, amend, alter or supersede the express provisions hereof.

15. **No Joint Venture.** Nothing contained herein or in any of the Loan Documents shall be construed as creating a partnership or joint venture between or among Borrower and Lender or between Lender and any other party, or cause Lender to be responsible in any way for the debts or obligations of Borrower or any other party, it being the express intent of the parties that the relationship between Borrower and Lender is, and at all times shall remain, that of a borrower and lender.

16. **Third-Party Beneficiaries.** Nothing contained herein or in any of the Loan Documents shall be construed as creating a third-party beneficiary relationship between Borrower, Lender and any other party.

17. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

18. **Further Assurances.** Borrower agrees to execute such other instruments and provide Lender with such further assurances as Lender, in its reasonable discretion, deems necessary to protect its security or to more fully carry out the intents and purposes of this Agreement.

19. **Conflicts Between Documents.** In the event of a conflict in the terms and conditions of any of the Loan Documents and this Agreement, the terms and conditions of this

Agreement shall prevail.

20. **Counterparts.** This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts shall collectively constitute one agreement.

21. **Time of Essence.** Time is of the essence under this Agreement and in the performance of every term, covenant and obligation contained herein.

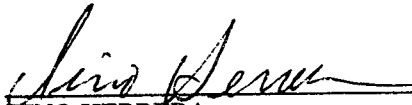
22. **Binding Effect.** All agreements, covenants, conditions and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto.

23. **Governing Law.** This Agreement is made with reference to and is to be construed in accordance with the laws of the state of Oregon.

DATED as of the day and year first above written.

UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY WASHINGTON MUTUAL BANK AFTER OCTOBER 3, 1989 CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY WASHINGTON MUTUAL BANK TO BE ENFORCEABLE.

BORROWER:


DINO HERRERA

LENDER:

WASHINGTON MUTUAL BANK, a
Washington corporation

By 
Its Assistant Vice President

27968

STATE OF OREGON

)
) ss.
)

County of Klamath

This instrument was acknowledged before me on the 23 day of June, 1999, by DINO HERRERA.



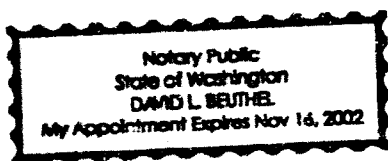
Jana M. Walker
Notary Public for Oregon
My Commission Expires: 1/26/2002

STATE OF WASHINGTON

)
) ss.
)COUNTY OF King

I certify that I know or have satisfactory evidence that Elaine Wilcox is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the of WASHINGTON MUTUAL BANK, a corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 6th day of July 1999.



David L. Beuthel
(Signature of Notary)
David L Beuthel
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at Seattle
My appointment expires Nov. 16, 2002

EXHIBIT A

That certain real property situated in the county of Klamath, state of Oregon, and is described as follows:

Lots 7 and 8, block 13 of CHILOQUIN DRIVE ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon

EXHIBIT B

The property described on Exhibit A is subject to the following financial encumbrances:

1. Deed of Trust, including the terms and provisions thereof to secure the amount noted below and other amounts secured thereunder, if any:

Grantor	:	Dino Herrera
Trustee	:	Mountain Title Company
Beneficiary	:	Washington Mutual Bank
Amount	:	\$53354.32
Dated	:	November 20, 1995
Recorded	:	December 5, 1995
Recording No.	:	Volume M95, Page 33274

2. Deed of Trust, including the terms and provisions thereof to secure the amount noted below and other amounts secured thereunder, if any:

Grantor	:	Dino Herrera
Trustee	:	Mountain Title Company
Beneficiary	:	The Klamath Tribes Housing Authority
Amount	:	\$37,500
Dated	:	October 27, 1995
Recorded	:	December 5, 1995
Recording No.	:	Volume M95, Page 33278

FPLS

27971

JOINDER TO LOAN MODIFICATION AGREEMENT

THIS JOINDER is executed as of May 1, 1999, by The Klamath Tribes Housing Authority, a Public Corporate Body, now known as The Klamath Tribes Housing Department ("Klamath Tribes") in favor of Washington Mutual Bank, a Washington corporation ("Washington Mutual").

Washington Mutual and Dino Herrera ("Borrower") entered into a loan modification agreement dated May 1, 1999 ("Modification Agreement") relating to that certain Deed of Trust executed by Borrower, as grantor, in favor of Mountain Title Company, an Oregon corporation, as trustee, for the benefit of Washington Mutual, dated November 20, 1995, and recorded December 5, 1995, in Volume M95, page 33274, mortgage records of Klamath County, Oregon (the "Washington Mutual Deed of Trust"). Under the terms of the Modification Agreement, Washington Mutual agreed to advance additional funds to Borrower, to be secured by the Washington Mutual Deed of Trust.

Klamath Tribes made a loan to Borrower in the original principal amount of \$37,500, which loan is secured by a deed of trust executed by Borrower, as grantor, to Mountain Title Company of Klamath County, as trustee, for the benefit of Klamath Tribes, dated October 27, 1995, and recorded December 5, 1995, in Volume M95, page 33278, mortgage records of Klamath County, Oregon (the "Klamath Tribes Deed of Trust"). Klamath Tribes has reviewed the Modification Agreement to which this Joinder is attached and hereby agrees and acknowledges that the Klamath Tribes' Deed of Trust, is, and shall remain, subordinate and junior to the Washington Mutual Deed of Trust, including all additional amounts advanced pursuant to the Modification Agreement.

Dated: June 23, 1999.

THE KLAMATH TRIBES HOUSING DEPARTMENT

By: Roy LaFromboise

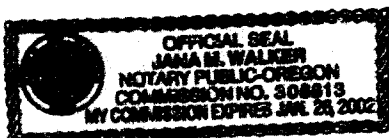
Roy LaFromboise, Housing Director

STATE OF OREGON)

) ss.

County of Klamath)

This instrument was acknowledged before me on the 23 day of June, 1999 by Roy LaFromboise as Housing Director of The Klamath Tribes Housing Department.



Jana M. Walker
Notary Public for Oregon

My Commission Expires: 1/26/2002

State of Oregon, County of Klamath
Recorded 7/13/99, at 11:46 a. m.
In Vol. M99 Page 27962
Linda Smith,
County Clerk Fee \$ 55 KR