



200204190128
Skagit County Auditor

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COVER SHEET (For Multiple Documents)

RETURN TO:

ISLAND TITLE COMPANY
PO BOX 670
BURLINGTON WA 98233

ISLAND TITLE CO.

B18026 ✓

DOCUMENT TITLE(S) (list all titles contained in document):

- 1. MODIFICATION AGREEMENT
- 2.

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

- 1. 200109240155
- 2.

ADDITIONAL REFERENCE NUMBERS ON PAGE _____ OF DOCUMENT.

GRANTOR(S) (Last name, first name and initials):

- 1. BALES, JERRY
- 2. BALES, KATHERINE A.
- 3.
- 4.

ADDITIONAL NAMES ON PAGE _____ OF DOCUMENT.

GRANTEE(S) (Last name, first name and initials):

- 1. INDYMAC BANK, F.S.B.
- 2.
- 3.
- 4.

ADDITIONAL NAMES ON PAGE _____ OF DOCUMENT.

LEGAL DESCRIPTION (Abbreviated: i.e., lot, block, plat or quarter, quarter, section, township and range):

Lots 3 and 4, Blk. 9, SEIGFREIDS TO BAY VIEW

ADDITIONAL LEGAL(S) ON PAGE _____ OF DOCUMENT.

ASSESSOR'S PARCEL/TAX I.D. NUMBER: P71103

TAX PARCEL NUMBER(S) FOR ADDITIONAL LEGAL(S) ON PAGE _____ OF DOCUMENT.

**MODIFICATION AGREEMENT
(Long Form)**

This Modification Agreement ("Agreement") is made as of **APRIL 8, 2002**, by **JERRY BALES AND KATHERINE A. BALES, HUSBAND AND WIFE**, ("Borrower"), and **INDYMAC BANK, F.S.B., A FEDERALLY CHARTERED SAVINGS BANK**, ("Lender").

Factual Background

A. Under a construction loan agreement dated **SEPTEMBER 14, 2001** (the "Construction Loan Agreement"), Lender agreed to make a loan (the "Loan") to Borrower. Capitalized terms used here without definition have the meanings given to them in the Construction Loan Agreement.

B. The Loan is evidenced by a note dated **SEPTEMBER 14, 2001** (the "Note"), made payable to Lender in the stated principal amount of **\$194,500.00**. The Note is secured by a Construction and Permanent Deed of Trust and Fixture Filing dated **SEPTEMBER 14, 2001** (the "Security Instrument"), executed by the Borrower as Trustor, to **CHICAGO TITLE COMPANY**, as Trustee, for the benefit of Lender as Beneficiary. The Security Instrument was recorded on **SEPTEMBER 24, 2001** in the Official Records of **SKAGIT** County, State of **WASHINGTON** as Instrument No. **2001-09240155**. The Security Instrument encumbers certain property located in **SKAGIT** County, State of **WASHINGTON**, as more particularly described in Exhibit "A" attached to this Agreement (the "Property"). The street address of the Property is as follows: **12499 C STREET, MOUNT VERNON, WASHINGTON 98273**.

C. As used here, the term "Loan Documents" means the Construction Loan Agreement, the Note, the Security Instrument, and any other documents executed in connection with the Loan, including those which evidence, guarantee, secure or modify the Loan, as any or all of them may have been amended to date. This Agreement is a Loan Document.

D. As of the date of this Agreement, the outstanding principal balance of the Loan is **\$186,491.64**.

E. Borrower and Lender now wish to modify the Loan as set forth below.

Agreement

Therefore, Borrower and Lender agree as follows:

1. Truth and Accuracy of Recitals. Acknowledgment of Indebtedness. The Borrower acknowledges the truth and accuracy of the recitals set forth above in the Factual Background and that it is liable and indebted to Lender for the principal amount set forth above together with interest thereon at the rate specified in the Note and all other fees, charges and expenses accrued and unpaid under the Loan Documents (the "Indebtedness"). Borrower acknowledges that: (i) it has no defense, counterclaim, offset, cross-complaint, claim or demand of any kind or nature whatsoever to reduce or eliminate all or any part of its liability to repay the Indebtedness which is due, owing and unpaid; (ii) nothing but full and complete performance of all of its obligations in the payment of its



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Indebtedness shall satisfy and discharge its liability to Lender, and (iii) the Loan Documents are in full force and effect, are duly executed and delivered to Lender and constitute valid, binding agreements and obligations, are enforceable in accordance with their terms, and are hereby reaffirmed. Borrower hereby irrevocably waives and relinquishes all rights, if any, to directly or indirectly challenge, attack or dispute the Loan Documents, Lender's lien interest in the Property, the Indebtedness, or any actions of Lender taken or omitted to be taken in connection therewith. Borrower further acknowledges that, notwithstanding Lender's willingness to enter into this Agreement, Lender has made no representations regarding, and shall have no obligation to make, any further modifications to the Loan Documents.

2. Release of Claims. Borrower acknowledges that it does not have any claims, demands, actions, causes of action, suits and/or cross-complaints which could be asserted against Lender, its officers, representatives, agents, attorneys, employees, subsidiaries, parents, affiliates or their successors and assigns. Except for any breach of this Agreement by Lender, and to the extent that any such claim, which Borrower represents and warrants, has not been assigned may exist as the date hereof, Borrower, and on behalf of its heirs, estates, successors and assigns, hereby forever irrevocably releases Lender, its officers, representatives, agents, attorneys, employees, subsidiaries, parents, affiliates and their successors and assigns from any and all claims, demands, suits, causes of action, cross-complaints, assertions, liabilities or debts of any nature whatsoever, whether known or unknown, absolute or contingent, presently existing or hereafter discovered, pertaining to, connected with or arising out of the transactions so described in this Agreement, including, without limitation, any delay in initial funding of the transaction, any relationship between Lender and Borrower, any verbal or written loan agreement, or other commitment, or any document, instrument or agreement entered into in connection herewith or referred to herein, including, without limitation, the Loan Documents.

3. Modification of Loan Documents. The Loan Documents are hereby amended as follows:

(a) The Required Completion Date set forth in the Construction Loan Agreement is extended from **MARCH 14, 2002** to **APRIL 14, 2002**.

(b) Effective with this Modification Agreement, the principal balance under the Note shall be increased to **\$209,500.00**, representing the additional advance to principal of the amount of **\$15,000.00**, which shall be disbursed to pay construction costs in accordance with the Construction Loan Agreement.

(c) Borrower shall have the right to make a prepayment of all the unpaid principal ("full prepayment") or a prepayment of only part of the unpaid principal ("partial prepayment") under the following conditions:

(i) If a full, partial prepayment or partial prepayment of more than twenty percent (20%) of the original principal amount is made during the Construction Period or within a twelve (12) month period within the first year of the Permanent Loan, a prepayment charge in an amount equal to the payment of six (6)



months' advance interest shall be due on the amount prepaid, which is in excess of twenty percent (20%) of the original principal amount in that twelve (12) month period.

(ii) If a partial prepayment is made equal to one or more monthly payments, the due date of the next scheduled monthly payment may be advanced no more than one month. If a partial prepayment is made in any other amount, all subsequent monthly payments must still be made as scheduled.

(d) The Security Instrument is modified to secure payment and performance of the Loan as amended to date, in addition to all other secured obligations as therein defined.

4. Conditions Precedent. Before this Agreement becomes effective and any party becomes obligated under it, all of the following conditions shall have been satisfied at Borrower's sole cost and expense in a manner acceptable to Lender in the exercise of Lender's sole judgment:

(a) Lender shall have received such assurance as Lender may require that the validity and priority of the Security Instrument has not been and will not be impaired by this Agreement or the transactions contemplated by it.

(b) Lender shall have received fully executed and, where appropriate, acknowledged originals of this Agreement, the short form of this Agreement and any other documents which Lender may require or request in accordance with this Agreement or the other Loan Documents.

(c) The short form of this Agreement shall have been recorded in the Official Records of the County of **SKAGIT**, State of **WASHINGTON**, in addition to all other documents which Lender may require to be recorded.

(d) Lender shall have received an extension fee in the amount of **\$486.25** in immediately available funds.

(e) Lender shall have received an additional advance fee in the amount of **\$600.00** in immediately available funds.

(f) Lender shall have received reimbursement, in immediately available funds, of all costs and expenses incurred by Lender in connection with this Agreement, including charges for title insurance (including endorsements), recording, filing and escrow charges, fees for appraisal, architectural and engineering review, construction services and environmental services, mortgage taxes, and legal fees and expenses of Lender's counsel, which Lender may incur in connection with this Agreement up to and including the time when, the short form of this Agreement is recorded.

5. Borrower's Representation and Warranties. Borrower represents and warrants to Lender as follows:

(a) Loan Documents. All representations and warranties made and given by Borrower in the Loan Documents are true, accurate and correct.



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(b) No Default. No Event of Default has occurred and is continuing, and no event has occurred and is continuing which, with notice or the passage of time or both, would be an Event of Default.

(c) Property. Borrower lawfully possesses and holds fee simple title to all of the Property which is real property, and the Security Instrument is a first and prior lien on that property. Borrower owns all of the Property which is personal property free and clear of any reservations of title and conditional sales contracts, and also of any security interests other than the Security Instrument, which is a first and prior lien on such property. There is no financing statement affecting any Property on file in any public office except for financing statements in favor of Lender.

6. Incorporation. This Agreement shall form a part of each Loan Document, and all references to a given Loan Document shall mean that document as hereby modified.

7. No Prejudice; Reservation of Rights. This Agreement shall not prejudice any rights or remedies of Lender under the Loan Documents. Lender reserves, without limitation, all rights which it has against any indemnitor, grantor, or endorser of the Note.

8. No Impairment. Except as specifically hereby amended, the Loan Documents shall each remain unaffected by this Agreement and all such documents shall remain in full force and effect. Nothing in this Agreement shall impair the lien of the Security Instrument, which as hereby amended shall remain one deed of trust with one power of sale, creating a first lien encumbering the Property.

9. Purpose and Effect of Lender's Approval. Lender's approval of any matter in connection with the Loan shall be for the sole purpose of protecting Lender's security and rights. No such approval shall result in a waiver of any default of Borrower. In no event shall Lender's approval be representation of any kind with regard to the matter being approved.

10. Disclosure to Title Company. Without notice to or the consent of Borrower, Lender may disclose to any title insurance company which insures any interest of Lender under the Security Instrument (whether as primary insurer, coinsurer or reinsurer) any information, data or material in Lender's possession relating to Borrower, the Loan, the Improvements or the Property.

11. Integration. The Loan Documents, including this Agreement: (a) integrate all the terms and conditions mentioned in or incidental to the Loan Documents; (b) supersede all oral negotiations and prior and other writings with respect to their subject matter; and (c) are intended by the parties as the final expression of the agreement with respect to the terms and conditions set forth in those documents and as the complete and exclusive statement of the terms agreed to by the parties. If there is any conflict between the terms, conditions and provisions of this Agreement and those of any other agreement or instrument, including any of the other Loan Documents, the terms, conditions and provisions of this Agreement shall prevail.



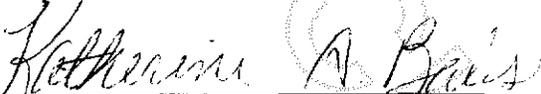
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12. Miscellaneous. This Agreement and any attached consents or exhibits requiring signatures may be executed in counterparts, and all counterparts shall constitute but one and the same document. If any court of competent jurisdiction determines any provision of this Agreement or any of the other Loan Documents to be invalid, illegal or unenforceable, that portion shall be deemed severed from the rest, which shall remain in full force and effect as though the invalid, illegal or unenforceable portion had never been a part of the Loan Documents. This Agreement shall be governed by the laws of the state identified in the Loan Documents as the choice of laws. As used here, the word "include(s)" means includes(s), without limitation," and the word "including" means "including, but not limited to."

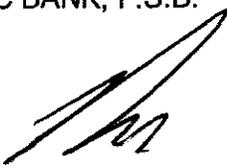


JERRY BALES



KATHERINE A. BALES

INDYMAC BANK, F.S.B.


By: _____
Name: MARTIN MARTINEZ
Title: ASSISTANT SECRETARY



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EXHIBIT "A"

Lots 3 and 4, Block 9, ADDITION TO BAY VIEW, WASHINGTON, (SEIGFREID'S), according to the plat thereof, recorded in Volume 1 of Plats, page 11, records of Skagit County, Washington.

Situated in Skagit County, Washington.

- END OF EXHIBIT "A" -



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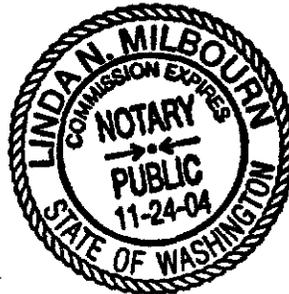
ACKNOWLEDGMENT

STATE OF WA)
COUNTY OF SKAGIT)

On 4-9-02 before me, LINDA MILBOURN, a Notary Public in and for the State of WA,
I personally appeared JERRY BALES
[and KATHY BALES], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person[s] whose name[s] [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized [capacity/capacities], and that by [his/her/their] signature[s] on the instrument the person[s], or the entity upon behalf of which the person[s] acted, executed the instrument.

WITNESS my hand and official seal.

Linda Milbourn
(Signature)



(Space above for official notarial seal)


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