THE CITY OF PROVIDENCE

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 333

Approved June 12, 1986

WHEREAS, Mayor Joseph R. Paolino, Jr. and Claremont Development Associates, Inc. (Claremont) have entered into an agreement dated March 7, 1986 (Agreement) regarding Claremont's acquisition of the former Outlet Building and Garage (Outlet Property); and

WHEREAS, the Agreement further provides terms and conditions for a loan to Claremont from the City in the amount of 4.7 million dollars to assist Claremont in the acquisition and development of the Outlet Property; and

WHEREAS, the Agreement further provides for an assessment of taxes and a method of payment thereof for a period of ten years; and

WHEREAS, a copy of said Agreement is attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Providence hereby approves and ratifies said Agreement entered into by Joseph R. Paolino, Jr., Mayor of Providence, and Claremont and further authorizes the Mayor to take any and all action necessary to implement and effectuate the terms and conditions of said Agreement.

IN CITY COUNCIL
JUN 5 1986
READ AND PASSED
Nicholas W. Easton PRES.
Rose M. Mendonca CLERK

APPROVED
JUN 12 1986

IN CITY COUNCIL

APR 17 1986

FIRST READING

REFERRED TO COMMITTEE ON FINANCE

Rose M Mendonca CLERK

THE COMMITTEE ON

FINANCE

Recommends Be Continued

Rose M Mendonca

Clerk

April 24, 1986

May 12, 1986

THE COMMITTEE ON

FINANCE

Approves Passage of

The Within Resolution

Rose M Mendonca

Chairman

May 20, 1986

Councilman Glavin, Councilman Dillon

Councilwoman Fargnoli (By Request)

OUTLET PROJECT

MEMORANDUM AGREEMENT

Dated: March 7, 1986

In consideration of Claremont Development Associates, Inc. ("Developer") acquiring an option to purchase the Outlet Company Building and Garage and its commitment to undertake a proposed $35 million development of a residential-commercial complex at the Outlet site ("Project"), the City of Providence ("City") agrees to loan Developer $4.7 million on the terms and conditions outlined below.

(1) PROJECT: A $35 million development plan to be undertaken by Developer consisting of the acquisition and rehabilitation of the Outlet Department Store and Outlet Garage which, when completed, will provide (i) approximately 300 residential apartments, (ii) approximately 100,000 gross square feet of commercial retail space and (iii) approximately 550 parking spaces.

(2) CITY LOAN: $4.7 million Project loan to be drawn by Developer in either of the following two ways: (i) in the full amount on or after purchase of Project land; or (ii) to be set aside in an escrow fund and drawn by Developer as needed to cover operating deficits or Project costs.

(3) LOAN PARTIES:

<u>Borrower</u>:

Claremont Development Associates, Inc., or a limited partnership to be formed by Developer.

<u>Lender</u>:

City of Providence.

(4) TERM:

(A) <u>Original Term</u>:

Ten years.

(B) <u>Optional Term</u>:

After Original Term, Developer has option to extend loan for additional 5 years.

(5) INTEREST:

(A) Original Term:

Years 1 and 2 - zero percent

Years 3 through 8 - 8% (4% of which is accrued if there is a negative cash flow in any year which exceeds $187,000).

Years 9 and 10--8% to be paid each year.

Interest is paid semi-annually in arrears. All interest accrued is paid at end of 10th year.

(B) Optional Term:

Years 11 through 15--market rate but no less than interest rate on existing first mortgage.

(6) AMORTIZATION:

(A) Original Term:

Years 1 through 10 no amortization, payable at end of year 10, unless Optional Term is elected.

(B) Optional Term:

20 year amortization schedule, balance paid in full at end of year 15.

(7) REAL ESTATE TAXES:

Taxes will be paid in accordance with Schedule A attached hereto.

(8) SECURITY:

First mortgage on garage, or a letter of credit, or such other security as is acceptable to parties.

(9) LINKAGE:

$47.000 paid by Developer at closing. Developer commits to make $200,000 of "streetscape improvements." Should Developer expend less than $200,000 in streetscape improvements, then Developer agrees to reduce amount of City loan by an amount equal to the difference between streetscape improvements and $200,000.

(10) CONTINGENT INTEREST:

(A) Upon receipt of a firm financing commitment for the primary financing of the Project, Developer will produce a final financial projection for the Project. The projection to be furnished will use the same assumptions as to income and expenses (adjusted to reflect actual debt service and 15% annual return on Developer's equity in Project) as are set forth in the February 26, 1986 projection. To the extent that actual results in any calendar year from operation of the Project are better than projected, then City will receive for such calendar year an amount equal to 25% of the amount by which the actual results are better than the final projected results.

(B) If during any calendar year, the Project experiences a positive cash flow (defined as the amount by which gross income exceeds operating expenses, debt service, return on equity and real estate taxes determined on an accrual basis) City will be paid 25% of such positive cash flow for such year.

(C) Aggregate amounts payable in any year to City under 9(A) and 9(B) above will not exceed the amount which the City would have received if Developer paid City for such year an interest rate on the amount of loan proceeds advanced equal to the base interest rate payable by Developer on first mortgage securing the residential--commercial facility.

Developer agrees to secure, at its expense, annual certified financial statements of the Borrower partnership reported upon by independent certified public accountants of its choosing and to make such annual reports available to the City for its confidential review.

(11) DUE ON SALE:

If during the Original Term or the Optional Term, Developer sells entire Project in a bulk sale or converts garage portion to a condominium, then outstanding loan balance is due and payable upon sale including any interest or real estate tax accruals.

If during Original Term or Optional Term Developer converts residential-commercial portion into condominium or cooperative, or sells in a bulk sale the residential-commercial portion, then the Real Estate Tax Agreement set forth in Exhibit A terminates and any accrued, unpaid taxes are due and payable upon the sale of first unit.

A sale or re-sale of limited partnership interest in the Project does not constitute a sale under this Due on Sale provision.

(12) PREPAYMENT:

Developer has right to prepay at anytime without penalty.

(13) CONDITIONS:

(A) City Council Approval.

(B) Deposit of $4.7 million into loan escrow account on or before May 1, 1986.

(C) Developer will secure an option to purchase real estate site of Project.

CITY OF PROVIDENCE

By ______________________
Joseph R. Paolino, Jr.

CLAREMONT DEVELOPMENT ASSOCIATES, INC.

BY ______________________
Patrick Carney

REAL ESTATE TAX SCHEDULE

OUTLET BUILDING PROJECT
REAL ESTATE TAXES
PAYABLE SEMI-ANNUALLY
IN JULY AND DECEMBER

July 1986-June 1987	$ 77,500	(50% of $155,000)
July 1987-June 1988	155,000	
July 1988-June 1989	155,000	
July 1989-June 1990	232,500	(50% of $155,000 + 50% of $310,000)
July 1990-June 1991	310,000	
July 1991-June 1992	310,000	
July 1992-June 1993	360,000	(50% of $310,000 + 50% of $410,000)
July 1993-June 1994	410,000	
July 1994-June 1995	410,000	
July 1995-June 1996	410,000	
July 1996-Dec 1996	205,000	
	$3,035,000	Subtotal
	274,000	At Closing 1985
	$3,309,000	TOTAL

Furthermore, it is agreed and understood that the fixed payments as outlined above will be paid by the subject property if available from cash flow. In any year in which the cash flow of the property is unable to meet the required payment (or any portion thereof), said amount will be accrued interest free until such subsequent year as the property cash flow is sufficient to pay said taxes. In the event the City is unable to waive interest, the principal amount will be lowered and an appropriate interest added, so that the net effect is the same as in the schedule as outlined above. In other words, the interest will be imputed. Provided, further, in the event the Project experiences a positive cash flow during the above-stated time period, Developer agrees to pay any accrued unpaid taxes from prior years to the extent of any such positive cash flow.