



20031029000720730 Pg 1/4 22.00  
Shelby Cnty Judge of Probate, AL  
10/29/2003 10:25:00 FILED/CERTIFIED

**FIRST AMENDMENT TO SUBORDINATION AND LIEN PRIORITY  
AGREEMENT**

**STATE OF ALABAMA)  
SHELBY COUNTY)**

This First Amendment to Subordination and Lien Priority Agreement (the First Amendment) is made this 30 day of Sept, 2003 by and between Union State Bank (Bank), Creed Development, LLC (Creed) and Randall H. Goggans and wife Holly H. Goggans (herein collectively Goggans).

Whereas, the parties executed a Subordination and Lien Priority Agreement which is recorded in Instrument 20030627000405930 Probate Office of Shelby County, Alabama (the Agreement); and,

Whereas, the parties are desirous of amending the Agreement, hence this First Amendment.

Now, therefore, in consideration of the premises, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. All capitalized terms contained in this First Amendment shall have the same meaning as set out in the Agreement.
2. Paragraph 1 of the Agreement is hereby deleted in its entirety and the following substituted in its place: "The Creed Second is hereby expressly declared subordinate to the Development Mortgage and the Balance; provided, however, that the foregoing subordination is expressly limited to the amount of \$493,598.50 as of October 15, 2003".
3. Paragraph 3(c) contained in the Agreement is hereby deleted in its entirety and in its place the following inserted: "Third to the Balance in an amount not to exceed \$242,500.00 as of October 15, 2003".
4. Notwithstanding anything to the contrary contained in the Development Mortgage, any of the loan documents in conjunction with the Development Mortgage, the Agreement or otherwise, Bank and Creed hereby authorize Goggans to retain for their personal use the sum of \$25,000.00 which is a portion of the \$30,000.00 earnest money for the Lots. Creed shall be entitled to \$5,000.00 of such earnest money which sum shall be applied to the amounts due on the note secured by the Creed Second.
5. Attached as Exhibit A is a document entitled Mountain Crest Estates Development which is the payment schedule for the Development upon which this First Amendment is based. Also attached hereto is Exhibit B which indicates the good faith estimates of Randall H. Goggans as to the Balance to complete the Development.
6. In all other respects and unless expressly amended by this First Amendment, the provisions of the Agreement shall remain in full force and effect.

Done the date and year first above here written.

Union State Bank  
By: Rex V. Alexander  
Rex V. Alexander

Creed Development, LLC  
By: W. Larry Clayton  
W. Larry Clayton

Its: President  
Randall H. Goggans  
Randall H. Goggans

Its: Manager  
Holly H. Goggans  
Holly H. Goggans

STATE OF ALABAMA )  
 COUNTY )

**CORPORATION ACKNOWLEDGMENT**

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Rex V. Alexander, whose name as President of Union State Bank, a corporation is signed to the foregoing instrument, and who is known to me, acknowledged before me this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of the corporation.

Given under my hand and official seal this 10<sup>th</sup> day of October, 2003.

[Signature]  
 Notary Public  
 My Commission Exp. 10.27.06

STATE OF ALABAMA )  
 COUNTY )

**LLC ACKNOWLEDGMENT**

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that W. Larry Clayton as Manager of Creed Development, LLC, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he, in their capacity as such member, executed the same voluntarily, for and as the act of said limited liability company.

Given under my hand and official seal this 30 day of September, 2003.

[Signature]  
 Notary Public, Alabama, State At Large  
 My Commission Expires December 13, 2003  
 My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA )  
 COUNTY )

I, the undersigned, a Notary Public for the State of Alabama at Large do hereby certify that Randall H. Goggans and wife Holly H. Goggans, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me this day that, being informed of the contents of said conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 15<sup>th</sup> day of Oct, 2003.

[Signature]  
 Notary Public  
 My Commission Exp. 2-04

## EXHIBIT A

### Mountain Crest Estates Development

#### Sales:

30 estate lots @ \$70,000.00 per lot (Less \$30,000.00 earnest money)	\$ 2,070,000.00
Sale to Dr. Morris \$295,000.00 (less 25,000.00 Earnest money)	270,000.00
	2,340,000.00
Less Commission	<u>63,000.00</u>
	\$ 2,277,000.00
 Total value of development	 \$ 2,277,000.00
 Total value of development	 \$ 2,277,000.00
Less development cost *	<u>493,786.00</u>
Adjusted development value	\$ 1,783,214.00
Less USB First	<u>1,283,225.00(10-15-03)</u>
 <b>Net Profit</b>	 \$ 499,989.00
Payoff of Creed Second **	611,785.67 (10-15-03)
 Balance owing Creed Second after Lot sales secured by Creed Second which would then be a first mortgage ahead of the USB Second	 \$ 111,796.67

\* The Development Loan plus the Balance.

\*\* Reflects \$10,000.00 paid to Creed on or about October 1, 2003.

**EXHIBIT B**

**BALANCE TO COMPLETE MOUNTAIN CREST ESTATES DEVELOPMENT  
AS OF OCTOBER 15, 2003**

Richards & Sons	\$197,313.00
Road Seal Bond	\$ 20,000.00*
Additional Water	\$ 15,000.00**
Union State Construction Interest to October 30, 2003	\$ 3,500.00
Additional Surveying Charges	<u>\$ 7,000.00***</u>
<b>TOTAL</b>	<b>\$242,500.00</b>

\* The road seal bond is based upon the linear feet of the road and the amount of asphalt required. This is an estimated amount but is sufficient to cover the road seal bond in the best judgment of Randall H. Goggans.

\*\*Additional water charges involve the rerouting of water lines through adjacent properties. Although this amount has not been determined with specificity, in the best judgment of Randall H. Goggans, this amount is sufficient to cover such additional water charges.

\*\*\*This is an estimate but in the best judgment of Randall H. Goggans it should be sufficient to cover these charges.