

686-18822

369

**AMENDMENT TO REAL ESTATE  
MORTGAGE AND SECURITY AGREEMENT**

AGREEMENT between WOODBROOK APARTMENTS, LTD.,  
an Alabama limited partnership (hereinafter called "Mortgagor") and  
SOUTHTRUST BANK OF ALABAMA, NATIONAL ASSOCIATION (herein-  
after called "Mortgagee").

R E C I T A L S :

On May 14, 1986, Mortgagor executed a Real Estate Mortgage  
and Security Agreement (hereinafter called the "Original Mortgage") to  
Mortgagee to secure a loan made by Mortgage to Mortgagor in the amount  
of Two Million One Hundred Fifty Thousand and No/100 Dollars  
(\$2,150,000.00). The Original Mortgage was recorded in Real Property Book  
72, at Page 80, in the Office of the Judge of Probate of Shelby County,  
Alabama.

BOOK 133 PAGE 982

Mortgagor has requested that Mortgagee increase such original  
loan by \$2,550,000.00 to a total of \$4,700,000.00 and that Mortgagee make  
it an additional loan in the amount of \$700,000.00, the proceeds of which  
loan increase and loan are to be used to finance the construction of  
renovations to the original 88-unit apartment complex conveyed to the  
Mortgagee pursuant to the Original Mortgage and the construction of an  
additional 112 new apartment units on real property conveyed by the  
Original Mortgage as "Parcel II." Mortgagee has agreed to make such loans  
pursuant to the provisions of a loan commitment dated May 8, 1987 (said  
commitment hereinafter referred to as "Loan Commitment"). The Loan  
Commitment requires among other things that the loans to be made be  
evidenced by a promissory note and an amended promissory note and be  
secured by a mortgage and assignment of leases and rents covering the real  
estate described in the Original Mortgage, as such real estate is to be  
improved, and by a security agreement and all fixtures and construction  
materials, as hereinafter described. The parties, therefore, now wish to

amend the Original Mortgage to satisfy the requirements of the Loan Commitment.

NOW, THEREFORE, in consideration of the premises and to induce Mortgagee to increase the amount of said original loan and to make said additional loan to Mortgagor, Mortgagor and Mortgagee agree that the Original Mortgage shall be and is hereby amended as follows:

1. In all places in the Original Mortgage, where reference is made to the "indebtedness secured," "the indebtedness evidenced by said note," "said indebtedness," "indebtedness described herein," "the Note," "the Promissory Note," or to other terms of similar import which indicate the indebtedness secured by the Original Mortgage, such as, by way of example and not limitation, the references to "Note" in paragraph 15 of the Original Mortgage, such references shall be deemed hereafter to mean not only the indebtedness evidenced by the note executed on May 14, 1986, by Mortgagor to Mortgagee in the face amount of \$2,150,000.00 but also the indebtedness evidenced by such note as amended on even date herewith to increase the principal amount of such note to \$4,700,000.00, and also the indebtedness evidenced by that separate promissory note executed of even date herewith by Mortgagor to Mortgagee in the face amount of \$700,000.00.

2. All references in the Original Mortgage to the "Loan" shall be deemed hereafter to refer not only to the original loan in the amount of \$2,150,000.00 but also such loan as increased by the amount of \$2,550,000.00 and the additional loan in the amount of \$700,000.00 being made contemporaneously herewith and being evidenced by such amended promissory note and promissory note dated of even date herewith.

3. All references in the Original Mortgage to "note," "Note," "promissory note," or "Promissory Note" and to any other document which evidences the indebtedness secured thereby, shall be deemed to refer to the Promissory Note dated May 14, 1986, as amended by that certain

BOOK 133 PAGE 983

"Amendment To May 14, 1986 Promissory Note" dated of even date herewith, and also that certain Promissory Note in the amount of \$700,000.00 of even date herewith, all executed by Mortgagor to Mortgagee.

4. In paragraph 21 of the Original Mortgage reference is made to the "Assignment of Leases" which was executed contemporaneously with the Original Mortgage as additional security for the loan being made by Mortgagee to Mortgagor contemporaneously therewith. Said Assignment of Leases is being amended so as to secure not only the original loan in the amount of \$2,150,000.00, but also the increase in such loan by the amount of \$2,550,000.00, and also the separate \$700,000.00 loan, both being made contemporaneously herewith. Such Assignment of Leases is being further amended to include, in addition to the leases therein described, all leases with respect to the improvements being constructed with the proceeds of the loans being made contemporaneously herewith. It is agreed, therefore, that all references in paragraph 21 and in any other provision of the Original Mortgage to "Assignment of Leases" shall be deemed to mean the said Assignment of Leases, as amended contemporaneously herewith.

5. Page 8 of the Original Mortgage is amended by adding a new paragraph immediately after the carry-over paragraph from page 7 and immediately before the first full paragraph on page 8, as follows:

"The said indebtedness, in the total amount of Five Million Four Hundred Thousand and No/100 Dollars (\$5,400,000.00) secured hereby is being advanced by Mortgagee to Mortgagor in accordance with a Construction Loan Agreement (hereinafter called "Loan Agreement"), the terms of which are incorporated as a part hereof. In the event of default in the terms of said Loan Agreement, such default shall be an event of default entitling the Mortgagee herein to exercise the remedies provided herein, including the right to foreclose this Mortgage in accordance with the terms hereof."

6. Line one of paragraph 21 of the Original Mortgage is amended by deleting the word "improved" and by substituting in lieu thereof the following:

"improved, and are to be improved,".

7. Paragraph 25 of the Original Mortgage is hereby amended by deleting in lines three and four thereof the following words: "other than the second mortgage to First Commercial Bank referred to on page 7 hereof."

8. Lines sixteen through twenty-two of the first paragraph on page 7 of the Original Mortgage are hereby deleted and the following is substituted in lieu thereof: "Mortgage."

9. Except as herein amended, the Original Mortgage shall be and remain as written, and as amended by this instrument the Original Mortgage is in all respects ratified and confirmed.

IN WITNESS WHEREOF, Mortgagor and Mortgagee have caused these presents to be executed for and in their respective names on the 29th day of May, 1987.

WOODBROOK APARTMENTS, LTD.,  
an Alabama limited partnership

By: Shelby Development Company,  
an Alabama general partnership  
As Its General Partner

By: [Signature]  
Its: General Partner

By: [Signature]  
Its: General Partner

SOUTHTRUST BANK OF ALABAMA,  
NATIONAL ASSOCIATION

By: [Signature]  
Its: [Signature]

BOOK 133 PAGE 985

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Hubert W. Givens, Jr. and Frank A. Nix, whose names as general partners of Shelby Development Company, an Alabama general partnership, as general partner of Woodbrook Apartments, Ltd., an Alabama limited partnership, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing instrument, they executed the same voluntarily in their capacity as general partners of Shelby Development Company, acting in its capacity as such general partner of Woodbrook Apartments, Ltd. as aforesaid, on the day the same bears date.

Given under my hand and official seal this 29<sup>th</sup> day of May, 1987.

Jina Di Manto  
Notary Public  
My Commission Expires: 12-30-89

[NOTARIAL SEAL]

STATE OF ALABAMA )  
JEFFERSON COUNTY )

BOOK 133 PAGE 986

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Lynn Feuerlein, whose name as Construction Loan Officer of SouthTrust Bank of Alabama, National Association, a national banking association, 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said association.

Given under my hand and official seal this 29<sup>th</sup> day of May, 1987.

Jina Di Manto  
Notary Public  
My Commission Expires: 12-30-89

[NOTARIAL SEAL]

THIS INSTRUMENT PREPARED BY:

Lant B. Davis  
1400 Park Place Tower  
Birmingham, AL 35203

EXHIBIT "A"

PARCEL I:

Commence at the Northwest corner of the Southwest Quarter of Section 11, Township 21 South, Range 3 West; thence run in an Easterly direction along the North line of said Quarter-Quarter a distance of 1235.17 feet; thence turn an angle to the right of 90 degrees 00 minutes and run in a Southerly direction a distance of 16.74 feet to the point of beginning of property herein described; thence turn an angle to the left of 90 degrees 55 minutes 29 seconds and run in an Easterly direction a distance of 774.99 feet; thence turn an angle to the right of 94 degrees, 40 minutes, 29 seconds and run in a Southerly direction a distance of 151.76 feet; thence turn an angle to the left of 93 degrees, 45 minutes and run in an Easterly direction a distance of 245.00 feet to its intersection with the Westerly right-of-way line of Montevallo-Ashville Road; thence turn an angle to the right of 93 degrees, 45 minutes and run in a Southerly direction along the Westerly right-of-way line of said road a distance of 93.40 feet to the point of commencement of a curve to the right, having a central angle of 4 degrees, 04 minutes, 40 seconds and a radius of 2,841.09 feet; thence continue along the arc of said curve for a distance of 202.20 feet; thence from the tangent of last described curve extended, turn an angle to the right of 81 degrees, 12 minutes, 33 seconds and run in a Westerly direction a distance of 983.61 feet; thence turn an angle to the right of 90 degrees, 57 minutes, 47 seconds and run in a Northerly direction a distance of 449.79 feet to the point of beginning. Situated in Shelby County, Alabama.

PARCEL II:

Commence at the Northwest corner of the Southwest 1/4 of Section 11, Township 21 South, Range 3 West; thence run East along the North line of said 1/4-1/4 1235.17 feet; thence turn 90 degrees right and run South 16.74 feet to the point of beginning; thence continue on the last described course 449.79 feet; thence turn 90 degrees 57 minutes 46 seconds left and run Easterly 773.61 feet; thence turn 103 degrees 49 minutes 54 seconds right and run Southwesterly 180.56 feet; thence turn 89 degrees 45 minutes 26 seconds left and run Southeasterly 189.46 feet to the point of beginning of a curve to the left having a central angle of 91 degrees 07 minutes 08 seconds and a radius of 25 feet; thence run along the arc of said curve 39.76 feet to its intersection with the Westerly right of way line of Shelby County Highway #119; thence turn an angle to the right of 135 degrees 51 minutes 19 seconds from the chord if extended from the last described curve to the chord of a curve to the right, said curve having a central angle of 3 degrees 47 minutes 00 seconds and a radius of 2753.73 feet; thence run along the arc of said curve 181.83 feet; thence continue on the tangent if extended from said curve Southwesterly along said Westerly right of way line 12.80 feet; thence turn 87 degrees 34 minutes 11 seconds right and run Northwesterly 212.31 feet; thence turn 90 degrees 00 minutes 00 seconds left and run Southwesterly 137.33 feet to a point in the centerline of Buck Creek; thence turn 123 degrees 00 minutes 35 seconds right and run Northwesterly 70.23 feet along said centerline; thence turn 16 degrees 55 minutes 51 seconds left and run Northwesterly 169.09 feet along said centerline; thence turn 26 degrees 58 minutes 40 seconds left and run Northwesterly 123.93 feet along said centerline; thence turn 13 degrees 18 minutes 35 seconds right and run Northwesterly 61.16 feet along said centerline; thence turn 29 degrees 40 minutes 41 seconds right and run Northwesterly 168.05 feet along said centerline; thence turn 65 degrees 03 minutes 32 seconds left and run Southwesterly 130.16 feet along said centerline; thence turn 29 degrees 25 minutes 03 seconds left and run Southwesterly 72.60 feet along said centerline; thence turn 3 degrees 34 minutes 28 seconds left and run Southwesterly 35.20 feet along said centerline; thence turn 20 degrees 30

BOOK 133 PAGE 987



BOOK 133 PAGE 988

minutes 52 seconds right and run Southwesterly 79.37 feet along said centerline; thence turn 47 degrees 35 minutes 07 seconds right and run Northwesterly 177.55 feet along said centerline; thence turn 49 degrees 48 minutes 02 seconds right and run Northwesterly 89.68 feet along said centerline; thence turn 8 degrees 47 minutes 59 seconds right and run Northwesterly 22.48 feet along said centerline; thence turn 28 degrees 26 minutes 26 seconds right and run Northeasterly 18.64 feet along said centerline; thence turn 22 degrees 06 minutes 47 seconds right and run Northeasterly 48.14 feet along said centerline; thence turn 24 degrees 23 minutes 17 seconds left and run Northeasterly 86.54 feet along said centerline; thence turn 15 degrees 22 minutes 56 seconds left and run Northerly 25.80 feet along said centerline; thence turn 27 degrees 43 minutes 06 seconds left and run Northwesterly 47.20 feet along said centerline; thence turn 86 degrees 35 minutes 31 seconds left and run Southwesterly 95.59 feet along said centerline; thence turn 18 degrees 23 minutes 40 seconds right and run Northwesterly 35.87 feet along said centerline; thence turn 15 degrees 54 minutes 27 seconds right and run Northwesterly 117.72 feet; thence turn 28 degrees 09 minutes 54 seconds right and run Northwesterly 147.16 feet along said centerline; thence turn 0 degrees 36 minutes 11 seconds left and run Northwesterly 131.44 feet along said centerline; thence turn 37 degrees 27 minutes 25 seconds right and run Northeasterly 53.61 feet along said centerline; thence turn 55 degrees 34 minutes 51 seconds right and run Northeasterly 64.90 feet along said centerline; thence turn 36 degrees 29 minutes 42 seconds right and run Easterly 74.07 feet along said centerline; thence turn 57 degrees 13 minutes 59 seconds left and run Northeasterly 13.45 feet along said centerline; thence turn 14 degrees 12 minutes 31 seconds left and run Northeasterly 40.69 feet along said centerline; thence turn 17 degrees 15 minutes 54 seconds left and run Northeasterly 49.95 feet along said centerline; thence turn 86 degrees 18 minutes 21 seconds right and run Easterly 546.93 feet to the point of beginning. Situated in Shelby County, Alabama.

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1987 JUN -4 AM 9:08

*Thomas C. Shanderson, Jr.*  
JUDGE OF PROBATE

1. Land Tax	\$	
2. Mfg. Tax		4,875.00
3. Recording Fee		17.50
4. Indexing Fee		1.00
TOTAL		4893.50