

1318

SECOND AMENDMENT TO MORTGAGE
AND SECURITY AGREEMENT

This Second Amendment to Mortgage and Security Agreement is being executed on January 10, 1988, by CLAYTON-BAILEY PROPERTIES, an Alabama general partnership ("Borrower") and FIRST COMMERCIAL BANK ("Lender").

R E C I T A L S

A. Borrower and Lender are parties to a Mortgage and Security Agreement dated June 11, 1986, and a First Amendment to Mortgage and Security Agreement dated December 15, 1986 (collectively, the "Mortgage"), being recorded in Real Book 76 Page 386 and Real Book 109 Page 80, respectively.

B. The Mortgage was given by Borrower to secure repayment of \$870,000.

C. Borrower is presently building new structures on the real property encumbered by the Mortgage, and Borrower desires to borrow additional funds in connection with said new construction.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and to induce Lender to lend an additional \$320,000 (such that the total amount owed by Borrower to Lender will be \$1,190,000), the parties hereby agree as follows:

1. Amount of Indebtedness Secured by Mortgage. The total indebtedness owed by Borrower to Lender and subject to the Mortgage is \$1,190,000, which indebtedness is evidenced by a Promissory Note in the principal amount of \$957,000 and a Land Promissory Note in the principal amount of \$233,000 (collectively, the "Notes").

2. Partial Releases. Provided Borrower is not in default under the Mortgage, the Notes or any other instrument relating to the indebtedness owed by Borrower to Lender, immediately upon receipt by Lender of the Net Sales Proceeds (as defined below) with respect to a particular real estate parcel, Lender shall deliver to Borrower a partial release thereof from the lien of the Mortgage. All costs and expenses with respect to such partial release shall be borne by Borrower. For purposes of this Paragraph, the term Net Sales Proceeds shall mean the product of:

Cahaba Title

(i) the difference between (A) 1 and (B) the highest combined marginal and state federal income tax rate applicable to individuals for the year in which such sale occurs; and

(ii) the gross sales proceeds with respect to a particular real estate parcel reduced by all costs and expenses incurred by Borrower with respect to such sale.

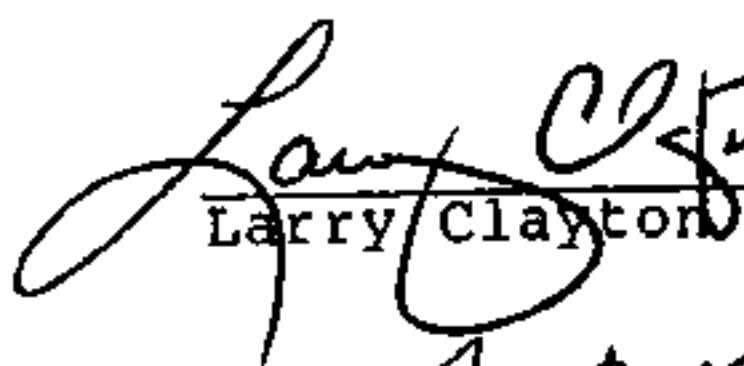
3. Full Force and Effect. Except as modified hereby, the Mortgage is hereby approved, confirmed and ratified and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

BORROWER

CLAYTON-BAILEY PROPERTIES

By Its General Partners:


Larry Clayton

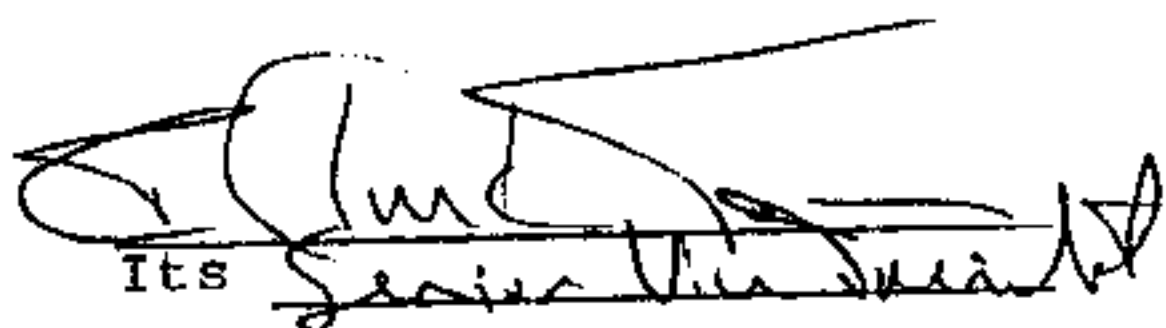

Neil Bailey


Warren Bailey

LENDER

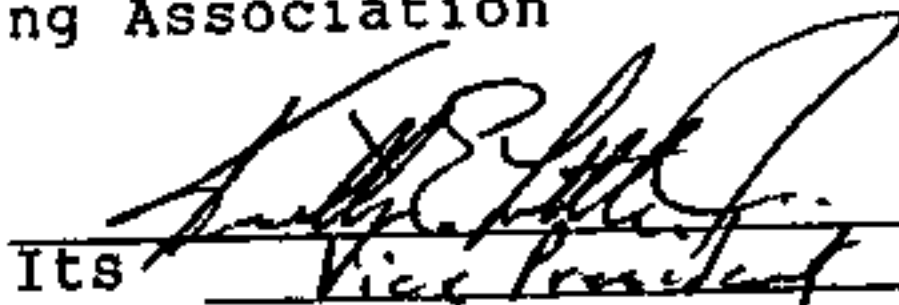
FIRST COMMERCIAL BANK, a National
Banking Association

ATTEST:


Its Notary Public

By:

Its


Vice President

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Larry Clayton, whose name as General Partner of Clayton-Bailey Properties, a general partnership, 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, in his capacity as such General Partner and with full authority, executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand this the 20th day of January, 1988.

St. Lark

Notary Public

My Commission Expires: 8-28-90

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Neil Bailey, whose name as General Partner of Clayton-Bailey Properties, a general partnership, 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, in his capacity as such General Partner and with full authority, executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand this the 20th day of January, 1988.

St. Lark

Notary Public

My Commission Expires: 8-28-90

BOOK 168 PAGE 277

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Warren Bailey, whose name as General Partner of Clayton-Bailey Properties, a general partnership, 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, in his capacity as such General Partner and with full authority, executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand this the 10th day of January, 1988.

St Hall
Notary Public

My Commission Expires: 8-28-90

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Kenneth E. Little Jr, whose name as Vice-President of First Commercial Bank, 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, in his capacity as such officer, executed the same voluntarily on the day the same bears date.

Given under my hand this the 20th day of January, 1988.

St Hall
Notary Public

My Commission Expires: 8-28-90

4051R

This instrument was prepared by:

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

88 JAN 21 AM 8:30

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

David Silverstein
Berkowitz, Lefkovits, Isom & Kushner
1100 Financial Center
Birmingham, Alabama 35203

1. Doc Tax	\$	_____
2. Reg. Tax		<u>480.00</u>
3. Recording Fee		<u>10.00</u>
4. Indexing Fee		<u>1.00</u>
TOTAL		<u>491.00</u>