

THIS INSTRUMENT WAS PREPARED BY:

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**SECOND LOAN MODIFICATION AGREEMENT AND
AMENDMENT TO LOAN DOCUMENTS**

STATE OF ALABAMA

COUNTY OF SHELBY

THIS LOAN MODIFICATION AGREEMENT AND AMENDMENT TO LOAN DOCUMENTS (this "Agreement") is being entered into as of the 29 day of June, 1988, by and between **CENTRAL BANK OF THE SOUTH**, an Alabama state banking corporation ("Bank") and **DONNIE F. TUCKER**, a married man (the "Borrower").

P R E A M B L E

The Borrower is the maker of a certain \$1,109,000 Promissory Note dated as of May 14, 1987, which was amended and restated in its entirety by a certain Promissory Note (the "Amended and Restated Note") dated as of July 21, 1987, (collectively, the "Note"), which evidences a certain \$1,109,000 loan from the Bank to the Borrower (the "Loan"). The Loan was extended pursuant to a certain Loan Agreement for Land Acquisition and Development by and between the Bank and the Borrower dated as of July 21, 1987, which was amended by a certain Loan Modification Agreement and Amendment to Loan Documents (the "First Loan Modification Agreement") dated as of May 18, 1988, (collectively, the "Loan Agreement"), and is secured by, among other things, (i) a Mortgage and Security Agreement dated as of May 14, 1987, recorded at Real Record 131, Page 239 in the office of the Judge of Probate of Shelby County, Alabama, on the real property described on Exhibit A hereto and the improvements and personal property related thereto, which was amended by a certain Amendment to Mortgage and Security Agreement dated as of July 21, 1987, recorded at Real Record 141, Page 925 in the office of the Judge of Probate of Shelby County, Alabama, and which was further amended to add as collateral for the Loan the real property described on Exhibit B hereto and the improvements and personal property related thereto by a certain Amendment No. 2 to Mortgage and Security Agreement dated as of May 18,

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1988, recorded at Real Record 185, Page 344 in the office of the Judge of Probate of Shelby County, Alabama (collectively the "Mortgage"); (ii) a Security Agreement dated as of July 21, 1987, which was amended to add as collateral for the Loan the improvements and personal property related to the real property described on Exhibit B hereto by the First Loan Modification Agreement (collectively, the "Security Agreement"); (iii) an Assignment of Rents and Leases dated as of July 21, 1987, recorded at Real Record 141, Page 929 in the office of the Judge of Probate of Shelby County, Alabama, relating to the property described on Exhibit A hereto, which was amended to add as collateral for the Loan the rents and leases related to the real property described on Exhibit B hereto by a certain Amendment No. 1 to Assignment of Rents and Leases dated as of May 18, 1988, recorded at Real Record 185, Page 348 in the office of the Judge of Probate of Shelby County, Alabama (collectively the "Assignment of Rents"); (iv) UCC-1 and UCC-3 Financing Statements (the "Financing Statements"); (v) a Pledge Agreement dated as of May 14, 1987, from Tucker Utility Contractors, Inc. to Bank, pledging the annuity described therein (the "Pledge Agreement"); (vi) a Collateral Assignment of Annuity dated as of July 21, 1987, from Tucker Utility Contractors, Inc., to Bank (the "Collateral Assignment of Annuity"); and (vii) a Collateral Assignment of Annuity Certificate dated as of May 14, 1987, from Tucker Utility Contractors, Inc., to Bank (the "Collateral Assignment of Annuity Certificate"), all as more particularly described in the Loan Agreement. The Note, the Loan Agreement, the Mortgage, the Security Agreement, the Assignment of Rents, the Financing Statements, the Pledge Agreement, the Collateral Assignment of Annuity, the Collateral Assignment of Annuity Certificate, and all other documents evidencing, securing, guaranteeing, relating to, or executed or delivered in connection with the Loan are hereafter collectively referred to herein as the "Loan Documents".

The Bank and the Borrower have agreed to renew and modify the Loan, and to amend the Loan Documents.

Accordingly, the Bank and the Borrower have agreed that the Loan shall be modified and renewed, and that the Loan Documents shall be amended as set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, the mutual agreements of the parties as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce Bank to renew and modify the Loan, the parties, intending to be legally bound hereby, agree as follows:

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A. Amendment of Loan Agreement. The Loan Agreement shall be and the same hereby is amended as follows:

- (i) by changing the amount of the Loan wherever referred to therein from "ONE MILLION ONE HUNDRED NINE THOUSAND AND NO/100 DOLLARS" to "ONE MILLION ONE HUNDRED EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS"; or from "\$1,109,000.00" to "\$1,185,000.00", as applicable;
- (ii) By changing the date in the definition of Development Period at the top of Page 2 from "June 1, 1988" to "November 1, 1988";
- (iii) By changing the heading of Section 1.09 to read in its entirety as follows:
Sale and Release of Lots in Project: Pay-Off of Loan.
- (iv) By changing "\$15,000.00" wherever it appears in Section 1.09 to "\$16,500.00"; and
- (v) By adding the following Section 1.10:

Section 1.10. Sale and Release of Lots Constituting Additional Collateral: Pay-Off of Lien in Favor of Mary Jim Tucker. Until the lien in favor of Mary Jim Tucker created by the divorce decree recorded in Real Record 181, page 573, in the office of the Judge of Probate of Shelby County, Alabama (the "Lien") has been satisfied in full, Lender shall receive the Net Proceeds received by the Borrower upon the sale of each lot constituting a part of the additional collateral granted to Lender by the Amendment No. 2 to Mortgage (the "Additional Collateral") minus \$20,000.00, or the amount owing on the indebtedness secured by the Lien if such amount is less than \$20,000.00, which shall be paid to Mary Jim Tucker to satisfy the Lien. In addition to the conditions of release described below, so long as any amount is owing by Borrower on the indebtedness secured by the Lien, prior to the release of any lot within the Additional Collateral, Lender shall receive a statement of account certified by Mary Jim Tucker stating the amount due on the indebtedness secured by the Lien as of the date of the sale of such lot. So long as any amount is owing by Borrower on the indebtedness secured by the Lien, upon the receipt by Lender of (i) satisfactory evidence of the payment of \$20,000.00, or the amount owing on the indebtedness secured by the Lien if such amount is less than \$20,000.00, to Mary Jim Tucker in satisfaction of the Lien; and (ii) receipt by Lender of the Net Proceeds of the sale of a lot minus such payment to Mary Jim Tucker, Lender shall release such lot from the coverage of the Mortgage; provided, however, that, if such payment to Mary Jim Tucker satisfies the indebtedness secured by the Lien or if such indebtedness otherwise has been paid in full, Lender shall not release such lot from the coverage of the Mortgage until Lender receives satisfactory evidence that the Lien has been satisfied of record. If the Net Proceeds of such a sale equal less than \$20,000.00 or the amount outstanding on the indebtedness secured by the Lien if such amount is less than \$20,000.00, all of such Net Proceeds shall be paid to

Mary Jim Tucker to satisfy the Lien. Upon the payment in full of the indebtedness secured by the Lien, Lender shall receive the Net Proceeds received by the Borrower upon the sale of each lot constituting a part of the Additional Collateral. After the indebtedness secured by the Lien is paid in full and the Lender has received satisfactory evidence that the Lien has been satisfied of record, upon the receipt by Lender of the Net Proceeds of the sale of a lot, Lender shall release such lot from the coverage of the Mortgage. Lender, in its sole discretion, shall determine to what indebtedness of Borrower, or of Borrower and Mary Jim Tucker, the proceeds of such lot sales received by Lender shall be applied. As used herein the term "Net Proceeds" shall mean the purchase price of a lot minus the expenses incurred by Borrower in connection with the sale of a lot; provided, however, that in no event shall the Net Proceeds of a sale be less than ninety percent (90%) of the purchase price of the lot sold.

B. Amendment of Note. The Note shall be and the same hereby is amended as follows: (i) by changing the stated principal amount thereof to "ONE MILLION ONE HUNDRED EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,185,000.00)"; (ii) by changing the maturity date of the Note to "June 1, 1989"; and (iii) by deleting the second and third sentences of Section 1 of the Amended and Restated Note in their entirety and replacing them with the following:

Principal payments shall be as provided in the Loan Agreement between Borrower and Bank of even date herewith, as amended (the "Loan Agreement").

C. Amendment of Mortgage. The Mortgage shall be and the same hereby is amended as follows: the first WHEREAS paragraph of the Mortgage is hereby deleted and replaced by the following:

WHEREAS, Borrower is justly indebted to Bank on a loan in the principal sum of One Million One Hundred Eighty-Five Thousand and No/100 Dollars (\$1,185,000.00) (the "Loan"), or so much as may from time to time be disbursed thereunder, as evidenced by a promissory note dated May 14, 1987, as amended and restated in its entirety by a promissory note dated July 21, 1987, and as further amended by a Second Loan Modification Agreement and Amendment to Loan Documents dated June 29, 1988 (collectively, the

"Note"), payable to Bank with interest thereon on demand or as otherwise provided in the Note; and

D. Amendment of Assignment of Rents. The Assignment of Rents shall be and the same hereby is amended as follows: By changing the principal sum referred to in the first paragraph from "ONE MILLION ONE HUNDRED NINE THOUSAND AND NO/100 DOLLARS (\$1,109,000.00)" to "ONE MILLION ONE HUNDRED EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,185,000.00)".

E. Commitment Fee. In consideration of Lender's commitment to renew the Loan and increase the Loan amount, Borrower shall pay to Lender a commitment fee in the amount of \$11,850.00, which fee shall be deemed earned and non-refundable, regardless of whether the Loan is renewed and modified.

F. Condition to Advances. Lender may make, but shall not be obligated to make, an advance under the Loan as amended hereby, unless and until Lender shall have received and approved a mechanics' and materialmen's lien subordination and indemnity agreement from each contractor and surveyor who is engaged or has been engaged in work upon the real property described in the Mortgage as amended.

G. Effect on Loan Documents. Each of the Loan Documents shall be deemed amended as set forth hereinabove and to the extent necessary to carry out the intent of this Agreement. Without limiting the generality of the foregoing, each reference in the Loan Documents to the "Note", the "Loan Agreement", or to any other Loan Document or to the "Loan Documents" shall be deemed to be references to said documents, as amended hereby and each reference to the amount of the Loan or the amount of the Note shall be changed to \$1,185,000.00. Except as is expressly set forth herein, all of the Loan Documents shall remain in full force and effect in accordance with their respective terms and shall continue to evidence, secure, guarantee or relate to, as the case may be, the Loan.

H. Reaffirmation of Representations and Warranties. Each representation and warranty contained in the Loan Documents is hereby reaffirmed as of the date hereof.

I. Execution by Tucker Utility Contractors, Inc. Tucker Utility Contractors, Inc., has executed this Agreement to evidence its consent to the modification and amendments as described herein and to acknowledge the continuing effect of the Pledge Agreement, the Collateral Assignment of Annuity and the Collateral Assignment of Annuity Certificate as security for the Loan as modified by this Agreement and the obligations contained therein.

J. Execution by Stratford Place Development, Inc. Stratford Place Development, Inc., has executed this Agreement to evidence its consent to the modification and amendments as described herein.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be duly executed as of the date first set forth above.

WITNESS:

Virginia S. Bohak

BORROWER:

Donnie F. Tucker
DONNIE F. TUCKER

BANK:

CENTRAL BANK OF THE SOUTH

By: Herbert H. Hulse

Its: President

WITNESS:

Virginia S. Bohak

ATTEST:

By: Lauren
Its: Secretary

TUCKER UTILITY CONTRACTORS, INC.

By: Donnie F. Tucker
Its: President

[CORPORATE SEAL]

ATTEST:

By: J. C. Rem
Its: Sec. - TREAS

STRATFORD PLACE DEVELOPMENT, INC.

By: Donnie Tucker
Its: Pres

[CORPORATE SEAL]

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **DONNIE F. TUCKER**, 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 the instrument, he executed the same voluntarily.

Given under my hand this 29th day of June, 1988.

Charlotte L. Kelley
Notary Public
My commission expires: 4-9-90

NOTARIAL SEAL

STATE OF ALABAMA)

COUNTY OF Jefferson

I, the undersigned, Notary Public in and for said County in said State, hereby certify that Philip H. Hobb, whose name as Vice President of **CENTRAL BANK OF THE SOUTH**, an Alabama banking corporation, 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, _____, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 29th day of June, 1988.

Charlotte L. Kelley
Notary Public
My commission expires: 4-9-90

[NOTARIAL SEAL]

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STATE OF ALABAMA)

COUNTY OF Jefferson

I, the undersigned, Notary Public in and for said County in said State, hereby certify that Donnie Tucker, whose name as President of TUCKER UTILITY CONTRACTORS, INC., a corporation, 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 corporation.

Given under my hand this the 29th day of June, 1988.

Charlotte L. Kelley
Notary Public
My commission expires: 4-9-90

[NOTARIAL SEAL]

STATE OF ALABAMA)

COUNTY OF Jefferson

I, the undersigned, Notary Public in and for said County in said State, hereby certify that Donnie Tucker, whose name as President of STRATFORD PLACE DEVELOPMENT, INC., a corporation, 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 corporation.

Given under my hand this the 21st day of June, 1988.

Charlotte L. Kelley
Notary Public
My commission expires: 4-9-90

[NOTARIAL SEAL]

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EXHIBIT A

PARCEL I:

Begin at the NW corner of the NW 1/4 of the SW 1/4 of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama and run East along the North line of said quarter-quarter Section a distance of 1294.25 feet to a point on the West right of way of Indian Lake Trail, said point lying 30 feet West of the NE corner of the NW 1/4 of the SW 1/4 of said Section 36; thence deflect 89 degrees 04 minutes 11 seconds right and run South along the West right of way of Indian Lake Trail 701.09 feet to a point on a curve, said point being on the Westerly right of way of Alabama Highway 261/Valleydale Road; thence deflect 19 degrees 42 minutes 24 seconds right to the chord of said curve whose radius is 1540.0 feet and whose length of curvature is 366.02 feet concave left and run along said course 365.16 feet; thence deflect 6 degrees 48 minutes 33 seconds left from said chord and continue along said right of way a distance of 266.16 feet to a point on the South line of said quarter-quarter and lying 212.58 feet West of the SE corner of the NW 1/4 of the SW 1/4 of said Section 36; thence deflect 78 degrees 11 minutes 45 seconds right and run West along the South line of said quarter-quarter a distance of 1113.09 feet to the SW corner of the NW 1/4 of the SW 1/4 of said Section 36; thence deflect 88 degrees 57 minutes 58 seconds right and run North along the West line of said quarter-quarter a distance of 1304.08 feet to the point of beginning; all lying in the NW 1/4 of the SW 1/4 of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama.

LESS AND EXCEPT all of the corrected map of Stratford Place, Phase I, as recorded in Map Book 12, Page 38, in the Probate Office of Shelby County, Alabama.

PARCEL II:

Begin at the SE corner of the NW 1/4 of the SW 1/4 of Section 36, Township 19 South, Range 3 West, and run West along the South line of said quarter-quarter Section a distance of 130.85 feet to a point on the Easterly right of way of Alabama Highway 261/Valleydale Road; thence deflect 101 degrees 48 minutes 15 seconds right and run Northeast along the Easterly right of way a distance of 249.44 feet to a point on a curve; thence deflect 4 degrees 50 minutes 41 seconds right to chord of said curve whose radius is 1460 feet and whose length of curvature is 246.91 feet concave right and run along said chord 246.61 feet to a point on the East line of said quarter-quarter Section; thence deflect 161 degrees 15 minutes 29 seconds right and run South along the East line of said quarter-quarter to the point of beginning; all lying in the NW 1/4 of the SW 1/4 of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama.

According to survey of Bobby M. Nolen, Reg. No. 12759, dated May 12, 1987.

PARCEL III

Lots 1, 33, 64, 65, 101, 102, and 103, according to the Corrected Map and Survey of Stratford Place, Phase I, Final Plat, as recorded in Map Book 12, Page 38, in the Probate Office of Shelby County, Alabama.

Subject to the following exceptions:

1. Taxes for 1988 and subsequent years. 1988 taxes are a lien but not due and payable until October 1, 1988.
2. Title to minerals underlying caption lands with mining rights and privileges belonging thereto, as conveyed in Deed Book 6, Page 22, in Probate Office of Shelby County, Alabama. And this binder insures against loss or damage which the Insured may sustain through the use of the surface of the insured premises, not consented to by the Insured, in the exercise of the mining rights contained in the instruments set forth above.
3. Transmission line permits to Alabama Power Company as recorded in Deed Book 101, Page 551, and in Real Record 127, Page 63, in Probate Office.
4. Water and Sewer easement to City of Pelham as recorded in Real Record 111, Page 673, in Probate Office.
5. Water and Sewer easement, Pump Station, power lines, as shown on survey of Bobby M. Nolen, Reg. #12759, dated May 12, 1987.
6. Fence across the Northwest corner of caption lands as shown on survey of Bobby M. Nolen, Reg. #12759, dated May 12, 1987.
7. Water and sewer easements, power lines, building set back lines, utility easements, private access easements, and landscape easements as shown on recorded map of said subdivision. (Parcel III)
8. Transmission line permit to Alabama Power Company as recorded in Real Record 167, Page 401, in Probate Office. (Parcel III)
9. Easements as to underground cables as recorded in Real Record 181, Page 68, in Probate Office. (Parcel III)
10. Agreement with Alabama Power Company as recorded in Real Record 184, Page 515, in Probate Office. (Parcel III)
11. Restrictive covenants as recorded in Real Record 186, Page 194, in Probate Office. (Parcel III)

EXHIBIT B

Lots 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, and 17, according to survey of Riverchase Trade Center, as recorded in Map Book 12, Page 24, in the probate Office of Shelby County, Alabama.

LESS AND EXCEPT:

1. Mortgage from Donnie F. Tucker and wife, Mary J. Tucker, to Central Bank of the South, dated November 16, 1984, recorded in Real Record 011, Page 243, in Probate Office.
2. Mortgage from Donnie F. Tucker and wife, Mary J. Tucker to Central Bank of the South, dated July 21, 1986 and filed for record in the Probate Office of Shelby County, Alabama, in Real Record 083, Page 79.
3. Title to minerals underlying caption lands with mining rights and privileges belonging thereto, as conveyed in Deed Book 6, Page 80, in Probate Office. And this binder insures against loss or damage which the Insured may sustain through the use of the surface of the insured premises, not consented to by the Insured, in the exercise of the mining rights contained in the instruments set forth above.
4. Rights claimed by Alabama Power Company under the following transmission line permits: Deed Book 101, Page 500; Deed Book 101, Page 569; Deed Book 111, Page 153; Deed Book 129, Page 38; Deed Book 164, Page 177; Deed Book 167, Page 117; Deed Book 194, Page 58; Deed Book 228, Page 197; Deed Book 240, Page 429; Deed Book 251, Page 514; and Real Record 028, Page 759, all in Probate Office of Shelby County, Alabama.
5. Rights claimed under the gas line easement to Alabama Gas Corporation recorded in Deed Book 215, Page 47, in the Probate Office of Shelby County, Alabama.
6. Rights claimed under the public road right of way deed to Shelby County recorded in Deed Book 102, Page 441, and under condemnation proceedings recorded in Probate Minutes Book 7, Page 38 and 46 in the Probate Office of Shelby County, Alabama.
7. Building set back lines, utility and sewer easements, and restrictions as shown on recorded map of said subdivision.
8. Subject to lien created by divorce decree as recorded in Real Record 181, Page 573, in Probate Office, in favor of Mary Jim Tucker.

STATE OF ALABAMA
I CERTIFY THIS
INSTRUMENT WAS FILED

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Thomas P. Snowden, Jr.
JUDGE OF PROBATE

1. Deed Tax \$
2. Mtg. Tax 1777.50
3. Recording Fee 27.50
4. Indexing Fee 2.00
TOTAL 1807.00

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