

This Instrument Prepared by:

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08/22/1994-25923
08:34 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 MCD 1869.90

STATE OF ALABAMA

SHELBY COUNTY

LOAN MODIFICATION AGREEMENT AND MORTGAGE AMENDMENT

THIS LOAN MODIFICATION AGREEMENT AND MORTGAGE AMENDMENT is entered into as of August 18, 1994, by and between COMPASS BANK, an Alabama banking corporation ("Lender"), and TAYLOR PROPERTIES, L.L.C., an Alabama limited liability company ("Borrower"), and WENDELL H. TAYLOR ("Guarantor").

Inst # 1994-25923

W I T N E S S E T H:

WHEREAS, on July 15, 1994, Lender extended a land acquisition loan to Greystone Ridge, Inc. in the amount of \$6,150,000.00 pursuant to a Promissory Note dated July 15, 1994 (the "First Note"), Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement in the amount of \$6,150,000.00, which was recorded as Instrument No. 1994-22321, in the Office of the Judge of Probate of Shelby County, Alabama (the "Mortgage"), Pledge Agreements executed by Guarantor and others, all dated July 14, 1994 (the "Pledge Agreements"), and other documents executed in connection therewith; and

WHEREAS, the Loan and the obligations and liabilities of Greystone Ridge, Inc. pursuant to the First Note, the Mortgage and such other documents have been assumed by Borrower, as evidenced by that certain Assumption Agreement executed by and among Borrower, Lender and Greystone Ridge, Inc. of even date herewith and recorded or to be recorded in the Office of the Judge of Probate of Shelby County, Alabama, contemporaneously herewith (the "Assumption Agreement"); and

WHEREAS, the Mortgage provides that the Mortgage secures all future obligations and liabilities of Borrower to Lender until actual cancellation of the Mortgage on the probate records of Shelby County, Alabama, and the Mortgage has not been so cancelled; and

WHEREAS, Borrower has requested that Lender advance additional funds to Borrower to be evidenced by a second Promissory note, dated of even date herewith (the "Second Note") in the amount of up to One Million Two Hundred Thirty-two Thousand Six Hundred and No/100 Dollars (\$1,232,600.00) (such funds advanced pursuant to the First Note and Second Note being

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referred to herein as the "Loan") to be used for the development of the property subject to the Mortgage (the "Mortgaged Property"); and

WHEREAS, in connection with the execution and delivery of the Second Note, Lindsay Taylor McGraw has executed and delivered or will execute and deliver to Lender a Pledge Agreement covering shares of stock to be held by Lender as additional collateral for Borrower's liabilities and other obligations to Lender (also a "Pledge Agreement"); and

WHEREAS, Lender has agreed to extend the Loan in accordance with the terms and subject to the conditions set forth in this Agreement and the other Loan Documents (as defined below).

AGREEMENT

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Borrower and the Guarantor hereby agree as follows:

A. Execution of Loan Agreement and Additional Loan Documents. Contemporaneously with the execution of this Agreement, Borrower and Lender have executed that certain Construction Loan Agreement dated of even date herewith (the "Loan Agreement"). Borrower and Lender agree that the Loan shall be disbursed, secured, administered and otherwise governed by the terms and conditions of the Loan Agreement. In addition to the Loan Agreement, Borrower, Guarantor and other parties have executed and delivered to Lender other documents evidencing, securing, guaranteeing or otherwise relating to the Loan. Such other documents, together with the First Note, the Second Note, this Agreement, the Assumption Agreement, the Loan Agreement, the Mortgage and the Pledge Agreements, and as any of the same are hereby or may in the future be amended, modified, extended, replaced or renewed, are herein referred to as the "Loan Documents."

B. Execution of Second Note. Borrower shall execute and deliver to Lender, a Promissory Note in the amount of \$1,232,600.00 dated of even date herewith (the "Second Note"). The Loan shall be evidenced by the First Note and Second Note and the Loan and the First Note and Second Note shall be secured by, and be entitled to all the benefits of, the Mortgage, the Loan Agreement and the other Loan Documents.

C. Amendment of Mortgage. The Mortgage is hereby amended as follows:

1. On page one, in the first "Whereas" clause, the phrase "Six Million One Hundred Fifty Thousand and No/100 Dollars (\$6,150,000.00) (the "Loan")" is hereby deleted and the following inserted in lieu thereof: "Seven Million Three Hundred Eighty-two Thousand Six Hundred and No/100 Dollars (\$7,382,600.00) (the "Loan")."

2. On page 1, in the first "Whereas" clause, the phrase, "and as evidenced by a promissory note dated August 18, 1994," is added immediately after the phrase "as evidenced by a promissory note dated July 15, 1994."

3. All references in the Mortgage to the "Project", "Loan", "Loan Amount", "Loan Documents", "Collateral", "Mortgaged Property", "Construction Budget" and any other defined or capitalized term contained therein shall be deemed to be references to the same as may be amended or modified by this Agreement or as may be set forth in the Loan Agreement.

4. The Mortgage, as amended above, is hereby restated, republished and affirmed by Borrower in its entirety, including without limitation, each and every representation, warranty, covenant and agreement made by Borrower therein.

D. Representations and Warranties. Each and every representation, warranty, covenant and agreement contained in the Loan Documents is hereby reaffirmed as of the date hereof. Borrower hereby represents, warrants and certifies to Lender that no Event of Default nor any condition nor any event that with notice or lapse of time or both would constitute an Event of Default, has occurred and is continuing under any of the Loan Documents or the Loan, and that Borrower has no offsets or claims against Lender arising under, related to, or connected with the Loan, the Loan Agreement or any of the other Loan Documents.

E. Expenses. Borrower shall pay any recording and all other expenses incurred by Lender and Borrower in connection with the modification of the Loan and amendment of the Loan Documents and any other transactions contemplated hereby, including without limitation, title or other insurance premiums, survey costs, legal expenses, and recording fees and taxes.

F. 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 and, except as 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.

G. Execution by Guarantor. The Guarantor has executed this Agreement to acknowledge and evidence his consent to the transactions contemplated hereby, including the execution and delivery of the Second Note, the Loan and the amendments to the Loan Documents as described herein, and to acknowledge and affirm the continuing effect of his Guaranty and the obligations contained therein.

H. Severability. In case any one or more of the covenants, agreements, terms or provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity and enforceability of the remaining covenants, agreements, terms or provisions contained herein shall in no way be prejudiced, diminished or otherwise affected thereby.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be duly and properly executed as of the date first set forth above.

BORROWER:

WITNESS:

TAYLOR PROPERTIES, L.L.C.

Mary P. Thout

By:

Wendell H. Taylor
Wendell H. Taylor
Its Member

LENDER:

WITNESS:

COMPASS BANK

Mary P. Thout

By:

[Signature]
Its: Vice President

GUARANTOR:

WITNESS:

Mary P. Thout

Wendell H. Taylor
WENDELL H. TAYLOR

STATE OF ALABAMA

COUNTY OF Jefferson

I, REVA D. RAMEY, a notary public in and for said county in said state, hereby certify that Wendell H. Taylor, whose name as Member of TAYLOR PROPERTIES, L.L.C., an Alabama limited liability company, 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 such instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 18th day of August, 1994.

Reva D. Ramey
Notary Public

[Notarial Seal]

My Commission Expires: 1-8-96

STATE OF ALABAMA

COUNTY OF Jefferson

I, REVA D. RAMEY, a notary public in and for said county in said state, hereby certify that Doug Vibert, whose name as Vice President of COMPASS BANK, 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 such 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 and official seal this 18th day of August, 1994.

Reva D. Ramey
Notary Public

[Notarial Seal]

My Commission Expires: 1-8-96

STATE OF ALABAMA

COUNTY OF

Jefferson

I, REVA O. RAMEY, a notary public in and for said county in said state, hereby certify that WENDELL H. TAYLOR, 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 such instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 18th day of August, 1994.

Reva O. Ramey
Notary Public

[Notarial Seal]

My Commission Expires: 1-8-96

Inst # 1994-25923

08/22/1994-25923
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Loan Modification Agreement and
Mortgage Amendment

Page 6

Inst # 1994-25923