

THIS INSTRUMENT PREPARED BY:
MARK E. HOFFMAN, ESQ.
1300 20th ST. S. SUITE 302
BIRMINGHAM, AL 35205

FIFTH AMENDMENT TO GREYSTONE
MULTI-FAMILY DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AND PARTIAL ASSIGNMENT OF
DEVELOPER'S RIGHTS AND DUTIES

THIS FIFTH AMENDMENT TO GREYSTONE MULTI-FAMILY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into as of the 15 day of JUNE, 1995 by and between DANIEL OAK MOUNTAIN LIMITED PARTNERSHIP, an Alabama limited partnership ("Developer"), TAYLOR PROPERTIES, L.L.C., an Alabama Limited Liability Company (f/k/a TAYLOR PROPERTIES) ("Declarant") and those persons whose names are signed hereto, representing at least fifty percent (50%) in interest of all the Owners of Lots within the Property ("Owners").

R E C I T A L S:

Developer has heretofore entered into the Greystone Multi-Family Declaration of Covenants, Conditions and Restrictions dated as of October 30, 1990 which has been recorded in Deed Book 316, Page 239 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"), which has been amended by (i) First Amendment thereto dated November 21, 1990 and recorded in Real 319, Page 238 in said Probate Office, (ii) Second Amendment thereto dated March 29, 1991 and recorded in Real 336, Page 281 in said Probate Office, (iii) Third Amendment thereto dated March 13, 1992 and recorded as Instrument No. 1992-4710 in said Probate Office, and (iv) Fourth Amendment thereto dated April 13, 1993 and recorded as Instrument No. 1993-10164 in said Probate Office (collectively, the "Declaration"). Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.

The Owners have, by and through an Organizational Committee, appointed by Declarant, caused to be formed the Greystone Ridge Homeowners Association, Inc. ("Association"), by filing with the Judge of Probate of Shelby County, Alabama, Articles of Incorporation for the Association. Developer wishes to partially assign its rights and duties under the Declaration to the Association.

Developer, Declarant and Owners desire to modify and amend the Declaration as hereinafter provided, in accordance with procedures therefor as set forth in Article 8.02 of the Declaration.

1. Article IX of the Declaration is deleted in its entirety, and substituted in place thereof is the following Article IX:

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SHELBY COUNTY JUDGE OF PROBATE
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ARTICLE IX
COMMON AREA ASSESSMENTS

9.01 Assessments and Creation of Lien. Each Owner of a Lot, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association: (a) annual Assessments, as established and to be collected as provided in Section 9.04 below, (b) special Assessments, to be established and collected as provided in Section 9.05 below, and (c) individual Assessments against any particular Lot which are established or assessed pursuant to the terms of this Declaration, including, but not limited to, any fines as may be levied or imposed against such Lot in accordance with the provisions hereof. All Assessments, together with late charges and interest as provided in Section 9.09(a) below, and all court costs and attorneys' fees incurred by the Association to enforce or collect such Assessment, shall be an equitable charge and a continuing lien upon each Lot for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 9.09(c) below. Each Owner shall be personally liable for the payment of all Assessments coming due while he is the Owner of a Lot and his grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee to the Association which were the legal obligations of the grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 9.09(a) below, court costs and attorneys' fees incurred with respect thereto by the Association, shall also be a personal obligation of the person who was the Owner of the Lot at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot, all of the co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of the Association. All Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot, Common Area or any other portion of the Property or any other cause or reason of any nature.

9.02 Purpose of Assessments. The annual and special Assessments provided for herein shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Property and otherwise for the general upkeep and maintenance of the Property, including, specifically, the Common Areas and any Improvements thereto (and/or such areas of the Property as the

Board of the Association may designate as a "Common Maintenance Area), all as may be more specifically authorized from time to time by the Board of the Association. For purposes hereof, and throughout this Declaration, as amended, the term "Common Area" shall also mean those areas of the Property which have been designated by the Board of the Association as a "Common Maintenance Area".

9.03 Uniform Rate of Assessments.

(a) Both annual and special Assessments, as described in Sections 9.04 and 9.05 below, shall be assessed against each Lot in the Property at a uniform rate, with the Owner of each Lot being required to pay his prorata portion of such annual and/or special Assessments, as determined by a fraction, the numerator of which shall be the total Lots owned by such Owner and the denominator of which shall be the total number of Lots in the Development at the time such annual or special Assessment is levied, exclusive of Lots 104 and 105, which shall not be subject to Assessment nor counted in the number of Lots comprising such denominator. Each Lot shall be subject to equal annual and special Assessments.

9.04 Computation of Annual Assessments.

(a) Notwithstanding anything provided to the contrary in this Declaration, the annual Assessment for each Lot in the Property for the approximate eight (8) month period commencing on the date hereof and continuing until and including December 31, 1995 shall be One Hundred Ninety-two and No/100 Dollars (\$192.00) per annum per Lot in the Property. The foregoing shall not limit or restrict any special Assessments levied pursuant to Section 9.05 below (with the approval of a majority of the Owners as provided therein) or any individual Assessments levied in accordance with the provisions of Section 9.06 below.

(b) Commencing with the fiscal year of the Association which begins on January 1, 1996, (i.e., from January 1, 1996 through December 31, 1996, which period is hereinafter referred to as the "Base Year") and annually thereafter, the Board of the Association shall determine and approve annually an annual budget covering the estimated Common Expenses for the Property for the upcoming fiscal year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of annual Assessments for the then applicable year and each Owner shall pay his prorata share of the same as provided in Section 9.03 above. A copy of the budget setting forth the amount of annual Assessments to be levied against the Lots for the following year shall be delivered to each Owner.

(c) In the event the budget for any year after the Base Year results in the Owners being liable for the payment of annual

Assessments which exceed (without regard to proration or adjustment as provided in Section 9.08 below) one hundred ten percent (110%) of the annual Assessments payable for the entire immediately preceding fiscal year, then the budget and the amount of the annual Assessments shall be presented for approval of the Owners at the annual meeting of the Association and must be approved by the vote of a majority of the Owners who are voting in person or by proxy at such meeting. In the event the amount of the annual Assessments does not exceed the limitations set forth above or until such time as a majority of the Owners have approved such increase in the amount of the annual Assessments, then the budget approved by the Board for the then current fiscal year shall be implemented, subject to the restrictions and limitations set forth above on the amount of increase in annual Assessments.

(d) If any budget or the amount of annual Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association and all Common Expenses, then the Board may call a meeting of the Association for the purpose of approving special Assessments as provided in Section 9.05 below. If the actual amount of annual Assessments collected in any one year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Common Expenses.

(e) The Common Expenses to be funded by the annual Assessments may include, but shall not be limited to, the following:

(i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers, members of the Board (and its committees) and any third party contractors;

(ii) Management fees and expenses of administration, including legal and accounting fees, incurred by the Association;

(iii) Utility charges for any utilities serving any of the Common Areas and charges for other common services for the Property;

(iv) The cost of any insurance policies purchased for the benefit of the Association as required or permitted by this Declaration,

including, without limitation, fire, flood and other hazardous coverage, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Association, including errors and omissions insurance, directors and officers liability insurance and any other liability insurance coverage for the benefit of the Association, the members of the Board (and its Committees), any officers, employees, agents or representatives of the Association;

(v) The expenses of maintaining, operating, repairing and replacing any portions of the Common Areas for which the Association is responsible;

(vi) Expenses of maintaining, operating and repairing any other amenities and facilities serving the Development which the Board determines from time to time would be in the best interest of the Association to so maintain, operate and/or repair;

(vii) Ad valorem real and personal property taxes assessed and levied upon any of the Common Areas;

(viii) The cost and expenses for conducting recreational, cultural or other related programs for the benefit of the Owners;

(ix) All other fees, costs and expenses incurred by the Association in accordance with the terms and provisions of this Declaration or which the Board, in its sole discretion, determines to be appropriate to be paid by the Association;

(x) The establishment and maintenance of a reasonable reserve fund or funds (1) for inspections,

maintenance, repair and replacement of any portions of the Common Areas for which the Association is responsible to inspect, maintain, repair or replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds and (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board.

9.05 Special Assessments. In addition to the annual Assessments authorized in Section 9.04 above, the Board of the Association may levy in any year special Assessments for Common Expenses or any extraordinary costs incurred by the Association; provided, however, that any such special Assessments shall be approved by a majority of the votes of the Owners who are voting in person or by proxy at the meeting called for the purpose of adopting special Assessments pursuant to the provisions of Section 9.07 below. The Board may make such Special Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Section 9.03 above.

9.06 Individual Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners or by any Owner, or the respective family members, agents, guests, servants, employees, lessees, invitees or contractors of any Owner, shall be specially assessed against such Owners and their respective Lots. The individual Assessments provided for in this Section 9.06 shall be levied by the Board and the amount and due date of such Assessment shall be specified by the Board in a notice to such Owner.

9.07 Notice of Meetings and Quorum.

(a) Written notice of the annual meeting of the Association, as well as any other meeting called for the purpose of taking any action authorized in this Article IX, shall be sent to all Owners not less than ten (10) days nor more than fifty (50) days in advance of such meetings. With respect to annual meetings, the presence in person or by proxy of Owners entitled to cast over 50% of all the votes of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement but the required

quorum at the subsequent meeting shall be the presence in person or by proxy of Owners entitled to cast at least one-third (1/3) of the total votes of the Association. At such time as a quorum is obtained, the vote of a majority of the Owners who are voting in person or by proxy at such meeting shall be required to approve any matter in which all of the members of the Association are entitled to vote, including any increase in the amount of annual Assessments in excess of the limitations specified in Section 9.04(c) above.

(b) With respect to all other meetings of the members of the Association, including, specifically, meetings pursuant to which special Assessments are to be levied upon each Lot pursuant to Section 9.05 above, there shall be no specific requirement establishing a quorum and the vote of a majority of the Owners who are voting in person or by proxy at any such special meeting shall be binding on all of the members of the Association.

9.08 Date of Commencement of Assessments. The annual Assessments provided for herein shall commence as to each Lot on the day on which such Lot is or was conveyed to a person other than Developer or Declarant and shall be due and payable in such manner and on such schedule as may be established from time to time by the Board of the Association. Annual Assessments and any outstanding special Assessments shall be adjusted for each Lot according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such Lot is conveyed. Notwithstanding anything provided herein to the contrary, Neither Developer nor Declarant shall be responsible for the payment of annual or special Assessments on any Lots which they or their affiliates own in the Property. Declarant has heretofore funded by deficits which may have existed between the total amount of annual Assessments assessed to all other Owners and the actual costs incurred for Common Expenses for the Property. Effective upon the recordation hereof, Declarant shall have no further obligation of any nature to pay any Assessments or otherwise fund any deficits relating to the Common Expenses or the Common Areas.

9.09 Effect of Non-Payment; Remedies of the Association.

(a) Each Owner of the Lot is and shall be deemed to covenant and agree to pay to the Association all Assessments provided for herein. In the event any Assessments or any portion thereof are not paid when due the same shall be subject to a late charge in an amount determined and uniformly applied by the Board from time to time and the Owner of such Lot shall be deemed in default herewith. In the event any Assessments or any portion thereof are not paid within thirty (30) days after the due date of the same, then the unpaid portion of the Assessment shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Owner by Law (the "Applicable Rate") from and after the thirtieth (30th) day from the

due date until the same is paid in full. In the event the Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees, court costs and all other expenses paid or incurred by the Association. The lien and equitable charge upon each Lot for Assessments as provided above shall also include all late charges, interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect any unpaid Assessments.

(b) In the event any Assessments or other amounts due to the Association are not paid by any Owner when the same comes due, then, in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board or through any of its officers or authorized representatives, may undertake any or all of the following remedies:

(i) The Association may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Assessments and any such judgment rendered in any such action shall include the late charge and interest at the Applicable Rate, as specified in Section 9.09(a) above, together with attorneys' fees, court costs and all other expenses paid and incurred by the Association in collecting such unpaid Assessments; and/or

(ii) The Association may enforce the lien created pursuant to Section 9.01 above in the manner hereinafter provided.

(c) There is hereby created a continuing lien on each Lot, with power of sale, which secured the payment to the Association of any and all Assessments levied against or upon such Lot, all late charges and interest at the Applicable Rate assessed pursuant to Section 9.09(a) above and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in collecting any Assessments. If any Assessments remain unpaid for more than sixty (60) days, then the Association, through its Board or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving

demand, the Association may file a claim of lien and perfect its lien against the Lot of such delinquent Owner, which claim shall be executed by any member of the Board of the Association or any officer of the Association, contain the following information and be recorded in the Probate Office of Shelby County, Alabama:

(i) The name of the delinquent Owner;

(ii) The legal description and street address of the Lot upon which the lien claim is made;

(iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and

(iv) A statement that the claim of lien is made by the Association pursuant to this Declaration and is claimed against such Lot in an amount equal to that stated herein.

The lien provided for herein shall be in favor of the Association, shall be for the benefit of all other Owners (other than those Owners in default) and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (1) grant to and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

9.10 Subordination of Lien. Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot in the Property is and shall be subordinate to the lien of any Mortgage held by an

Institutional Mortgagee, but only to the extent that the Mortgage held by any such Institutional Mortgagee is recorded in the Probate Office of Shelby County, Alabama prior to the filing of a claim of lien by the Association pursuant to Section 9.09(c) above. When an Institutional Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot, then such Institutional Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for any Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Institutional Mortgagee was recorded in the Probate Office of Shelby County, Alabama prior to the filing of a claim of lien by the Association pursuant to Section 9.09(c) above, but (b) be liable for all Assessments and other charges levied, assessed or incurred with respect to such Lot from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot has been foreclosed from the personal obligation to pay all Assessments and any other charges levied, assessed or incurred by the Association and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by an Institutional Mortgagee on such Owner's Lot.

9.11 Certificates. The Association or any officer or authorized representative thereof shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to any Owner a certificate in writing setting forth whether the Assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any Assessment stated therein.

2. Developer, effective upon the recordation hereof with the Office of the Judge of Probate of Shelby County, Alabama, does hereby transfer and assign to the Association all of its rights, powers and duties, as same may be set forth in the Declaration, as amended; provided, however, that with respect to those Lots, any portion of which are contiguous to the Greystone Golf Course (i.e., Lots 2 through 67, inclusive), Developer hereby retains, jointly with the Association, all of its rights, powers and duties, as same may be set forth in the Declaration, as amended. Developer may, at any time and for any purpose, appoint the Association to act in its stead and place with respect to any matter the subject of the Declaration and for which it has retained joint control with the Association.

3. Except as expressly modified and amended herein, all of the terms and provisions of the Declaration, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Fifth Amendment to Greystone Multi-Family Declaration of Covenants,

Conditions and Restrictions and Partial Assignment of Developer's Rights and Duties to be executed as of the day and year first above written.

DEVELOPER: DANIEL OAK
MOUNTAIN LIMITED PARTNERSHIP,
an Alabama limited partnership

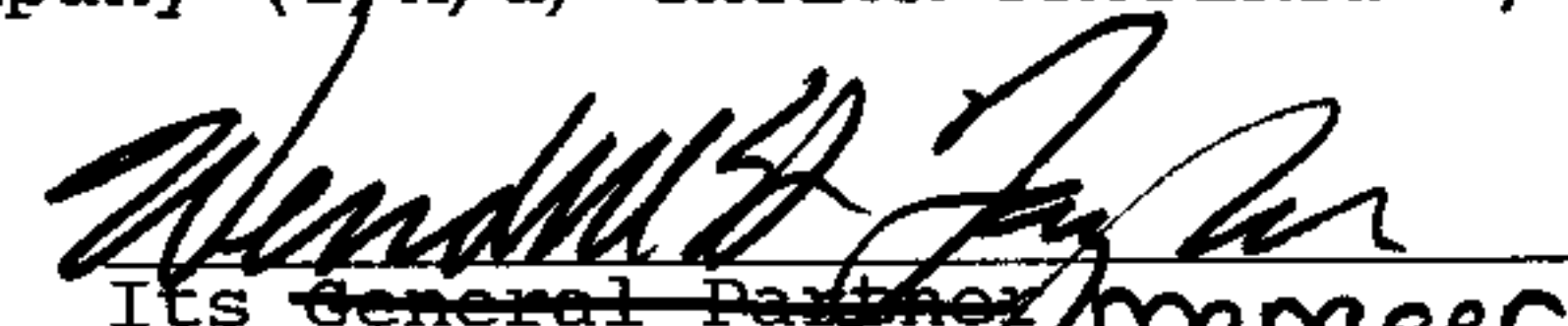
By: DANIEL REALTY INVESTMENT
CORPORATION-OAK MOUNTAIN,
an Alabama corporation,
Its General Partner

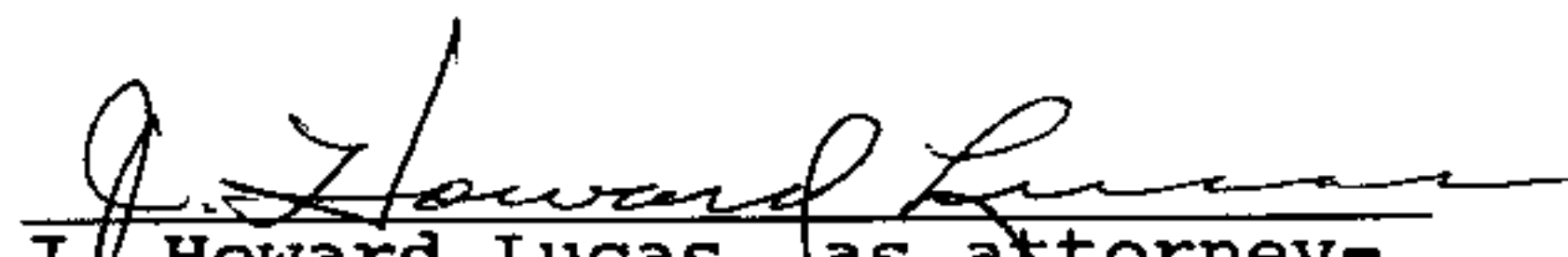
By:


Its Semi Vice President

DECLARANT: TAYLOR PROPERTIES, L.L.C.
an Alabama Limited Liability
Company (f/k/a/ TAYLOR PROPERTIES)

By:


Its ~~General Partner~~ Manager W.B.T.


J. Howard Lucas, as attorney-
in-fact and authorized
signatory agent of Owners
of Lots *, under
and by virtue of a Special
Limited Power of Attorney
executed in his favor by
such Lot Owners.

* 9, 12, 14, 16, 18, 19, 20, 23, 24, 25, 26, 27, 29, 33, 34, 35, 36, 37, 38, 39, 40, 41,
44, 45, 46, 47, 48, 49, 51, 52, 54, 58, 59, 60, 61, 62, 64, 65, 66, 68, 71, 73, 74, 75, 76,
78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 100,
101, 102, 105, 107, 109, 110, 111, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 124, 125,
126, 129, 132, 133, 134, 135, 136, 139, 140, 141, 143, 150, 151, 155, 164, 166, 169

STATE OF ALABAMA)
 SHELBY COUNTY)*

I, the undersigned authority, a Notary Public in and for said County and said State, hereby certify that Stephen R. Monk whose name as Sr. Vice President of Daniel Realty Investment Corporation-Oak Mountain, an Alabama corporation, is signed to the foregoing amendment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the amendment, Stephen R. Monk 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 5th day of June, 1995.

Shel H. Ellis
Notary Public
My Commission Expires: 2/26/98

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned authority, a Notary Public in and for said County and said State, hereby certify that Wendell H. Taylor whose name as ~~General Partner~~ ^{Manager} of Taylor Properties, L.L.C., an Alabama Limited Liability Company (f/k/a Taylor Properties), is signed to the foregoing Amendment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Amendment, he as such ~~General Partner~~ ^{Manager} and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this 1st day of June, 1995.

Rebecca Greathouse
Notary Public
My Commission Expires: 11/4/98

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County and said State, hereby certify that J. Howard Lucas whose name as attorney-in-fact and authorized signatory agent for Owner of Lot Nos. ^{SEE SIGNATURE} PAGE, is signed to the foregoing Amendment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Amendment, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 5th day of JUNE, 1995.

Sheila D. Ellis
Notary Public
My Commission Expires: 2/26/98

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14

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