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This Instrument Prepared by:  
Felton W. Smith  
Balch & Bingham  
P.O. Box 306  
Birmingham, Alabama 35233

STATE OF ALABAMA

SHELBY COUNTY

**THIRD LOAN MODIFICATION AGREEMENT AND MORTGAGE AMENDMENT**

This **THIRD LOAN MODIFICATION AGREEMENT AND MORTGAGE AMENDMENT** is entered into as of the 21<sup>st</sup> day of December, 1995, by and between **COMPASS BANK**, an Alabama banking corporation, successor by name change to **CENTRAL BANK OF THE SOUTH** ("Lender"), and **TAYLOR PROPERTIES, L.L.C.**, an Alabama limited liability company, successor by merger to **SCHOOL HOUSE PROPERTIES**, an Alabama general partnership ("Borrower"), and **THE ESTATE OF WENDELL H. TAYLOR, DECEASED, NANCY B. TAYLOR AND COMPASS BANK, CO-EXECUTORS, AS SUCCESSOR TO WENDELL H. TAYLOR** ("Guarantor").

**WITNESSETH:**

**WHEREAS**, on July 8, 1993, Lender extended a residential land development loan to Borrower in the amount of \$3,700,000.00 pursuant to a Promissory Note dated July 8, 1993 (the "First Note"), Construction Loan Agreement dated July 8, 1993 (as amended from time to time, the "Loan Agreement"), Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement in the amount of \$3,700,000.00, dated September 10, 1993, which was recorded as Instrument No. 1993-32536, in the Office of the Judge of Probate of Shelby County, Alabama (as amended from time to time, the "Mortgage"), and other documents executed in connection therewith; and

**WHEREAS**, on March 17, 1994, Lender advanced to Borrower additional funds in the amount of up to \$1,000,000 pursuant to a \$4,700,000 Promissory Note dated March 17, 1994 (the "Second Note"), which amended, restated in its entirety and replaced the First Note, and a Loan Modification Agreement and Mortgage Amendment dated as of March 17, 1995, and recorded as Instrument No. 1994-10216 in said Probate Office (the First Note, Second Note, "Third Note" (as defined below), Loan Agreement, and Mortgage, together with the Commitment Letter (as defined below) and such other documents, and as any of the same have been, are hereby or in the future may be amended, modified, extended or renewed, being hereinafter collectively referred to as the "Loan Documents"); and

**WHEREAS**, on December 29, 1994, School House Properties merged with Taylor Properties, L.L.C., leaving Taylor Properties, L.L.C. as the surviving entity; and

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SHELBY COUNTY JUDGE OF PROBATE  
008 MCD 27.00

CAHABA Title, Inc.

Inst # 1995-37356

**WHEREAS**, by operation of law and pursuant to that certain Assumption and Consent to Merger dated December 29, 1994, and recorded in said Shelby County probate records as Instrument No. 1995-25591, Taylor Properties, L.L.C. assumed all of the obligations of School House Properties under the Mortgage and other Loan Documents; and

**WHEREAS**, subject to and in accordance with the terms and conditions of that certain commitment letter between Lender and Borrower dated August 16, 1995 and that certain Second Loan Modification Agreement and Mortgage Amendment dated September 11, 1995 and recorded as Instrument No. 1995-25592 in said Shelby County probate records (the "Second Amendment") Lender refinanced the outstanding balance under the Second Note and agreed to advance to Borrower additional funds in the amount of up to One Million Sixty Thousand and No/100 Dollars (\$1,060,000.00) (such refinanced amount and additional funds being referred to herein as the "Existing Loan") for the purpose of providing additional funds for the acquisition of the Additional Property described therein and the development of a portion of such Additional Property; and

**WHEREAS**, Lender has released from the Mortgage certain parcels of the property subject to the Mortgage, in order to allow Borrower to make sales of such lots; 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

**WHEREAS**, the Mortgage has not been so cancelled; and

**WHEREAS**, Borrower and Lender have agreed to reduce the amount of the Existing Loan to Two Million Nine Hundred Fifty Thousand and No/100 dollars (\$2,950,000.00) (as so reduced, the "Loan") and to add additional property to the Mortgage.

## **A G R E E M E N T**

**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. **Amendment of Third Note.** The maximum principal amount of the Loan and the amount of the Third Note (as defined in the Second Amendment) are hereby reduced to Two Million Nine Hundred Fifty Thousand and No/100 Dollars (\$2,950,000.00). The Loan and Third Note shall be secured by, and be entitled to all the benefits of, the Mortgage, the Loan Agreement and the other Loan Documents.

**B. Amendment of Loan Agreement.** The Loan Agreement shall be, and is hereby amended as follows:

1. On page one, after the phrase "Loan Amount:" in the section setting forth the definitions of various terms the amount "\$3,930,000.00" is hereby deleted and the amount "\$2,950,000.00" is inserted in lieu thereof.

2. All references in the Loan Agreement to the "Project", "Loan", "Loan Amount", "Loan Documents", "Collateral", "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.

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

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

1. On page one, in the first "Whereas" clause, the phrase "Three Million Nine Hundred Thirty Thousand and No/100 Dollars (\$3,930,000.00) (the "Loan") is hereby deleted and the following inserted in lieu thereof: "Two Million Nine Hundred Fifty Thousand and No/100 Dollars (\$2,950,000.00) (the "Loan")."

2. The property described on Exhibit A attached hereto (the "Additional Property") is hereby added to the Mortgaged Property (as defined in the Mortgage) in all respects and to the same extent and as fully as if the Additional Property were described on Exhibit A to the Mortgage upon its original recording. Mortgagor hereby grants, bargains, sells, aliens and conveys unto Lender, its successors and assigns, the Additional Property and all estates, buildings, improvements, fixtures, furniture and personal property of every nature whatsoever now or hereafter owned by the Mortgagor and situated on the Additional Property or used or intended to be used in connection with or with the operation of said property, buildings or other improvements, in all respects as if set forth in the Mortgage and to the same extent and as fully as if the Additional Property were described on Exhibit A to the Mortgage upon its original recording. This Agreement is intended to add the Additional Property to the property granted and conveyed by the Mortgage. This Agreement in no way releases from the lien of the Mortgage all or any portion of the real property described therein.

3. All references in the Mortgage to the "Project", "Loan", "Loan Amount", "Loan Documents", "Collateral", "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.

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. **Definition of Mortgaged Property.** The term "Mortgaged Property" as used in the Mortgage and other Loan Documents shall be deemed to refer to that portion of the real property previously subject to the Mortgage which has not been released by Lender on the probate records of Shelby County, Alabama, plus the Additional Property.

E. **Representations and Warranties.** Each and every representation, warranty, covenants 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.

F. **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.

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 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.

H. **Execution by Guarantor.** Nancy B. Taylor and Compass Bank as co-executors of the Estate of Wendell H. Taylor, Deceased have executed this Agreement to acknowledge and evidence their consent to (i) the transactions contemplated hereby, the amendments to the Loan Documents as described herein, (ii) the release from the Mortgage of certain lots in the Project and a portion of the property added to the Mortgage pursuant to the Second Amendment and (iii) to acknowledge and affirm the continuing effect of the Continuing Guaranty (Unlimited) executed by Wendell H. Taylor in favor of Lender and dated as of August 18, 1994 and the obligations contained therein.

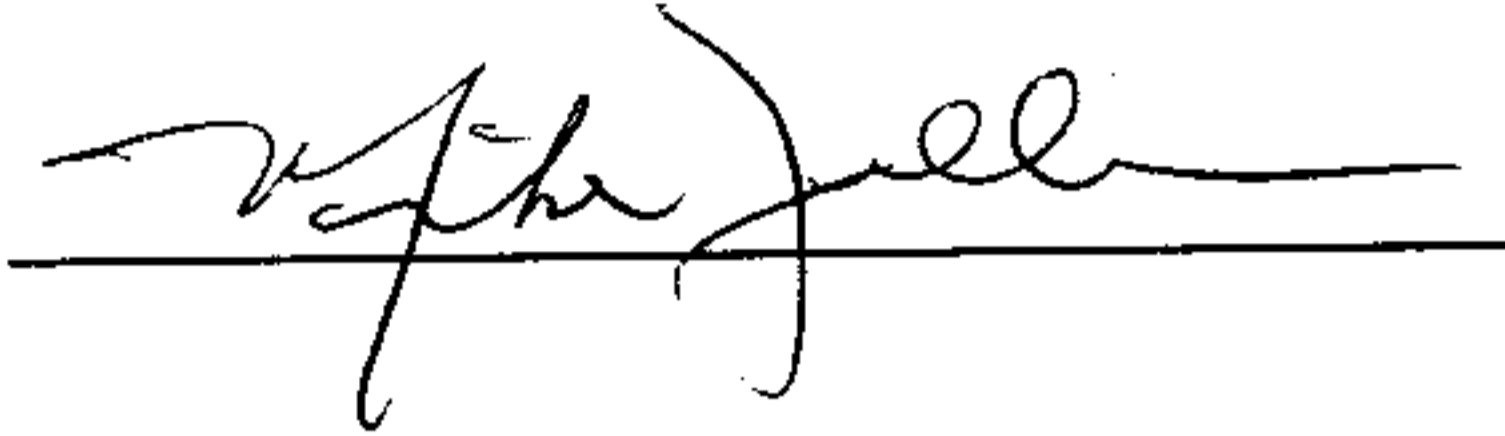
I. **Severability.** In case any one or more of the covenants, agreements, terms or provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity and enforceability of the remaining covenants, agreements, terms or provisions contained herein shall in no 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:**

**TAYLOR PROPERTIES, L.L.C.**

WITNESS:



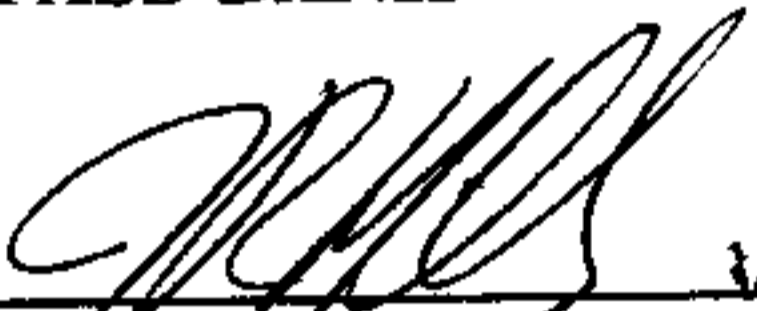
By:   
Wendell H. Taylor, Jr.  
Its Member and Manager

**LENDER:**

**COMPASS BANK**

WITNESS:




By:  J.R. Miller  
Its VICE PRESIDENT

**GUARANTOR:**

WITNESS:




  
Nancy B. Taylor, in her capacity as  
Co-Executor of the Estate of Wendell H.  
Taylor, Deceased

Compass Bank, in its capacity as  
Co-Executor of the Estate of Wendell H.  
Taylor, Deceased

WITNESS:



By:   
Its: VP & ST

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Wendell H. Taylor Jr., whose name as Member and Manager 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 the instrument, he, as such member and manager 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 21<sup>st</sup> day of December, 1995.

Rebecca J. Greathouse  
Notary Public  
My commission expires: 11/4/98

[NOTARIAL SEAL]

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that J.R. Miller, 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 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 and official seal this 27<sup>th</sup> day of December, 1995.

Steve A. Asher  
Notary Public  
My commission expires: 3/23/99

[NOTARIAL SEAL]

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **NANCY B. TAYLOR**, whose name as co-executor of the Estate of Wendell H. Taylor, Deceased, 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, she, in her capacity as such co-executor executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 21<sup>ST</sup> day of December, 1995.

Rebecca J. Breathouse  
Notary Public  
My commission expires: 11/4/98

[NOTARIAL SEAL]

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that John R. Martin, whose name as Vice President & Secretary of **COMPASS BANK**, an Alabama banking corporation, as co-executor of the Estate of Wendell H. Taylor, Deceased, 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, acting in its capacity as co-executor as aforesaid.

Given under my hand and official seal this 22 day of December, 1995.

B. Jane Scoggin  
Notary Public  
My commission expires: 1/12/98

[NOTARIAL SEAL]

EXHIBIT A

LEGAL DESCRIPTION - LOT 4  
EXCLUDED FROM THE GLEN ESTATES

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land situated in the West 1/2 of Section 4, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:  
Commence at the Northwest Corner of Section 4, Township 19 South, Range 1 West, Shelby County, Alabama and run in an easterly direction along the North Line of said Section 4 for a distance of 523.36 feet to the Point of Beginning of the herein described parcel of land, said point being the Northeast Corner of Lot 2 of The Glen Estates, as recorded in Map Book 19, Page 9 in the Office of the Judge of Probate in Shelby County, Alabama; thence continue along last described course for a distance of 318.38 feet; thence turn an angle to the right of 112 degrees 03 minutes 18 seconds and leaving said North Line run in a southwesterly direction for a distance of 365.88 feet to a point on the Northerly Right-of-Way Line of Graystone Glen Circle, said point being on a curve to the left having a radius of 275.00 feet and a central angle of 31 degrees 15 minutes 08 seconds; thence turn an angle to the right of 90 degrees 00 minutes 00 seconds to the tangent of said curve and run in a northwesterly to westerly direction along the arc of said curve and along said right-of-way line for a distance of 150.00 feet to the end of said curve, said point being the Southeast Corner of Lot 3 of The Glen Estates, as recorded in Map Book 19, Page 9 in the Office of the Judge of Probate in Shelby County, Alabama; thence turn an angle to the right of 90 degrees 00 minutes 00 seconds from the tangent of said curve and leaving said right-of-way line run in a northwesterly direction along the Northeasterly Line of said Lot 3 for a distance of 307.38 feet to the Northerly Corner of said Lot 3, said point being located on the Southeast Line of said Lot 2 of The Glen Estates; thence turn an angle to the right of 47 degrees 58 minutes 12 seconds and run in a northeasterly direction along said Southeast Line of said Lot 2 for a distance of 24.59 feet to the Point of Beginning. Said parcel of land contains 79,247.28 square feet or 1.82 acres.

Subject to easements and restrictions of record.

Inst # 1995-37356

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SHELBY COUNTY JUDGE OF PROBATE  
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