

This instrument prepared by:

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STATE OF ALABAMA)

SHELBY COUNTY)

Inst # 1999-36838

09/01/1999-36838
02:27 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
19.50
005 MMS

AMENDMENT TO MORTGAGE

This Amendment to Mortgage dated as of the 1st day of July, 1999, is executed by South Grande View Development Co., Inc. (the "Borrower"), as mortgagor, in favor of Compass Bank, an Alabama banking corporation (the "Lender"), as mortgagee.

Recitals

1. The Borrower has previously granted to the Lender a Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated August 23, 1994, recorded in Instrument No. 1994-26506 in the Probate Office of Shelby County, Alabama (the "First Mortgage"). The First Mortgage secured an original principal amount of \$2,650,000 (such amount being comprised of two loans, one represented by a promissory note in the amount of \$2,100,000 and the other represented by a promissory note in the amount of \$550,000).

The \$2,100,000 note has been amended and restated through amended and restated notes as follows, among others:

<u>Date</u>	<u>Amount</u>	<u>Maturity</u>
08/23/96	\$1,626,840.00	10/01/96
11/26/96	\$1,515,630.00	01/01/97
03/06/97	\$1,409,629.00	07/01/97
08/25/97	\$1,245,709.00	10/01/97
11/25/97	\$1,031,539.00	07/01/98
08/26/98	\$ 883,539.00	11/01/98
12/30/98	\$ 836,662.44	02/01/99

(collectively, the "Land Note").

2. The Borrower has previously granted to the Lender a Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated June 6, 1995, recorded in Instrument

No. 1995-15378 in the Probate Office of Shelby County, Alabama (the "Second Mortgage"). The Second Mortgage secured a promissory note in the principal amount of \$300,000.

The \$300,000 note has been amended and restated through amended and restated notes as follows, among others:

<u>Date</u>	<u>Amount</u>	<u>Maturity</u>
11/02/96	\$180,998.00	010/1/97
030/6/97	\$180,330.00	07/01/97
08/25/97	\$151,997.00	10/01/97
11/25/97	\$153,000.00	07/01/98
08/26/98	\$128,000.00	11/01/98
12/30/98	\$118,033.31	020/1/99

(collectively, the "Sewer Note").

3. The Borrower has previously granted to the Lender a Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated August 18, 1995, recorded in Instrument No. 1995-24083 in the Probate Office of Shelby County, Alabama (the "Third Mortgage"). The Fourth Mortgage secured a promissory note in the principal amount of \$674,000 (the "674,000 Note"). The \$674,000 Note has been paid in full.

4. The Borrower has previously granted to the Lender a Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated May 3, 1996, recorded in Instrument No. 1996-14966 in the Probate Office of Shelby County, Alabama (the "Fourth Mortgage"). The Fourth Mortgage secured a promissory note in the principal amount of \$498,600.

The \$498,600 note has been amended and restated through amended and restated notes as follows, among others:

<u>Date</u>	<u>Amount</u>	<u>Maturity</u>
08/25/97	\$248,735.00	10/01/97
08/26/98	\$ 72,635.00	11/01/98
12/30/98	\$ 57,876.60	02/01/99

(collectively, the "4th Addition Note").

5. The Borrower has previously granted to the Lender a Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated May 3, 1996, recorded in Instrument

No. 1996-14968 in the Probate Office of Shelby County, Alabama (the "Fifth Mortgage"). The Fifth Mortgage secured a promissory note in the principal amount of \$100,000.

The \$100,000 note has been amended and restated through amended and restated notes as follows, among others:

<u>Date</u>	<u>Amount</u>	<u>Maturity</u>
04/25/97	\$200,000.00	On Demand
11/25/97	\$325,000.00	On Demand
04/30/98	\$425,000.00	On Demand

(collectively, the "Interest Reserve Note").

6. The Borrower has previously granted to the Lender a Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated September 11, 1996, recorded in Instrument No. 1996-30061 in the Probate Office of Shelby County, Alabama (the "Sixth Mortgage"). The Sixth Mortgage secured a promissory note in the principal amount of \$1,160,000.

The \$1,160,000 note has been amended and restated through amended and restated notes as follows, among others:

<u>Date</u>	<u>Amount</u>	<u>Maturity</u>
04/30/98	\$632,725.00	07/01/98
08/26/98	\$632,725.00	11/01/98
12/30/98	\$587,528.74	02/01/99

(collectively, the "Phase V and VII Note").

7. The Borrower is the maker of that certain promissory note dated as of December 24, 1997, in favor of Bank in the original principal amount of \$225,000 (the "Swim & Tennis Center Note").

8. The Borrower is the maker of that certain promissory note dated as of December 30, 1998, in the original principal amount of \$60,700 (the "1998 Interest Note").

9. The Land Note, the Sewer Note, the Interest Reserve Note, the Phase V and VII Note, and the Swim & Tennis Center Note are referred to herein collectively as the "Notes". The 4th Addition Note, the 1998 Interest Note and the \$674,000 Note are not part of the "Notes".

10. Lender and Borrower have agreed to amend and restate the Notes in an Amended and Restated Promissory Note of even date herewith in the principal amount of \$2,090,879.77. It is a condition of this agreement that the Borrower execute this Amendment to Mortgage.

11. To induce the Lender to amend and restate the Notes, the Borrower has agreed to execute this Amendment to Mortgage.

Agreement

NOW, THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the Borrower agrees with Lender as follows:

1. It is hereby agreed and acknowledged that the First Mortgage continues to secure the Notes as the Notes have been amended and restated in that certain Amended and Restated Promissory Note executed by Borrower in favor of Lender contemporaneously herewith in the amount of \$2,090,879.77 and all renewals, extensions, modifications and amendments thereto and thereof.
2. All other provisions of the First Mortgage shall remain in full force and effect.
3. The First Mortgage, as amended herein, 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 herein.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to Mortgage to be executed on the date of the acknowledgment of their signatures below.

SOUTH GRANDE VIEW DEVELOPMENT CO., INC.

By: C-S
Charles S. Givianpour, its: President

COMPASS BANK

By: [Signature]
Its: Vice President

STATE OF ALABAMA

COUNTY OF Jefferson

I, Imogene Tryon, a notary public in and for said county in said state, hereby certify that **Charles S. Givianpour**, whose name as President of **South Grande View Development Co., 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 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, 1999.

Imogene Tryon
Notary Public

[NOTARIAL SEAL]

Notary Public, Alabama, State At Large
My Commission Expires June 15, 2001

My Commission Expires: _____

STATE OF ALABAMA

COUNTY OF Jefferson

I, Debbie Ann Doakes, a notary public in and for said county in said state, hereby certify that Travis McKay, 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 31st day of August, 1999.

Debbie Ann Doakes
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 6-3-2003

inst # 1999-36838