

STATE OF ALABAMA

COUNTY OF SHELBY

SECOND AMENDMENT TO MORTGAGE

This Second Amendment made this 20th day of, 2002, between **COMPASS BANK**, an Alabama banking corporation (the "Lender"), and **SOUTHMARK PROPERTIES, L.L.C.**, an Alabama limited liability company and **INTERSTATE RESTAURANT INVESTORS, L.L.P.**, an Alabama limited liability partnership (individually and collectively, the "Borrower").

WHEREAS, in connection with a loan from Lender to Borrower in the principal amount of \$6,261,000.00 (the "Loan"), Borrower delivered or caused to be delivered to Lender, among other documents (collectively, the "Loan Documents"), the following documents: (i) Promissory Note from Borrower to Lender dated December 28, 2000 in the amount of \$6,261,000.00 (the "Note"), (ii) Construction Loan Agreement from Borrower to Lender dated December 28, 2000, as amended by First Amendment thereto dated January 17, 2001, Second Amendment thereto dated August 3, 2001, Third Amendment thereto dated January 30, 2002, and Fourth Amendment thereto dated contemporaneously herewith (collectively, the "Loan Agreement"); (iii) Future Advance Accommodation Mortgage, Assignment of Rents and Leases, and Security Agreement (Alabama) from Pelham Parkway, L.L.C. dated December 28, 2000, recorded in the Office of the Judge of Probate of Shelby County, Alabama, at Instrument No. 2001-00471 (the "Accommodation Mortgage"); and (iv) Future Advance Mortgage, Assignment of Rents and Leases, and Security Agreement (Alabama) from Borrower to Lender dated January 17, 2001, recorded in the Office of the Judge of Probate of Shelby County, Alabama, at Instrument No. 2001-10124, as amended by First Amendment to Mortgage dated August 3, 2001 and recorded in the Office

Compass Bank hereby certifies that the initial advance on the indebtedness secured by this Mortgage was \$1,809,406.54, and that mortgage taxes on said amount were paid in connection with the recording of the referenced Accommodation Mortgage on January 5, 2001. A further advance of \$225,000.00 on the indebtedness secured by this Mortgage was made, and mortgage taxes on said amount were paid, in connection with the recording of this Mortgage on March 21, 2001. An additional advance of \$1,371,803.15 on the indebtedness secured by this Mortgage is being made contemporaneously herewith, and mortgage taxes on said \$1,371,803.15 are being paid with the recording of this Second Amendment to Mortgage. Compass Bank further certifies that all mortgage taxes will be paid on any additional advances secured by this Mortgage no later than September next following the date any such additional advances are made.

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SHELBY COUNTY JUDGE OF PROBATE
007 CH 2086.85

COMPASS BANK

By: Martin R. Brann
Its: Vice President

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of the Judge of Probate of Shelby County, Alabama, at Instrument No. 2001-32964 (collectively, the "Mortgage"); and

WHEREAS, Lender and Borrower desire to amend the Mortgage as set forth herein.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower and Lender agree that the Mortgage is amended as follows:

1. **Exhibit A** to the Mortgage and **Exhibit A-1** to the Mortgage (as added by the First Amendment to Mortgage) are hereby replaced in their entirety with **Exhibit A-2** hereto. It is the intent of this instrument to, and Lender hereby does, *release* from the Mortgage all real property which is not described on **Exhibit A-2** hereto.

Further, any real property described on **Exhibit A-2** hereto which was not previously described on **Exhibit A** or **Exhibit A-1** to the Mortgage (the "Additional Land") shall in all respects be considered as part of the Mortgaged Property under said Mortgage to the same extent as if originally included under the real property described in the Mortgage. For good and valuable consideration, Borrower does hereby grant, bargain, sell, alien and convey unto the Lender, its successors and assigns, the Additional Land, to secure the same indebtedness (however described) as set forth in the Mortgage and under the same terms, conditions, warranties and representations as set forth in the Mortgage, all of which are hereby adopted by reference.

2. Except as modified herein, all other terms and conditions of the Mortgage shall remain in full force and effect.

IN WITNESS WHEREOF, Borrower and Lender have caused this Second Amendment to be executed as of the day and year first set forth above.

LENDER:

WITNESS:

COMPASS BANK



By: Martin R. Brown
Its: Vice President

WITNESS:

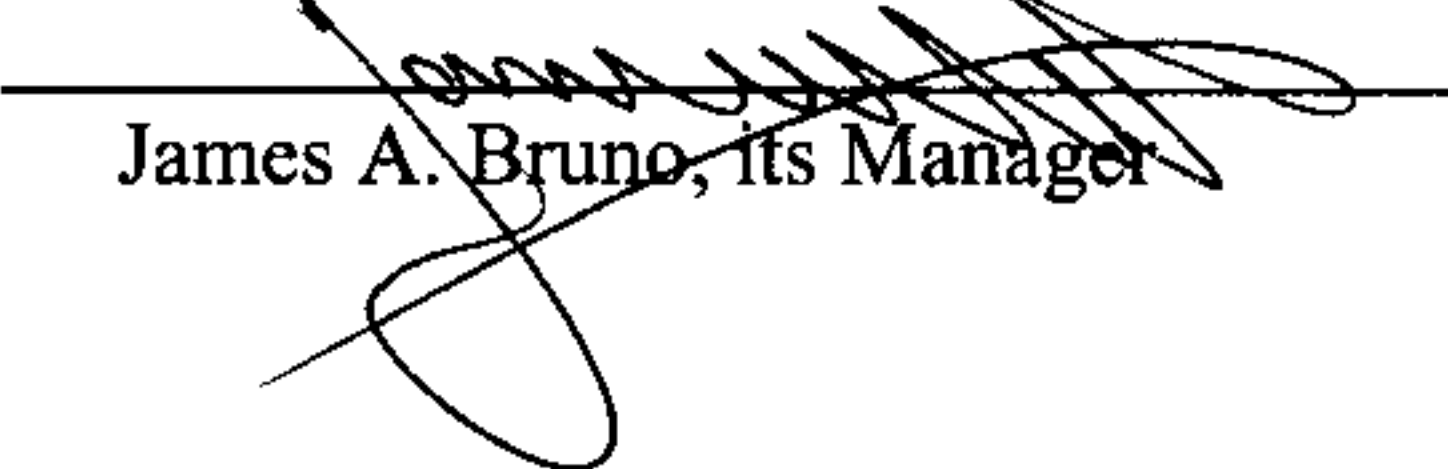


WITNESS:



BORROWER:

SOUTHMARK PROPERTIES, L.L.C.,
an Alabama limited liability company

By: 
_____ James A. Bruno, its Manager

**INTERSTATE RESTAURANT
INVESTORS, L.L.P.,**
an Alabama limited liability partnership

By: 
_____ John McGeever, its Partner

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Connie McChesney, a notary public in and for said county in said state, hereby certify that **James A. Bruno**, whose name as Manager of **SOUTHMARK 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 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 20th day of March, 2002.

Connie McChesney
Notary Public

[Notarial Seal]

My Commission Expires: 10-27-2003

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Connie McChesney, a notary public in and for said county in said state, hereby certify that **John McGeever**, whose name as Partner of **INTERSTATE RESTAURANT INVESTORS, L.L.P.**, an Alabama limited liability partnership, 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 Partner and with full authority, executed the same voluntarily for and as the act of said limited liability partnership.

Given under my hand and official seal this 20th day of March, 2002.

Connie McChesney
Notary Public

[Notarial Seal]

My Commission Expires: 10-27-2003

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Cassandra McMath Sherman a notary public in and for said county in said state, hereby certify that Martin R Brown, whose name as Vice President of **COMPASS BANK**, 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 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 18 day of March, 2002.

Cassandra McMath Sherman
Notary Public

[Notarial Seal]

My Commission Expires: MY COMMISSION EXPIRES JULY 28, 2005

THIS INSTRUMENT PREPARED BY:

Randolph H. Lanier
BALCH & BINGHAM LLP
1901 Sixth Avenue North
Suite 2600
Birmingham, Alabama 35203
(205) 251-8100

EXHIBIT A-2
TO SECOND AMENDMENT TO MORTGAGE

Description of Mortgaged Property

"1.60 acre Parcel"

Commence at the NW corner of said Section 24, Township 20 South, Range 3 West; thence S 87 deg. 46 min. 00 sec. E a distance of 1669.02 feet; thence S 18 deg. 40 min. 00 sec. W a distance of 190.46 feet; thence S 11 deg. 40 min. 00 sec. W a distance of 369.40 feet; thence N 81 deg. 15 min. 00 sec. E a distance of 37.50 feet; thence S 14 deg. 37 min. 00 sec. W a distance of 75.00 feet; thence S 81 deg. 15 min. 00 sec. W a distance of 37.50 feet; thence S 11 deg. 50 min. 58 sec. W a distance of 209.97 feet; thence S 17 deg. 12 min. 34 sec. W a distance of 410.69 feet; thence S 3 deg. 59 min. 34 sec. W a distance of 609.44 feet to the point of beginning; thence continue along last described course a distance of 58.12 feet; thence N 81 deg. 02 min. 26 sec. W a distance of 246.20 feet; thence S 39 deg. 02 min. 26 sec. E a distance of 359.54 feet; thence N 52 deg. 53 min. 34 sec. E a distance of 307.97 feet; thence N 19 deg. 57 min. 38 sec. E a distance of 41.95 feet to a point lying on the Southerly right of way line of a CSX Railroad right of way (100 foot right of way); thence N 72 deg. 52 min. 51 sec. W along said right of way line a distance of 250.24 feet to the point of beginning; being situated in Shelby County, Alabama

".32 acre Parcel"

Commence at the NW corner of said Section 24, Township 20 South, Range 3 West; thence 87 deg. 46 min. 00 sec. East a distance of 1,669.02 feet; thence South 18 deg. 40 min. 00 sec. West a distance of 190.46 feet; thence South 11 deg. 40 min. 00 sec. West a distance of 369.40 feet; thence North 81 deg. 15 min. 00 sec. East a distance of 37.50 feet; thence South 14 deg. 37 min. 00 sec. West a distance of 75.00 feet; thence South 81 deg. 15 min. 00 sec. West a distance of 37.50 feet; thence South 11 deg. 50 min. 58 sec. West a distance of 209.97 feet; thence South 17 deg. 12 min. 34 sec. West a distance of 410.69 feet; thence South 3 deg. 59 min. 34 sec. West a distance of 509.60 feet to a point lying on the southerly right of way line of Shelby County Highway # 52 (variable right of way), said point also lying on a curve to the right having a radius of 1,917.89 feet, a central angle of 00 deg. 42 min. 01 sec. and subtended by a chord which bears North 66 deg. 05 min. 40 sec. West, a chord distance of 23.44 feet; thence along the arc of said curve and along said right of way line a distance of 23.44 feet to a point, said point being the point of beginning and lying on aforesaid curve; having a central angle of 00 deg. 29 min. 31 sec. and subtended by a chord which bears North 65 deg. 29 min. 54 sec. West, a chord distance of 16.47 feet; thence continue along the arc of said curve and along said right of way line a distance of 16.47 feet to the beginning of a compound curve to the right having a radius of 786.67 feet, a central angle of 26 deg. 37 min. 37 sec. and subtended by a chord which bears North 52 deg. 51 min. 19 sec. West, a chord distance of 362.31 feet; thence along the arc of said curve and along said right of way line a distance of 365.59 feet to its intersection with the easterly right of way line of U. S. Highway # 31 (variable right of way); thence, leaving said southerly right of way line and along said easterly right of way line South 10 deg. 09 min. 19 sec. West a distance of 105.95 feet to its intersection with the Northerly right of way line of a CSX Railroad right of way (100 foot right of way), said point also lying on a curve to the left

having a radius of 1,357.53 feet, a central angle of 3 deg. 58 min. 00 sec. and subtended by a chord which bears South 65 deg. 26 min. 43 sec. East, a chord distance of 93.96 feet; thence, leaving said easterly right of way line and along said northerly railroad right of way line and along the arc of said curve a distance of 93.98 feet to the beginning of a compound curve to the left having a radius of 1,957.53 feet, a central angle of 5 deg. 27 min. 08 sec. and subtended by a chord which bears South 70 deg. 09 min. 17 sec. East, a chord distance of 186.21 feet; thence along the arc of said curve and along said railroad right of way line a distance of 186.28 feet; thence South 72 deg. 52 min. 51 sec. East, along said railroad right of way line a distance of 64.72 feet to the point of beginning.

"1.66 acre Parcel"

Commence at the NW corner of Section 24, Township 20 South, Range 3 West, Shelby County, Alabama; thence South 87 deg. 46 min. 00 sec. East a distance of 1,669.02 feet; thence South 18 deg. 40 min. 00 sec. West, a distance of 190.46 feet; thence South 11 deg. 40 min. 00 sec. West, a distance of 369.40 feet; thence North 81 deg. 15 min. 00 sec. East, a distance of 37.50 feet; thence South 14 deg. 37 min. 00 sec. West a distance of 75.00 feet to the Point of Beginning; thence South 81 deg. 15 min. 00 sec. West a distance of 350.40 feet to a point lying on the northerly right of way line of a City of Pelham street; thence South 79 deg. 01 min. 44 sec. East along said right of way line a distance of 440.43 feet to the point of beginning of a curve to the right having a central angle of 5 deg. 45 min. 09 sec., a radius of 550.00 feet and subtended by a chord which bears South 76 deg. 09 min. 10 sec. East a chord distance of 55.20 feet; thence along said curve and continuing along said right of way line a distance of 55.22 feet to the end of said curve; thence South 73 deg. 16 min. 36 sec. East and continuing along said right of way line a distance of 81.87 feet to the point of beginning of a curve to the left having a central angle of 92 deg. 16 min. 58 sec., a radius of 45.00 feet and subtended by a chord which bears North 60 deg. 33 min. 03 sec. East a chord distance of 64.89 feet; thence along said curve and continuing along said right of way line a distance of 72.48 feet to the end of said curve, said point also being the point of intersection of said right of way line and the Westerly right of way line of Shelby County Road No. 33; thence North 14 deg. 26 min. 26 sec. East, and leaving said City of Pelham right of way line along said Shelby County Right of way line a distance of 19.48 feet; thence North 14 deg. 35 min. 24 sec. East and continuing along said Shelby County right of way line a distance of 136.71 feet; thence North 12 deg. 43 min. 00 sec. East and continuing along said right of way line a distance of 41.58 feet; thence South 81 deg. 15 min. 00 sec. West and leaving said right of way line a distance of 326.28 feet to the point of beginning.

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