

ASSIGNMENT OF RENTS AND LEASES

The following terms shall have the meanings set forth below, as used in this instrument:

Lender: **BancorpSouth Bank**

Lender's Notice Address: **2211 Highland Avenue, South
Birmingham, AL 35205**

Loan Amount: **\$2,450,000.00**

Mortgage: **The Mortgage and Security Agreement executed
by Owner in favor of Lender this date to further
secure the Obligation (defined below).**

Owner: **Pelham Parkway Investors, LLC**

Owner's Notice Address: **2636 Abingdon Road
Birmingham, AL 35243**

1. **BY THIS ASSIGNMENT**, the Owner, for value received, hereby assigns to the Lender all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, now existing or hereafter made and affecting the real property and the improvements and equipment thereon described in **Exhibit A** attached hereto and incorporated herein by reference (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors there under, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph 1, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter collectively and severally referred to as the "Lease".

2. **OWNER'S PURPOSE** in making this assignment is to relinquish, convey, and assign to Lender its right to collect and enjoy the rents, royalties, issues, profits, income and other benefits at any time accruing by virtue of the Lease (hereinafter called "Rents and Profits") as additional security for the outstanding indebtedness to Lender as evidenced by the note in favor of Lender (herein called the "Obligation") dated this same date, in the aggregate original principal sum equal to the Loan Amount executed by Owner, and as additional security for the Owner's obligations under the Mortgage executed to better secure the Obligation; and to furnish security for the performance of Owner's obligations contained herein, and in the Obligation, and in all of the other documents executed by Owner in connection with the making or closing of the Loan. The Obligation, the Mortgage, and other said loan documents, and all other documents executed in connection with this loan are referred to as the "Loan Documents".

3. **THE PARTIES INTEND** that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on Owner's Obligation, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth below and in the Loan Documents, the Rents and Profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Obligation, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Lender or by a receiver, shall be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered into actual possession of the Property.

4. **UPON THE OCCURRENCE OF ANY DEFAULT** under the terms and conditions of this Assignment or any of the Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

5. **OWNER WARRANTIES:**

- (a) that no default exists on the part of Owner under any Lease;
- (b) that no rent or other payment has been or will be collected under any Lease more than one month in advance;
- (c) that neither the Lease nor any interest therein has been previously or will be assigned or pledged by Owner;
- (d) that no concession has been or will be granted to any Lessee in the form of a waiver, release, reduction, discount or other alteration of rent or other payment due or to become due.

All of the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

6. Owner agrees that nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease. Owner does not delegate or assign to Lender, and Lender does not accept or assume any of the duties, obligations, or liabilities of Borrower as provided in the Lease. Despite the present and absolute assignment by Owner to Lender of the Lease, Lender will not be required to perform any of the agreements or conditions contained in the Lease and nothing in this Agreement will impose any obligation upon Lender (including any liability under any covenant of quiet

enjoyment as provided in the Lease). Owner retains and will perform all duties, obligations, and liabilities of Owner as provided in the Lease, provided that Lender, in the sole and absolute option of Lender may cure any default as provided in the Lease on behalf of Owner, and Owner will reimburse Lender on demand for all amounts paid and expended by Lender to cure the defaults of Owner as provided in the Lease.

7. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

8. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.

9. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Lender, any third parties now or hereafter acquiring any interest in the Obligation or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors, and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the County in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

10. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.

11. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Mortgage, Note, and guarantees, this Assignment shall be void and of no further effect.

12. All notices given hereunder shall be given in the manner set forth in the Mortgage.

13. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

14. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama.

15. **WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, OWNER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR IN CONNECTION WITH THE TRANSACTIONS RELATED THERETO OR CONTEMPLATED THEREBY OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. OWNER AGREES THAT LENDER MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF OWNER IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN OWNER AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

IN WITNESS WHEREOF, this document has been executed by the undersigned under seal on this 3rd day of JUNE 2002.

"PELHAM PARKWAY INVESTORS, LLC"


Its Member

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in said County in said State, hereby certify that _____ is a member of PELHAM PARKWAY INVESTORS, LLC and 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 said instrument, and with full authority, executed the same voluntarily.

GIVEN under my hand and official seal of office, this 3rd day of JUNE 2002.


Notary Public

My Commission Expires

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: May 31, 2004
~~BONDED THRU NOTARY PUBLIC UNDERWRITERS~~

EXHIBIT A

20020614000282040 Pg 5/5 23.00
Shelby Cnty Judge of Probate, AL
06/14/2002 13:12:00 FILED/CERTIFIED

DESCRIPTION OF REAL PROPERTY

Issuing Office File No.: T-60274

Commence at the Southwest corner of the Northwest Quarter of Section 31, Township 19 South, Range 2 West; thence run in a Northerly direction along the West line of said quarter section line for a distance of 10.46 feet to the point of beginning; thence continue along last described course for a distance of 636.02 feet; thence turn a deflection angle to the right of 53 degrees 54 minutes 01 seconds and run in a Northeasterly direction for a distance of 428.24 feet to a point on the Southwesterly right-of-way line of U.S. Highway 31; thence turn a deflection angle to the right of 90 degrees 00 minutes 00 seconds and run in a Southeasterly direction said right-of-way line for a distance of 40.00 feet; thence turn a deflection angle to the right of 90 degrees 00 minutes 00 seconds and run in a Southwesterly direction for a distance of 202.21 feet; thence turn a deflection angle to the left of 90 degrees 00 minutes 00 seconds and run in a Southeasterly direction for a distance of 314.65 feet; thence turn deflection angle to the right of 85 degrees 39 minutes and run in a Southwesterly direction for a distance of 200.00 feet; thence turn a deflection angle to the left of 85 degrees 39 minutes and run in a Southeasterly direction for a distance of 233.30 feet; thence turn a deflection angle to the left of 94 degrees 21 minutes 09 seconds and run in a Northeasterly direction for a distance of 199.90 feet; thence turn a deflection angle to the right of 94 degrees 21 minutes 09 seconds and run in a Southeasterly direction for a distance of 306.00 feet; thence turn a deflection angle to the right of 85 degrees 39 minutes and run in a Southwesterly direction for a distance of 130.50 feet; thence turn a deflection angle to the right of 44 degrees 00 minutes 00 seconds and run in Westerly direction along the South line of Eckmann Subdivision for a distance of 611.12 feet to the point of beginning.

LESS AND EXCEPT the following described parcel of land:

Commence at the Southwest corner of the Northwest Quarter of Section 31, Township 19 South, Range 2 West; thence run in a Northerly direction along the West line of said quarter section for a distance of 10.46 feet; thence turn a deflection angle to the right of 93 degrees 33 minutes 01 seconds and run in an Easterly direction for a distance of 85.00 feet to POINT OF BEGINNING; thence turn a deflection angle to the left of 43 degrees 34 minutes 13 seconds and run in a Northeasterly direction for a distance of 336.69 feet; thence turn a deflection angle to the right of 93 degrees 55 minutes 13 seconds and run in a Southeasterly direction for a distance of 58.00 feet; thence turn a deflection angle to the left of 94 degrees 21 minutes 09 seconds and run in a Northeasterly direction for a distance of 199.90 feet; thence turn a deflection angle to the right of 94 degrees 21 minutes 09 seconds and run in a Southeasterly direction for a distance of 306.00 feet; thence turn a deflection angle to the right of 85 degrees 39 degrees 00 minutes and run in a Southwesterly direction for a distance of 130.05 feet; thence turn a deflection angle to the right of 44 degrees 00 minutes 00 seconds and run in a Westerly direction for a distance of 526.11 feet to the POINT OF BEGINNING.

Situated in Shelby County, Alabama.