

NOTE TO PROBATE JUDGE: MORTGAGE FILING PRIVILEGE TAXES HAVE BEEN PREVIOUSLY PAID ON THE INDEBTEDNESS SECURED BY THAT CERTAIN MORTGAGE DATED AUGUST 31, 2001, RECORDED WITH THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA AT INSTRUMENT NUMBER 2001-38210, WHICH MORTGAGE IS AMENDED HEREBY. THIS AMENDMENT NEITHER EXTENDS THE MATURITY DATE NOR INCREASES THE AMOUNT OF THE INDEBTEDNESS SECURED; THEREFORE NO ADDITIONAL MORTGAGE FILING PRIVILEGE TAXES ARE DUE.

THIS INSTRUMENT WAS PREPARED BY:

JENNIFER R. SMITH
MAYNARD, COOPER & GALE, P.C.
1901 SIXTH AVENUE, NORTH
2400 AM SOUTH/HARBERT PLAZA
BIRMINGHAM, ALABAMA 35203

STATE OF ALABAMA)

COUNTY OF SHELBY)

FIRST AMENDMENT TO MORTGAGE

This FIRST AMENDMENT TO MORTGAGE (this "First Amendment"), is made and entered into as of July 24, 2002, by and between **DOUBLE OAK WATER RECLAMATION, LLC**, an Alabama limited liability company ("**Borrower**"), whose address is 850 Shades Creek Parkway, Birmingham, Alabama 35209, and **COMPASS BANK** ("**Lender**"), whose address is 15 South 20th Street, Birmingham, Alabama 35233.

Recitals

A. Borrower has heretofore executed in favor of Lender that certain Mortgage dated as of August 31, 2001, and recorded in the Office of the Judge of Probate of Shelby County, Alabama in Instrument No. 2001-38210 and encumbering the property described on Exhibit A attached hereto and made a part hereof (the "**Mortgage**").

B. The Borrower and Lender are parties to that certain Credit Agreement dated August 31, 2001 (the "Credit Agreement") pursuant to which, among other things, Lender made available to Borrower a construction loan with the maximum principal amount of \$10,900,000.00 (the "Loan"). Borrower has requested (among other things) that Lender decrease the interest rate applicable to the Loan, extend the period during which Borrower may request and receive advances, modify certain financial covenants and make other conforming changes to the Credit Agreement and other documents executed in connection therewith.

C. Borrower and Lender now desire to amend the Mortgage of record to reflect the changes described herein.

Agreement

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Capitalized terms used in this First Amendment and not otherwise defined herein have the respective meanings attributed thereto in the Mortgage.

2. The rules of interpretation set forth in Section 1.1 of the Mortgage shall govern the construction and interpretation of this First Amendment.

3. Section 1.2 of the Mortgage is amended by deleting Section 1.2(s) in its entirety and replacing it with the following:

1.2(s) **Obligations** means (A) the payment of all amounts now or hereafter becoming due and payable under the Credit Documents, including the principal amount of the Credit, all interest (including interest that, but for the filing of a petition in bankruptcy, would accrue on any such principal) and all other reasonable fees, charges and costs (including reasonable attorneys' fees and disbursements) payable in connection therewith; (B) the observance and performance by the Borrower of all of the provisions of the Credit Documents; (C) the payment of all sums advanced or paid by the Lender in exercising any of its rights, powers or remedies under the Credit Documents, and all interest (including post-bankruptcy petition interest, as aforesaid) on such sums provided for herein or therein; (D) the payment and performance of all other indebtedness, obligations and liabilities of the Borrower to the Lender (including obligations of performance and the Hedge Obligations) of every kind whatsoever, arising directly between the Borrower and the Lender or acquired outright, as a participation or as collateral security from another person by the Lender, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, general partner, drawer, tort-feasor, account party with respect to a letter of credit, indemnitor or otherwise; and (E) all renewals, extensions, modifications and amendments of any of the foregoing, whether or not any renewal, extension, modification or amendment agreement is executed in connection therewith.

4. Section 1.2 of the Mortgage is further amended by adding the following definition as subsection 1.2(ad) at the end thereof:

1.2(ad) **Hedge Obligations** means all obligations heretofore, now or hereafter incurred by the Borrower under any agreement between Borrower and the Lender or any

affiliate of the Lender, whether now existing or hereafter entered into, including, without limitation, any agreement which provides for an interest rate, currency, equity, credit or commodity swap, cap, floor or collar, spot or foreign currency exchange transaction, cross currency rate swap, currency option, any combination of, or option with respect to, any of the foregoing or similar transactions, for the purpose of hedging the Borrower's exposure to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices. Without limiting the foregoing, Hedge Obligations shall specifically include all liabilities and obligations of the Borrower evidenced by or arising under or in connection with that certain ISDA Master Agreement by and between Borrower and Lender dated as of November 14, 2001 and all amendments and modifications thereto and all confirmations executed in connection therewith.

5. Except as specifically amended by this First Amendment, the Mortgage shall remain in full force and effect in accordance with its terms. This First Amendment is not intended to be or create, nor shall it be construed as, a novation or an accord and satisfaction of the debts secured by the Mortgage.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed effective as of the date set forth above, although each of the undersigned has actually executed this First Amendment on the date of their acknowledgment set forth below.

DOUBLE OAK WATER RECLAMATION, LLC, an
Alabama limited liability company

By: South Edge, Inc., an Alabama corporation
Its: Manager

By: Michael D. Fuller
Name: Michael D. Fuller
Title: President

COMPASS BANK

By: Alex Morton
Name: Alex Morton
Title: Vice President

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned authority, a Notary Public, in and for said County in said State, hereby certify that Alex Morton, whose name as Vice President of Compass Bank, 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, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of Compass Bank.

Given under my hand and official seal this the 30th day of October, 2002.

Rosemary M. Woods
Notary Public

[NOTARIAL SEAL]

My Commission Expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Apr 16, 2005
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Michael D. Fuller, whose name as President of South Edge, Inc., an Alabama corporation, as manager of Double Oak Water Reclamation, LLC, 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, 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 manager of said limited liability company as aforesaid.

Given under my hand and official seal, this 16 day of October, 2002.

Alexandra M. Layton
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 7-1-06

Exhibit A
(Legal Description)

PARCEL I:

Lot 6, according to the map and survey of The Shoppes at The Corners, Phase 2, as recorded in Map Book 26 Page 89 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

PARCEL II: IRRIGATION POND PARCEL:

A parcel of land situated in the South 1/2 of the SE 1/4 of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the Southwest corner of the SW 1/4 of the SE 1/4 of said Section 20; thence run in an Easterly direction along the South line of said Section, North 88 deg. 42 min. 32 sec. East a distance of 1125.24 feet to a point; thence turn an angle to the left and run in a Northwesterly direction on a bearing of North 38 deg. 29 min. 36 sec. West a distance of 75.33 feet to the POINT OF BEGINNING of the parcel herein described; thence continue in the same direction on the last described course, in a Northwesterly direction on a bearing of North 38 deg. 29 min. 36 sec. West a distance of 578.68 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of North 51 deg. 30 min. 24 sec. East a distance of 98.97 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of North 68 deg. 09 min. 46 sec. East a distance of 301.28 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of North 19 deg. 58 min. 23 sec. East a distance of 300.00 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of South 63 deg. 38 min. 51 sec. East a distance of 300.00 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of South 15 deg. 26 min. 02 sec. East a distance of 182.97 feet to a point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of South 54 deg. 46 min. 57 sec. East a distance of 300.00 feet to a point, said point being on the Westerly right of way of Old Highway 280; thence turn an angle to the right and run along said right of way in a Southwesterly direction on a bearing of South 28 deg. 22 min. 12 sec. West a distance of 472.94 feet to a point; thence turn an angle to the right and run in a westerly direction on a line that is 60 feet North of and parallel to the south line of said Section 20, on a bearing of South 88 deg. 42 min. 32 sec. West a distance of 437.41 feet to the POINT OF BEGINNING; being situated in Shelby County, Alabama

PARCEL III: AUGMENTATION POND PARCEL

A parcel of land situated in the SW 1/4 of the NW 1/4, the SE 1/4 of the NW 1/4, and the NW 1/4 of the SW 1/4 of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the Southwest corner of said SW 1/4 of NW 1/4, thence run in an Easterly direction along the South line of said 1/4-1/4 section on a bearing of North 89 deg. 16 min. 06 sec. East a distance of 30.00 feet to a point, said point being the point of beginning of parcel herein described; thence turn an angle to the left and run in a Northerly direction on a bearing of North 00 deg. 16 min. 28 sec. West, a distance of 339.13 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of North 72 deg. 56 min. 54 sec. East, a distance of 650.10 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of North 58 deg. 45 min. 14 sec. East, a distance of 443.83 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of North 41 deg. 12 min. 26 sec. East a distance of 96.63 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of North 48 deg. 30 min. 28 sec. East a distance of 435.59 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of North 67 deg. 52 min. 15 sec. East a distance of 160.10 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of North 43 deg. 48 min. 37 sec. East a distance of 134.85 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of South 08 deg. 12 min. 17 sec. East a distance of 97.89 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of South 27 deg. 36 min. 49 sec. West, a distance of 58.90 feet to a point; thence turn an angle to the left and run in a southeasterly direction on a bearing of South 06 deg. 57 min. 28 sec. East a distance of 369.08 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of South 14 deg. 07 min. 31 sec. West a distance of 455.62 feet to a point; thence turn angle to the right and run in a Northwesterly direction on a bearing of North 85 deg. 54 min. 49 sec. West, a distance of 323.17 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of South 66 deg. 30 min. 58 Sec. West a distance of 1338.77 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of North 00 deg. 16 min. 28 sec. West, a distance of 188.86 feet to the point of beginning; being situated in Shelby County, Alabama., together with those certain easement rights for access, ingress, egress and utilities granted in that certain Declaration of Easement dated August 31, 2001 recorded in Book ___, Page ___ in the public records of Shelby County, Alabama.

Exhibit A
(Legal Description)

20021213000623260 Pg 7/7 30.00
Shelby Cnty Judge of Probate, AL
12/13/2002 09:46:00 FILED/CERTIFIED

Parcel IV:

A parcel of land situated in the SW 1/4 of the NE 1/4 of Section 29, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of the SW 1/4 of the NE 1/4 of said Section 29, and run in a westerly direction, along the North line of said quarter-quarter section, a distance of 396.50 feet to a point on the westerly right of way line of the Florida Short Route Highway (Shelby County Highway No. 280) for a POINT OF BEGINNING; thence continue in the same direction as the last described course, in a westerly direction, along said quarter-quarter line a distance of 390.81 feet to a found rebar iron; thence turn an interior angle of 154 deg. 32 min. 36 sec. and run to the left in a southwesterly direction a distance of 602.86 feet to a point on the West line of said quarter-quarter section; thence turn an interior angle of 116 deg. 34 min. 23 sec. and run to the left in a southerly direction, along said West quarter-quarter line a distance of 1048.93 feet to the Southwest corner of said quarter-quarter section; thence turn an interior angle of 89 deg. 09 min. 48 sec. and run to the left in an easterly direction, along the South line of said quarter-quarter section a distance of 70.00 feet to a point; thence turn an interior angle of 146 deg. 15 min. 54 sec. and run to the left, in a northeasterly direction a distance of 686.04 feet to a point, said point being on the top or crest of the mountain; thence turn an interior angle of 179 deg. 21 min. 23 sec. and run to the left, in a northeasterly direction, along said top or crest of mountain a distance of 651.75 feet to a point; thence turn an interior angle of 191 deg. 02 min. 30 sec. and run to the right, in a northeasterly direction, along the top or crest of said mountain a distance of 138.07 feet to a point, said point being on the southwesterly right of way line of said Florida Short Route Highway (County Highway 280); thence turn an interior angle of 65 deg. 38 min. 06 sec. and run to the left, in a northwesterly direction, along said right of way a distance of 245.90 feet to a point; thence turn an interior angle of 270 deg. 00 min. 00 sec. and run to the right in a northeasterly direction, along said right of way a distance of 20.00 feet to a point and the beginning of a curve to the right; thence turn an interior angle of 90 deg. 00 min. 00 sec. to tangent and run to the left, along said right of way and along the arc of said curve having a radius of 612.96 feet and a central angle of 35 deg. 56 min. 58 sec., an arc distance of 384.59 feet to the point of beginning; being situated in Shelby County, Alabama.