

Mortgage filing privilege taxes have been previously paid in connection with that certain Multifamily Mortgage, Assignment of Rents and Security Agreement dated July 31, 2001 and recorded with the Judge of Probate of Shelby County, Alabama as Instrument No. 2001-31961.

STATE OF ALABAMA     )  
COUNTY OF SHELBY    )

**FIRST AMENDMENT TO MULTIFAMILY MORTGAGE,  
ASSIGNMENT OF RENTS AND SECURITY AGREEMENT**

**THIS FIRST AMENDMENT TO MULTIFAMILY MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT** (the "Amendment") dated as of February 11, 2005 (the "Effective Date") is entered into by **WEATHERBY MANOR, L.L.C.**, an Alabama limited liability company (the "Borrower"), and **FANNIE MAE** (the "Lender").

**Recitals**

A. The Borrower has heretofore executed in favor of Collateral Mortgage Capital, LLC, an Alabama limited liability company ("Original Lender"), that certain Multifamily Mortgage, Assignment of Rents and Security Agreement and dated July 31, 2001, as recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument No. 2001-31961 (the "Security Instrument"), which Security Instrument encumbers the property more particularly described in Exhibit A to said Security Instrument (the "Property"), and which Security Instrument was subsequently assigned to Lender by that certain Assignment of Multifamily Mortgage, Assignment of Rents and Security Agreement dated July 31, 2001 and recorded with the Judge of Probate of Shelby County as Instrument No. 2001-31962.

B. The Security Instrument secures (among other things) that certain loan in the original principal amount of \$10,775,000.00 (the "Loan"), evidenced by that certain Multifamily Note dated July 31, 2001 executed by the Borrower in favor of Original Lender in said principal amount (the "Note"), which Note was subsequently assigned to Lender.

C. The Borrower has requested that the Lender amend the Security Instrument so that additional real property may be added to the Property and thereby be encumbered by the Security Instrument.

D. The Lender is willing to amend the Security Instrument upon the condition that, among others, the Borrower execute this Amendment.

### **Agreement**

**NOW, THEREFORE**, in consideration of the promises and the mutual agreements set forth in this Amendment, effective as of the Effective Date, the Borrower and the Lender hereby agree as follows:

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

2. From and after the Effective Date, the Security Instrument shall be, and is hereby, amended by replacing the legal description of the Property attached as Exhibit A of the Security Instrument with the legal description of the Property attached hereto as Revised Exhibit A.

3. In order to induce the Lender to enter into this Amendment, the Borrower hereby represents and warrants that all the representations and warranties set forth in the Security Instrument and each of the Loan Documents are true and correct as of the date of this Amendment and as of the date of execution hereof, and that no breach of any covenant or agreement under the Security Instrument has occurred and is continuing.

4. Except as hereby expressly modified and amended, the Security Instrument shall remain in full force and effect in accordance with its terms. This 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 Security Instrument.

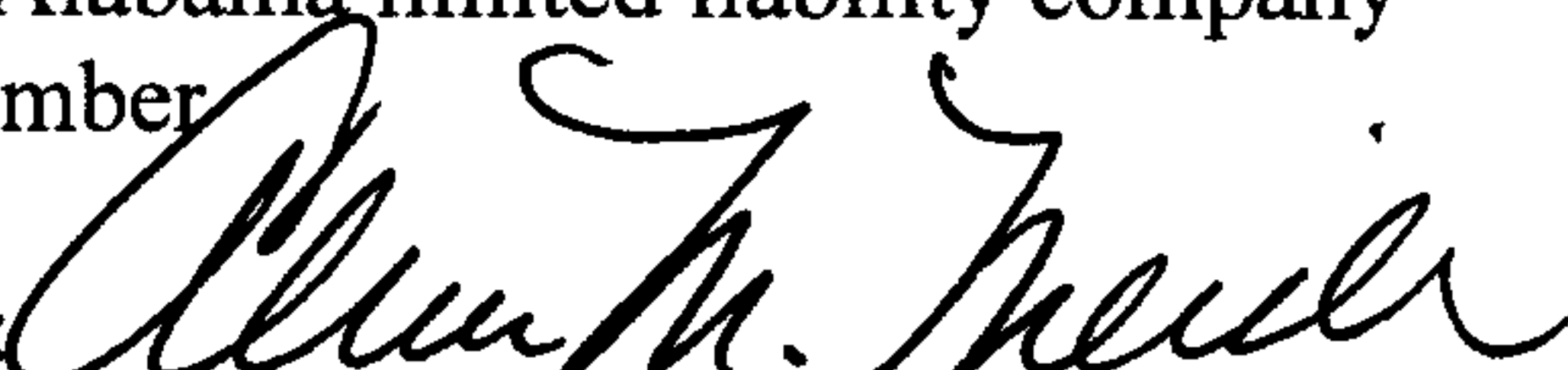
IN WITNESS WHEREOF, each of the undersigned has executed this Amendment or caused this Amendment to be executed as of the Effective Date first set forth above.

**BORROWER:**

**WEATHERBY MANOR, L.L.C.,  
an Alabama limited liability company**

By: RIME III, L.L.C.  
an Alabama limited liability company

Its: Member

By:   
Name: Allen M. Meisler  
Its: Member

STATE OF ALABAMA  
Shelby COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Allen M. Meisler, whose name as Member of Rime III, LLC, an Alabama limited liability company, as member of WEATHERBY MANOR, LLC, 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 said instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company, acting in its capacity as member of said limited liability company as aforesaid.

Given under my hand this the 11<sup>th</sup> day of February, 2005.

 Notary Public

My commission expires: 10/14/06

[SEAL]

**LENDER:**

**FANNIE MAE**

By: Michael W. Dick  
Name: MICHAEL W. DICK  
Its: ASSISTANT VICE PRESIDENT

STATE OF Maryland  
COUNTY OF Montgomery

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Michael W. Dick, whose name as Assistant Vice President of Fannie Mae, 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 on the day the same bears date.

Given under my hand and official seal this the 10<sup>th</sup> day of February, 2005.

AFFIX SEAL

J.R. Smith Notary Public  
My commission expires: 5/28/2008



This instrument was prepared by:

Jennifer R. Smith, Esq.  
MAYNARD, COOPER & GALE, P.C.  
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(205) 254-1000



## REVISED EXHIBIT A

(Wellington Manor Apartments)

### PHASE I:

A tract of land situated in the South half of the Southeast quarter of Section 25 and the Northwest quarter of the Northeast quarter of Section 36, Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of the Southwest quarter of the Southeast quarter of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama and run in an Easterly direction along the North line of said quarter-quarter section a distance of 1222.60 feet to the point of beginning; thence continue in an Easterly direction along the North line of said quarter-quarter section and the North line of the Southeast quarter of the Southeast quarter a distance of 389.61 feet to a point on the Westerly right of way line of Interstate Highway I-65; thence turn an interior angle of  $93^{\circ} 35' 03''$  and run to the right in a Southerly direction along the Westerly right of way line of I-65 a distance of 532.46 feet to a point; thence turn an interior angle of  $210^{\circ} 58' 46''$  and run to the left in a Southeasterly direction along the Westerly right of way line of I-65 a distance of 174.91 feet to a point; thence turn an interior angle of  $149^{\circ} 06' 36''$  and run to the right in a Southerly direction along the Westerly right of way line of I-65 a distance of 173.37 feet to a point; thence turn an interior angle of  $128^{\circ} 02' 08''$  and leaving the I-65 right of way run in a Southwesterly direction a distance of 239.40 feet to the PC of a curve; thence continue in a Southwesterly direction along the arc of a curve to the left having a central angle of  $8^{\circ} 03' 07''$  and a radius of 1942.02 feet a distance of 272.92 feet to a point; thence turn an interior angle of  $126^{\circ} 10' 14''$  (angle measured from tangent) and run to the right in a Westerly direction a distance of 262.25 feet to a point; thence turn an interior angle of  $270^{\circ} 00' 00''$  and run to the left in a Southerly direction a distance of 382.52 feet to a point on the North right of way line of Shelby County Highway No. 68; thence turn an interior angle of  $90^{\circ} 00' 00''$  and run to the right in a Westerly direction along the Northerly right of way line of Shelby County Highway No. 68 a distance of 48.11 feet to the P.C. of a curve; thence continue in a Westerly direction along the Northerly right of way line of Shelby County Highway No. 68 and along the arc of a curve to the right having a central angle of  $1^{\circ} 44' 55''$  and a radius of 881.99 feet a distance of 26.92 feet to a point on the curve; thence turn an interior angle of  $91^{\circ} 41' 13''$  (angle measured from tangent) and run to the right in a Northerly direction a distance of 383.27 feet to a point on a curve, thence turn an interior angle of  $267^{\circ} 03' 09''$  (angle measured to tangent) and run to the left in a Westerly direction along the arc of a curve to the right having a central angle of  $17^{\circ} 44' 49''$  and a radius of 499.48 feet a distance of 154.71 feet to the PT of said curve; thence continue in a Northwesterly direction along the projection of the tangent to the last described curve a distance of 365.17 feet to a point; thence turn an interior angle of  $116^{\circ} 37' 27''$  and run to the right in a Northerly direction a distance of 314.84 feet to a point; thence turn an interior angle of  $88^{\circ} 11' 56''$  and run to the right in an Easterly direction a distance of 364.66 feet to a point; thence turn an interior angle of  $246^{\circ} 03' 03''$  and run to the left in a Northeasterly direction a distance of 730.55 feet to the point of beginning.

PHASE II:

A tract of land situated in the Southwest 1/4 of the Southeast 1/4 of Section 25 and in the Northwest 1/4 of the Northeast 1/4 of Section 36, all in Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follow:

Commence at the Northwest corner of the Southwest 1/4 of the Southeast 1/4 of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama and run Easterly along the North line of said 1/4 1/4 section for 1120.60 feet; thence turn 113 Degrees 57 Minutes 02 Seconds right and run Southwesterly for 730.55 feet; thence turn 66 Degrees 03 Minutes 03 Seconds right and run Westerly for 364.66 feet; thence turn 91 Degrees 48 Minutes 04 Seconds left and run southerly for 314.84 feet to the point of beginning of the tract of land herein described, thence continue along the last described course for 88.41 feet to a point; thence turn 47 Degrees 26 Minutes 24 Seconds right to the tangent of a curve to the left, said curve having a radius of 519.78 feet and a central angle of 23 Degrees 58 Minutes 43 Seconds; thence run Southwesterly along said curve for 217.53 feet to the point of a tangent to said curve; thence run Southwesterly along the tangent to said curve for 101.55 feet to a point on the Northerly Right of Way line of Shelby County Highway No. 68; thence turn 93 Degrees 57 Minutes 01 Seconds left to the tangent of a curve to the right said curve having a radius of 1,440.04 feet and a central angle of 7 Degrees 09 Minutes 25 Seconds; thence run Southeasterly along said curve and said Right of Way line for 179.88 feet to the point of tangent to said curve; thence run Southeasterly along said tangent and said Right of Way line for 173.42 feet to the point of beginning of a curve to the left, said curve having a radius of 881.99 feet and a central angle of 19 Degrees 03 Minutes 05 Seconds; thence run along said curve and said Right of Way line for 293.27 feet to a point on the Westerly Right of Way line of Weatherly Manor Drive; thence turn 91 Degrees 41 Minutes 13 Seconds left from the tangent to said curve at said point and run Northerly along said Weatherly Manor Drive Right of Way for 383.27 feet to a point; thence turn 87 Degrees 03 Minutes 09 Seconds left to the tangent of a curve to the right, said curve having a radius of 499.48 feet and a central angle of 17 Degrees 44 Minutes 49 Seconds; thence run Northwesterly along said curve for 154.71 feet to the point of a tangent to said curve; thence run along the tangent to said curve at said point for 365.17 feet to the point of beginning.