

20070501000202050 1/5 \$24.00
Shelby Cnty Judge of Probate, AL
05/01/2007 03:52:52PM FILED/CERT

This instrument prepared by:
J. Keith Windle
Bradley Arant Rose & White LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203-2104

STATE OF ALABAMA)
:
COUNTY OF SHELBY)

FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT

THIS FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT (this "Amendment") is made and entered into as of the 30th day of March, 2007, by and between **GREY OAKS PROPERTIES, L.L.C.**, an Alabama limited liability company ("Mortgagor"), and **FIRST AMERICAN BANK**, an Alabama banking corporation ("Mortgagee").

RECITALS:

A. Mortgagor executed that certain Promissory Note dated March 31, 2005 in favor of Mortgagee in the maximum principal amount of \$9,535,000.00 (the "Note"), the proceeds of which were utilized to fund the cost of acquiring and developing the first phase of the Grey Oaks Estates subdivision in Shelby County, Alabama (the "Project"). The Note was issued pursuant to the terms of that certain Loan Agreement dated March 31, 2005 by and between Mortgagor and Mortgagee (the "Loan Agreement").

B. As security for the Note, Mortgagor executed in favor of Mortgagee that certain Mortgage and Security Agreement (the "Mortgage") dated March 31, 2005 and recorded in the Probate Office of Shelby County, Alabama as Instrument #20050404000152850.

C. Mortgagor is acquiring additional real property which will become part of the Project, and Mortgagor and Mortgagee desire to amend the Mortgage so that such additional property will be included as property subject to the Mortgage and, as a result, the Mortgage, as so amended, will provide Mortgagee with a first priority mortgage on such additional property as collateral for the Note.

D. Mortgagor has requested Mortgagee to modify certain terms of the Mortgage and Mortgagee has agreed to such modifications on the terms set forth herein.

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

1. Schedule A to the Mortgage is hereby amended such that, from and after the date hereof, the Real Estate, as defined in the Mortgage, shall include the real property described on Schedule A attached to this Amendment. Except as otherwise provided herein, each and every representation, warranty, covenant and agreement contained in the Mortgage with respect to the Real Estate is hereby made, adopted and agreed upon as of the date hereof with respect to the real property described in Schedule A hereto.

2. Schedule B to the Mortgage is hereby amended such that, from and after the date hereof, the Permitted Encumbrances, as defined in the Mortgage, shall include the following items in addition to the items previously set forth or said Schedule B:

a. Right of Way and easement agreement, as recorded in Instrument 1999-43557.

b. Right of Way and easement, as recorded in Instrument 2006-52013.

3. Mortgagor and Mortgagee agree that all other terms of the Mortgage shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their respective duly authorize partners or officers, as applicable, as of day and year first above written.

MORTGAGOR:


GREY OAKS PROPERTIES, L.L.P.

By: Will Sanders
William G. Sanders, Jr.
Its: Authorized Member

MORTGAGEE:

FIRST AMERICAN BANK

By: Chas. Kelley
Name: C. Houston Gilkey
Its: S.V.P.


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STATE OF ALABAMA)
:
SHELBY COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Member, whose name as Member of Grey Oaks 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 said instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this 13th day of April, 2007.

Judy Bearden
Notary Public

[NOTARIAL SEAL]

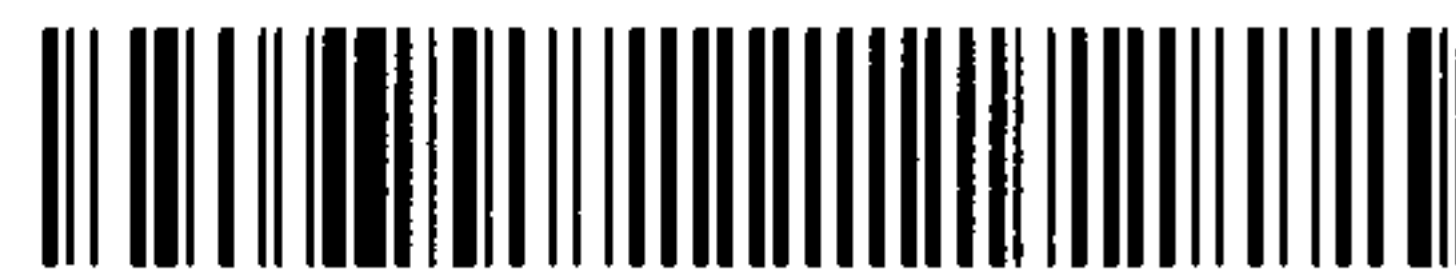
My commission expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: July 21, 2008
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)

~~SHELBY COUNTY~~
Jefferson

)
:
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I, the undersigned, a notary public in and for said county in said state, hereby certify that C. Houston Gillespy, whose name as Senior Vice President of First American 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said banking corporation.

Given under my hand and official seal this 23rd day of April, 2007.

Gabrielle W. McCormick
Notary Public

[NOTARIAL SEAL]

My commission expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Feb 27, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS



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SCHEDULE A

Legal Description

The West one-half (1/2) of the 555.820 acres in Shelby County, Alabama described in the Purchased and Sale Agreement dated May 1, 2003, as restated and extended, by and between Double Mountain, L.L.C. as Seller and Waterford, L.L.C. as Purchaser and assigned by Waterford, LLC to Grey Oakes Properties, L.L.C. said property more particularly described as:

A parcel of land situated in Sections 2, 10, and 11, all in Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the NW corner of Section 11, Township 20 South, Range 2 West, Shelby County, Alabama; thence S88°01'45"E along the north line of said Section 11, a distance of 1,293.96' to the SE right-of-way line of CSX Railroad and the POINT OF BEGINNING; thence S88°02'51"E along said right-of-way, a distance of 72.60'; thence S48°19'45"W along said right-of-way, a distance of 3,041.89' to a point of curve to the right having a radius of 2,082.18' and a central angle of 19°08'59"; said curve subtended by a chord bearing S57°53'15"W and a chord distance of 691.48'; thence southwesterly along the arc of said curve and along said right-of-way a distance of 694.70'; thence S21°59'27"E and leaving said right-of-way, a distance of 2,427.10' to a point on the 720' contour line; thence N27°18'48"E along said contour line, a distance of 16.08'; thence S76°53'01"E along said contour line, a distance of 119.80'; thence N40°19'34"E along said contour line, a distance of 89.13'; thence N89°28'04"E along said contour line, a distance of 62.83'; thence N46°48'11"E along said contour line, a distance of 149.01'; thence N79°01'30"E along said contour line, a distance of 120.29'; thence N83°38'12"E along said contour line, a distance of 68.76'; thence N32°02'30"E along said contour line, a distance of 99.64'; thence N74°05'31"E along said contour line, a distance of 47.95'; thence N54°37'40"E, a distance of 60.93'; thence S71°43'49"E, a distance of 77.78'; thence N59°12'21"E along said contour line, a distance of 87.23'; thence S89°47'12"E along said contour line, a distance of 42.16'; thence N20°28'16"E along said contour line, a distance of 95.25'; thence N86°35'31"E along said contour line, a distance of 87.58'; thence N08°34'53"E along said contour line, a distance of 82.38'; thence N80°21'13"E along said contour line, a distance of 108.02'; thence N47°58'28"E along said contour line, a distance of 62.99'; thence N19°32'29"E along said contour line, a distance of 101.04'; thence N37°37'22"E along said contour line, a distance of 68.48'; thence N68°02'89"E along said contour line, a distance of 191.10'; thence N68°54'44"E along said contour line, a distance of 63.87'; thence N05°51'52"W along said contour line, a distance of 67.68'; thence N61°40'27"E along said contour line, a distance of 127.79'; thence S87°20'10"E along said contour line, a distance of 107.58'; thence N27°56'32"E along said contour line, a distance of 133.49'; thence N62°39'12"E along said contour line, a distance of 140.38'; thence N59°48'16"E along said contour line, a distance of 77.29'; thence N14°19'19"E along said contour line, a distance of 88.08'; thence N56°53'00"E along said contour line, a distance of 182.25'; thence N69°34'07"E along said contour line, a distance of 65.07'; thence N42°41'36"E along said contour line, a distance of 112.71'; thence N38°56'18"E along said contour line, a distance of 144.08'; thence N27°14'30"E along said contour line, a distance of 79.06'; thence N77°24'07"E along said contour line, a distance of 94.08'; thence S65°31'33"E along said contour line, a distance of 54.69'; thence N49°03'01"E along said contour line, a distance of 14.71'; thence N19°13'31"E along said contour line, a distance of 41.80'; thence N54°37'08"E along said contour line, a distance of 77.94'; thence N43°03'08"E along said contour line, a distance of 195.71'; thence N67°10'58"E along said contour line, a distance of 159.62'; thence N46°28'39"E along said contour line, a distance of 90.30'; thence N49°01'01"E along said contour line, a distance of 156.48'; thence N87°21'56"E along said contour line, a distance of 25.21'; thence N29°38'23"E along said contour line, a distance of 10.90'; thence N38°19'58"E along said contour line, a distance of 44.12'; thence N52°04'31"E along said contour line, a distance of 113.20'; thence N48°55'51"E along said contour line, a distance of 117.26'; thence N65°38'48"E along said contour line, a distance of 98.28'; thence N79°40'21"W and leaving said contour line, a distance of 258.33'; thence N84°15'11"W, a distance of 400.07'; thence N05°48'23"E, a distance of 204.93'; thence N26°45'07"E, a distance of 53.84'; thence N00°57'01"E, a distance of 111.06'; thence N32°27'16"W, a distance of 280.43'; thence N02°02'35"E, a distance of 328.59'; thence S87°58'50"E, a distance of 613.51'; thence N02°00'17"E, a distance of 480.80'; thence S76°02'43"E, a distance of 210.11'; thence N75°00'03"E, a distance of 314.57'; thence N39°30'43"E, a distance of 693.72'; thence S87°58'34"E, a distance of 132.38'; thence N00°04'58"E, a distance of 444.78'; thence N87°18'37"W, a distance of 305.58'; thence S70°58'10"W, a distance of 21.46'; thence N88°11'51"W, a distance of 251.34'; thence S01°48'32"W, a distance of 65.69' to the point of curve of a non tangent curve to the left, having a central angle of 28°01'54" and a radius of 115.20', said curve subtended by a chord bearing N69°41'31"W and a chord distance of 51.89'; thence westerly along the arc of said curve a distance of 52.34'; thence N82°42'30"W, a distance of 75.00' to a point of curve to the left having a radius of 220.00' and a central angle of 27°58'13", said curve subtended by a chord bearing S83°18'24"W and a chord distance of 106.21'; thence westerly along the arc of said curve a distance of 107.27'; thence S69°21'13"W, a distance of 85.00' to a point of curve to the right having a radius of 225.00' and a central angle of 84°29'59", said curve subtended by a chord bearing N78°23'48"W and a chord distance of 240.13'; thence westerly along the arc of said curve a distance of 253.29'; thence N46°08'47"W, a distance of 100.00' to a point of curve to the left having a radius of 257.83' and a central angle of 37°04'41", said curve subtended by a chord bearing N64°41'08"W and a chord distance of 163.95'; thence northwesterly along the arc of said curve a distance of 166.85' to a point of reverse curve having a radius of 721.14' and a central angle of 14°34'17", said curve subtended by a chord bearing N75°56'20"W and a chord distance of 182.91'; thence westerly along the arc along the arc of said curve, a distance of 183.40'; thence N88°39'08"W, a distance of 97.78' to a point of curve to the right having a radius of 201.83' and a central angle of 44°44'54", said curve subtended by a chord bearing N46°16'41"W and a chord distance of 153.65'; thence northwesterly along the arc of said curve a distance of 157.63'; thence N23°54'13"W, a distance of 162.28' to a SE right-of-way line of CSX railroad and the point of curve of a non tangent curve to the left, having a central angle of 03°55'04" and a radius of 5,879.58', said curve subtended by a chord bearing S50°19'58"W and a chord distance of 388.28'; thence southwesterly along the arc of said curve a distance of 388.36'; thence S48°22'26"W, a distance of 490.38' to the POINT OF BEGINNING;