


Note to Clerk of Court: Mortgage filing privilege taxes have previously been paid on indebtedness in the amount of \$4,200,000.00 in connection with the recordation of that certain Future Advance Mortgage dated December 13, 2006 and recorded with the Office of the Judge of Probate of Shelby County, Alabama, as Instrument No. 20061228000633230. This First Amendment to Future Advance Mortgage and Other Security Documents is given to evidence an increase in the principal indebtedness secured by the above-referenced instrument in the amount of \$1,240,000.00, and to otherwise amend the above-referenced Future Advance Mortgage.

STATE OF ALABAMA)
SHELBY COUNTY)


20070831000412220 1/5 \$1883.00
Shelby Cnty Judge of Probate, AL
08/31/2007 01:24:25PM FILED/CERT

**FIRST AMENDMENT TO FUTURE ADVANCE MORTGAGE
AND OTHER SECURITY DOCUMENTS**

THIS FIRST AMENDMENT TO FUTURE ADVANCE MORTGAGE AND OTHER SECURITY DOCUMENTS (“this Amendment”) is entered into as of the 28th day of August, 2007 (the “Effective Date”), by and between **DUNAVANT SQUARE, L.L.C.**, an Alabama limited liability company (the “Mortgagor”), and **FIRST AMERICAN BANK**, an Alabama banking corporation (the “Lender”).

Recitals

A. The Lender has previously made an acquisition and development loan (the “Loan”) to the Mortgagor in the original maximum principal amount of \$4,200,000.00 for the purpose of developing a residential subdivision in Shelby County, Alabama. The Loan is evidenced by that certain Master Note dated December 13, 2006 executed by the Mortgagor in favor of the Lender in said principal amount (the “Note”).

B. The Loan is secured by, among other things, a pledge of the Mortgagor’s interest in certain real estate located in Shelby County, Alabama, pursuant to that certain Future Advance Mortgage dated December 13, 2006 and recorded in the Probate Office of Shelby County, Alabama as Instrument No. 20061228000633230 (the “Mortgage”).

C. The Loan is absolutely and unconditionally guaranteed by the Guarantors pursuant to those certain Guaranty Agreements dated December 13, 2006 executed by each of the Guarantors in favor of the Lender. The Guarantors are the only members of the Mortgagor.

D. The Mortgagor and the Guarantors have requested that the Lender increase the amount of the Loan by \$1,240,000.00, such that the new maximum principal amount of the Loan will be \$5,440,000.00. To so induce the Lender to increase the amount of the Loan, and in order to further evidence that the Loan (as increased) is secured by the Property pursuant to the Mortgage, the Mortgagor has agreed to execute and deliver this Amendment to the Lender.

E. The Lender has agreed to the Mortgagor's request, subject to the terms and conditions hereof.

Agreement



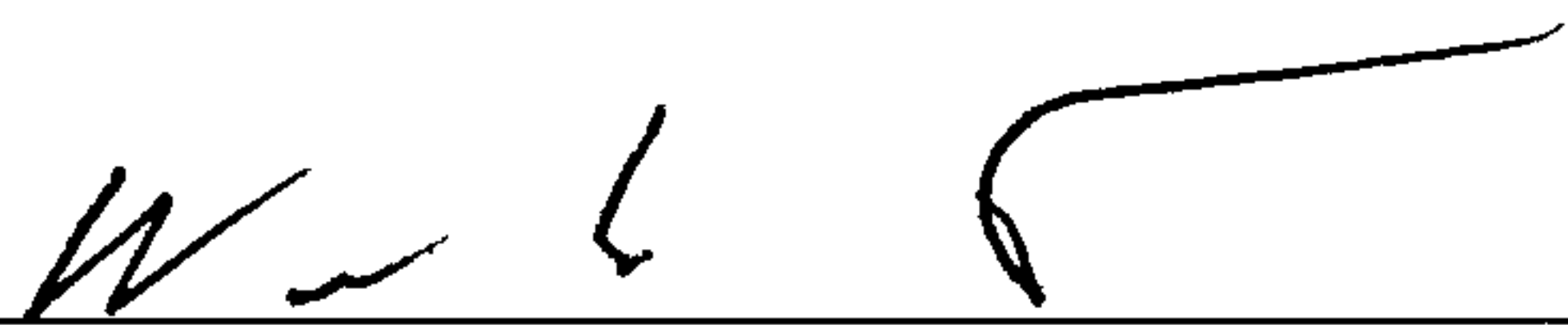
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Shelby Cnty Judge of Probate, AL
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NOW, THEREFORE, in consideration of the premises and the mutual agreements set forth in this Amendment, effective as of the Effective Date, the Mortgagor and the Lender hereby agree as follows:

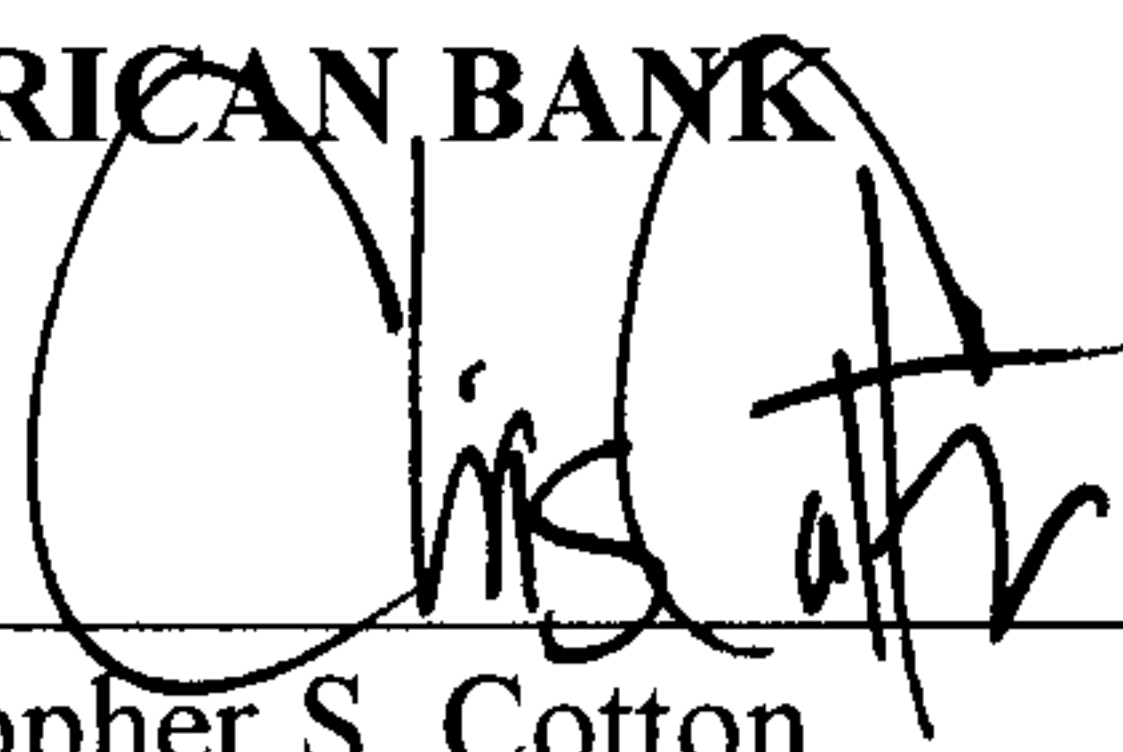
1. Capitalized terms used in this Amendment and not otherwise defined herein have the respective meanings attributed thereto in the Mortgage, as amended by this Amendment.
2. From and after the Effective Date, the Mortgage is hereby amended such that the maximum principal amount secured thereby is increased from \$4,200,000.00 to \$5,440,000.00.
3. All other provisions of the Mortgage that are inconsistent with this Amendment are hereby modified so as to be consistent herewith.
4. Except as specifically modified and amended hereby, each of the Loan documents, including the Mortgage, shall remain in full force and effect in accordance with their respective terms.
5. Notwithstanding the execution of this Amendment, all of the indebtedness evidenced by the Note shall remain in full force and effect, as modified hereby; and the Mortgagor agrees that as to the Property, nothing contained in this Amendment shall be construed to constitute a novation of the indebtedness evidenced by the Note, or to release, satisfy, discharge, terminate or otherwise affect or impair in any manner whatsoever (a) the validity or enforceability of the indebtedness evidenced by the Note; (b) the liens, security interests, assignments and conveyances effected by the Loan documents, or the priority thereof; (c) the liability of any maker, endorser, surety, guarantor or other person that may now or hereafter be liable under or on account of the Note or the Loan documents; or (d) any other security or instrument now or hereafter held by the Lender as security for or as evidence of any of the above-described indebtedness.
6. The Mortgagor represents and warrants that all representations and warranties made in the Mortgage are true and correct as of the date of this Agreement, and no event of default, or circumstances that with notice or lapse of time or both would constitute an event of default thereunder, has occurred or is continuing.
7. Any provision of this Amendment or any other Loan document referenced herein that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction.

IN WITNESS WHEREOF, the undersigned have executed this Amendment or caused this Amendment to be executed in their respective names and on their behalf by their duly authorized representatives, all as of the date first set forth above.

DUNAVANT SQUARE, L.L.C.

By: 
William L. Thornton, III
Its Authorized Member and Manager

FIRST AMERICAN BANK

By: 
Christopher S. Cotton
Its Senior Vice President

THIS INSTRUMENT PREPARED BY:

Matthew W. Grill
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203
(205) 254-1000



20070831000412220 4/5 \$1883.00
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[signature page to follow]

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that William L. Thornton, III, whose name as Authorized Member and Manager of **DUNAVANT SQUARE, 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 officer 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 28th day of August, 2007.



Notary Public

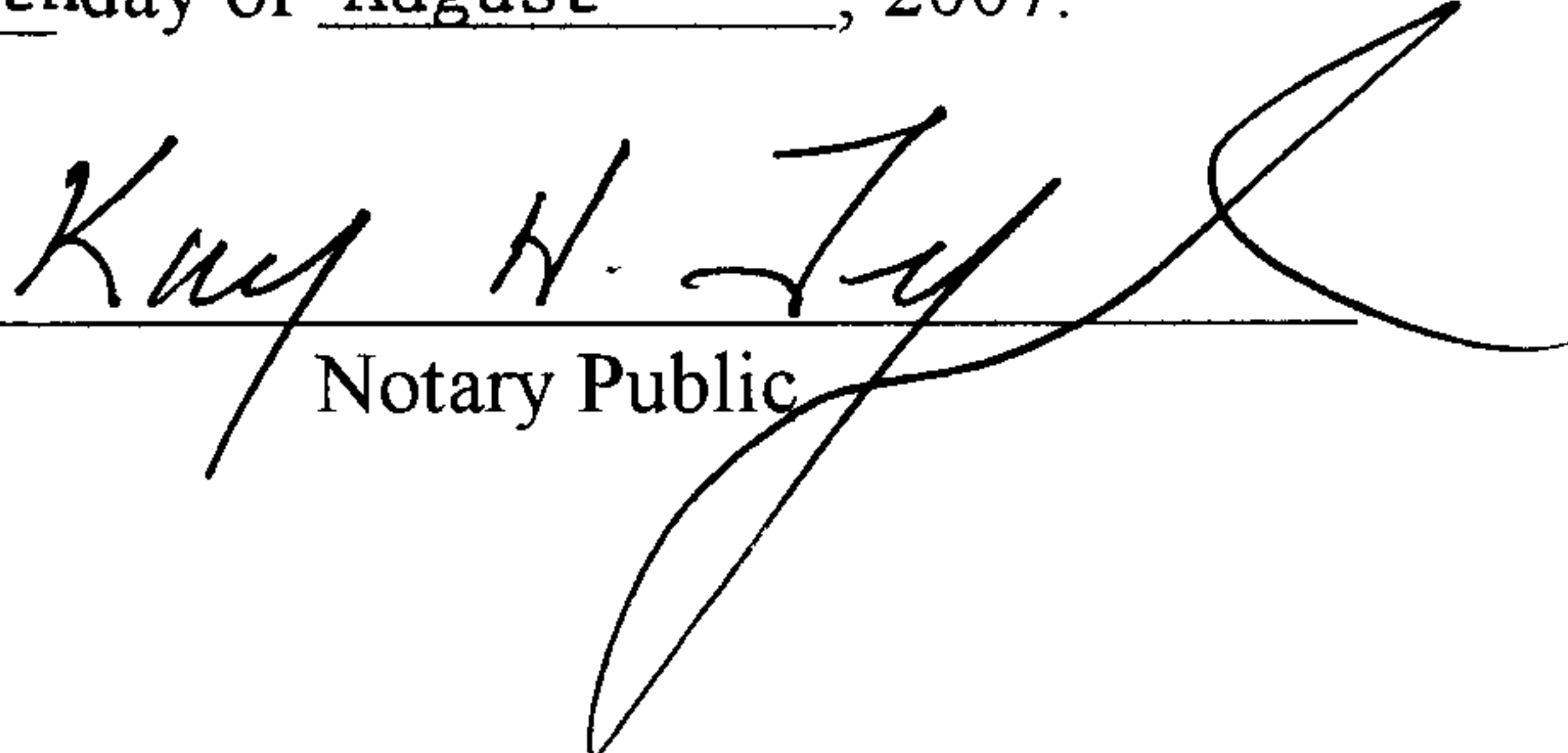
[AFFIX SEAL]

My Commission Expires: 11/6/08

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Christopher P. Cotton, 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 the 28th day of August, 2007.



Notary Public

AFFIX SEAL

My Commission Expires: 11/6/08