

*This instrument prepared by:*  
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STATE OF ALABAMA       )  
                                     :  
COUNTY OF SHELBY       )

**FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT**

**(Cross Ref: Instrument Number 20080929000385340)**

THIS FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND SECURITY AGREEMENT (this "Amendment") is made and entered into as of this 27<sup>th</sup> day of May, 2010, by and between **SOUTH GRANDE VIEW DEVELOPMENT CO., INC.**, an Alabama corporation, **CSG CONSTRUCTION COMPANY, INC.**, an Alabama corporation and **CHARLES S. GIVIANPOUR**, an individual, jointly and severally (collectively, "Borrower"), and **FRONTIER BANK**, a Georgia banking corporation ("Lender").

Recitals

A. Borrower previously obtained a loan from Lender in the principal amount of \$4,520,000, as evidenced by that certain Promissory Note dated September 29, 2008, executed by Borrower (the "Note").

B. The Note is secured by that certain Mortgage and Security Agreement dated as of September 29, 2008, made by Borrower in favor of Lender, and recorded as (i) Instrument Number 20080929000385340 in the Office of the Judge of Probate of Shelby County, Alabama and (ii) in Book LR200810 page 27836 in the Office of the Judge of Probate of Jefferson County, Alabama (the "Mortgage"). Capitalized terms used herein and not defined shall have the meaning assigned to them in the Mortgage.

C. Borrower is the owner of the real property located in Shelby County, Alabama and Jefferson County, Alabama, which is legally described on Exhibit A attached to the Mortgage.

**RECORDING TAXES HAVE PREVIOUSLY BEEN PAID ON THE ENTIRE INDEBTEDNESS SECURED BY THIS INSTRUMENT IN CONJUNCTION WITH THE RECORDATION OF THE INSTRUMENT RECORDED AS (I) INSTRUMENT NUMBER 20080929000385340 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA AND (II) IN BOOK LR200810 PAGE 27836 IN THE OFFICE OF THE JUDGE OF PROBATE OF JEFFERSON COUNTY, ALABAMA. THIS INSTRUMENT DOES NOT EXTEND THE MATURITY OF SUCH INDEBTEDNESS, AND THE AMOUNT OF INDEBTEDNESS SECURED IS NOT BEING INCREASED HEREBY. ACCORDINGLY, NO FURTHER RECORDING TAXES ARE PAYABLE IN CONNECTION WITH THE RECORDING OF THIS INSTRUMENT.**

D. Lender has made or has agreed to make a loan to Borrower in the principal sum of up to Four Hundred Thirty Thousand and No/100 Dollars (\$430,000.00) (the "2010 Loan"), to be evidenced by that certain Promissory Note from Borrower of even date herewith, payable to Lender with interest thereon.

E. Borrower and Lender desire to amend the Mortgage to provide that the 2003 Loan, as hereinafter defined, and the 2010 Loan shall be secured by the Mortgage.

### Agreement

NOW, THEREFORE, in consideration of the sum of Ten and No/100ths Dollars (\$10.00), the recitals hereinabove set forth which are an integral part of this Agreement and not mere recitals thereto, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound agree as follows:

1. Recitals. The foregoing recitals are true and correct.
2. The following new recitals are added to the Mortgage as follows:

**WHEREAS**, Lender has made or has agreed to make a loan to Borrower in the principal sum of up to Four Hundred Thirty Thousand and No/100 Dollars (\$430,000.00) (the "2010 Loan"), evidenced by that certain Promissory Note dated May 27, 2010, payable to Lender with interest thereon from Borrower (as amended, modified, or restated, the "2010 Note", and together with all other other documents executed by Borrower, Givianpour or others, evidencing, securing, or otherwise relating to the 2010 Loan, the "2010 Loan Documents"); and

**WHEREAS**, Lender has heretofore made a loan to SGV in the principal sum of One Million Four Hundred and No/100 Dollars (\$1,400,000.00) (the "2003 Loan"), evidenced by that certain Multipurpose Promissory Note and Security Agreement dated October 21, 2003, in the original principal amount of \$1,400,000.00 executed by SGV and payable to the order of Lender and secured by that certain Mortgage and Security Agreement dated as of October 21, 2003 executed by SGV, as mortgagor, in favor of Lender, as mortgagee, which has been recorded as Instrument 20031023090709560 in the Office of the Judge of Probate of Shelby County, Alabama (and together with all other other documents executed by Borrower, Givianpour or others, evidencing, securing, or otherwise relating to the 2003 Loan, the "2003 Loan Documents");

3. All references to "Loan Documents" in the Mortgage shall also be deemed to be a reference to "2003 Loan Documents" and the "2010 Loan Documents".

4. Section 2.1(g) of the Mortgage is deleted in its entirety and replaced with the following:



(g) Any "Event of Default" occurs pursuant to the Note, the Loan Documents, the 2010 Loan Documents, the 2003 Loan Documents or any other documents from time to time evidencing or securing the indebtedness secured by this Mortgage, or any part thereof; or

5. Cross-Default and Cross-Collateralization. The Loan, the 2003 Loan and the 2010 Loan are hereby cross-defaulted and cross-collateralized with one another. Accordingly, (a) the occurrence of any "Event of Default" under the 2008 Loan Documents or the occurrence of any "default" under any of the 2003 Loan Documents shall constitute an Event of Default under the Loan, (b) all of the collateral and security which secures (i) the 2003 Loan secures the 2010 Loan and this Loan, (ii) the 2003 Loan secures the 2010 Loan and this Loan and (iii) this Loan secures the 2003 Loan and the 2010 Loan, (c) Borrower agrees that the Property shall secure, in addition to each individual loan, the obligations of Borrower under or with respect to the Loan Documents, the 2003 Loan Documents and the 2010 Loan Documents, as the same may hereafter be renewed, modified, amended or extended.

6. No Novation. It is the intent of the parties hereto that the transaction contemplated hereby shall not be a novation of the loan previously made by Lender to Borrower and will not affect the lien priority of the Mortgage.

7. Ratification. Borrower ratifies and confirms the lien and security interests of the Mortgage upon and in any and all property, real, personal or mixed, tangible or intangible, now or hereafter encumbered by the Mortgage and grants to Lender the benefit of a lien upon and security interest in all such property as security for the indebtedness evidenced by the Note.

8. Acknowledgment of Borrower. Borrower acknowledges by the execution hereof that Borrower has no actions, defenses, demands and/or claims of set-off or deduction whatsoever, against (i) Lender, or (ii) the indebtedness evidenced by the Note and owed to Lender. Furthermore, Borrower acknowledges that, to its knowledge, as of the date hereof, Lender has in no way defaulted or performed any act or omission under the Note, the Mortgage or the Loan Documents or any other agreements between Borrower and Lender which would give rise to any action or actions, cause or causes of action, suits, debts, sums of money, damages, claims, costs, expenses and/or demands whatsoever, in law or in equity or otherwise, by Borrower against Lender.

9. Indemnification. Borrower indemnifies and agrees to defend and hold Lender harmless against any and all mortgage tax and other recording taxes, if any, imposed on Lender by virtue of its execution of this Amendment or its ownership of the Note or the Mortgage, including any and all penalties, interest and attorneys' fees incurred by Lender in connection therewith, and Borrower agrees to pay any and all such taxes due hereunder within fifteen (15) days after receipt by Borrower of notice thereof. In the event of a failure by Borrower to pay such taxes upon demand and should Lender elect to pay the same, the same shall be deemed an event of default by Borrower, and all such charges shall be secured by the lien of the Mortgage and shall bear interest at the default rate provided in the Note from the date of advance by Lender until paid by Borrower. The provisions of this paragraph shall survive repayment of the Note and the satisfaction of the Mortgage so long as a claim may be asserted by the State of Alabama or any of its agencies.

10. Binding Effect; Governing Law. This Amendment shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. This Amendment shall be governed under the laws of the State of Alabama.

11. Ratification. Except as expressly modified hereby, the terms and conditions of the Mortgage and the Loan Documents shall remain in full force and effect and are hereby ratified and confirmed.

12. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all such counterparts together shall constitute one and the same instrument.



IN WITNESS WHEREOF, Borrower and Lender have each caused this instrument to be executed by its respective duly authorized representative, as of the date first written above.

**BORROWER:**



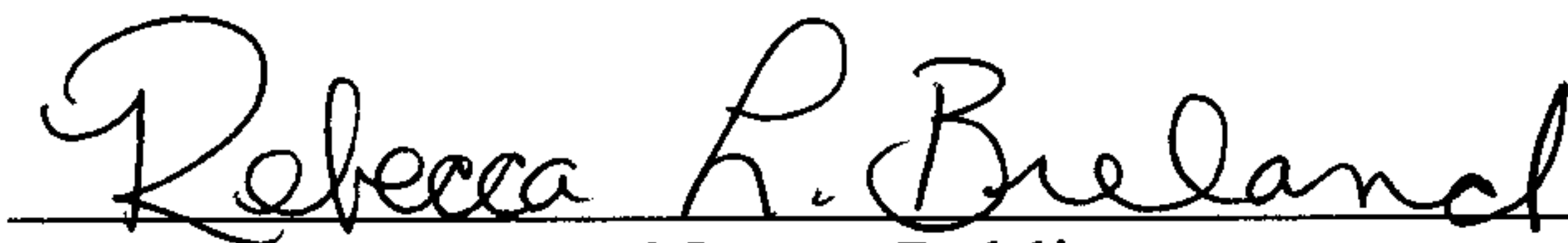
**CHARLES S. GIVIANPOUR**

STATE OF ALABAMA )

Shelby COUNTY )

I, the undersigned, a notary public in and for said county in said state, hereby certify that Charles S. Givianpour, whose name 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 executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 27<sup>th</sup> day of May, 2010.



Notary Public

[NOTARIAL SEAL]

My commission expires: 2/26/2012





**SOUTH GRANDE VIEW DEVELOPMENT CO.,  
INC., an Alabama corporation**

By: CS.  
Print Name: Charles S. Givianpour  
Its: President

STATE OF ALABAMA

)

:

JEFFERSON COUNTY

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Charles S. Givianpour, whose name as President of South Grande View Development Co., Inc., an Alabama 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 corporation.

Given under my hand and official seal this 27<sup>th</sup> day of May, 2010.

Rebecca L. Buland

Notary Public

[NOTARIAL SEAL]

My commission expires: 2/26/2012



CSG CONSTRUCTION COMPANY, INC.,  
an Alabama corporation

By: C-S  
Print Name: Charles S. Givianpour  
Its: President

STATE OF ALABAMA

)

:

JEFFERSON COUNTY

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Charles S. Givianpour, whose name as President of CSG Construction Company, Inc., an Alabama 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 corporation.

Given under my hand and official seal this 27<sup>th</sup> day of May, 2010.

Rebecca L. Breland  
Notary Public

[NOTARIAL SEAL]

My commission expires: 2/26/2012

**FRONTIER BANK**, a Georgia banking corporation

By: [Signature]  
Print Name: James M. Yates  
Its: Sr. Vice President

STATE OF ALABAMA

)

:

JEFFERSON COUNTY

)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that James M. Yates, whose name as Sr Vice President of Frontier Bank, a Georgia 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 27<sup>th</sup> day of May, 2010.

[Signature: Rebecca L. Beland]  
Notary Public

AFFIX SEAL

My commission expires: 2/26/2012

