

20170914000335360
09/14/2017 01:37:54 PM
MORTAMEN 1/7

Please cross reference to
Mortgage recorded in
Mortgage Instrument 20160506000153140

*This instrument prepared by
and when recorded return to:*
H. Chandler Combest, Esq.
Bradley Arant Boult Cummings LLP
445 Dexter Avenue, Suite 9075
Montgomery, Alabama 36104

STATE OF ALABAMA)
COUNTY OF SHELBY)

MORTGAGE TAX ON \$503,516.00 OF SECURED INDEBTEDNESS WAS PREVIOUSLY PAID UNDER THE MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT DATED APRIL 20, 2016, AND FILED WITH THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA IN MORTGAGE INSTRUMENT NUMBER 20160506000153140, ON \$206,609.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED MAY 11, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20160526000179790, ON \$422,993.00 OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED MAY 27, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20160624000218760, AND ON \$338,764.00 OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED JUNE 24, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20160712000242200, ON \$101,814.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED JUNE 24, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20160712000242520, ON \$208,159.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED AUGUST 25, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20160912000329920, ON \$372,620.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED AUGUST 25, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20160912000331170, ON \$461,289.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED OCTOBER 19, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20161102000402160, ON \$229,337.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED OCTOBER 19, 2016, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20161102000403880, ON \$600,306.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED APRIL 10, 2017, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20170417000129660, ON \$572,647.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED APRIL 10, 2017, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20170531000190210, ON \$438,366.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED JULY 28, 2017, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20170802000278010, ON \$75,400.00, OF SECURED INDEBTEDNESS UNDER THE SPREADER AGREEMENT DATED JULY 28, 2017, FILED FOR RECORD IN MORTGAGE INSTRUMENT NUMBER 20170802000279640. MORTGAGE TAX IN THE AMOUNT OF \$345,532.00 DUE ON THE INCREASE (AS DEFINED BELOW) IS BEING PAID UPON THE RECORDING OF THIS AGREEMENT. THE MATURITY DATE OF SUCH INDEBTEDNESS IS NOT BEING EXTENDED.

NOTE AND MORTGAGE MODIFICATION AND SPREADER AGREEMENT

THIS NOTE AND MORTGAGE MODIFICATION AND SPREADER AGREEMENT (this "Agreement") is made this 7th day of September, 2017, by and among SDH BIRMINGHAM LLC, a Georgia limited liability company, as mortgagor, whose address is 110 Village Trail, Suite 215, Woodstock, Georgia 30188, Attention: John W. Sax, SDC GWINNETT LLC, a Georgia limited liability company, whose address is 110 Village Trail, Suite 215, Woodstock, Georgia 30188, Attention: John W. Sax,

(together with Mortgagor, "Borrowers"), and REGIONS BANK, as mortgagee (in such capacity, together with its successors and assigns, "Mortgagee"), whose address is 1180 West Peachtree Street, Suite 900, Atlanta, Georgia 30309, Attention: Scott McLay.

WITNESSETH:

WHEREAS, Mortgagee has heretofore made a loan to Borrowers (the "Loan"), which Loan is evidenced by that certain Secured Promissory Note dated as of April 20, 2016, executed by Borrowers, as co-borrowers, and payable to the order of Mortgagee in the aggregate principal face amount of \$345,532.00 (as amended, modified, restated and supplemented from time to time, the "Note");

WHEREAS, as security for the Loan, Mortgagor executed and delivered to Mortgagee that certain Mortgage, Assignment of Rents and Leases and Security Agreement, dated as of April 20, 2016, and recorded as Mortgage Instrument Number 20160506000153140 in the Office of the Judge of Probate of Shelby County, Alabama as amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of May 4, 2016 and recorded as Mortgage Instrument Number 20160526000179790, and further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of May 27, 2016 and recorded as Mortgage Instrument Number 20160624000218760, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of June 24, 2016 and recorded as Mortgage Instrument Number 20160712000242200, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of June 24, 2016 and recorded as Mortgage Instrument Number 20160712000242520, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of August 25, 2016 and recorded as Mortgage Instrument Number 201609912000329920, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of August 25, 2016 and recorded as Mortgage Instrument Number 201609912000331170, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of October 19, 2016 and recorded as Mortgage Instrument Number 20161102000402160, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of October 19, 2016 and recorded as Mortgage Instrument Number 20161102000403880, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of April 10, 2017 and recorded as Mortgage Instrument Number 20170417000129660, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of May 18, 2017 and recorded as Mortgage Instrument Number 20170531000190210, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of July 28, 2017 and recorded as Mortgage Instrument Number 20170802000278010, and being further amended by that certain Note and Mortgage Modification and Spreader Agreement, dated as of July 28, 2017 and recorded as Mortgage Instrument Number 20170802000279640, (together with all assignments, amendments, modifications, restatements, and supplements thereto, the "Mortgage"); and

WHEREAS, Borrowers have requested that Mortgagee extend an additional loan to Borrowers in the amount of \$345,532.00 (the "Increase"). Following the Increase, the total amount of the Loan will be \$4,877,352.00. Mortgagee has agreed to extend the Increase, on the terms and conditions herein stated;

WHEREAS, Borrowers now intend to amend the Note by increasing the principal amount thereof and to amend the Mortgage by adding an additional tract of land to the Land (as that term is defined in the Mortgage) for the purpose of providing additional collateral to secure the Note.

NOW THEREFORE, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) cash in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrowers and Mortgagee agree as follows:

1. Borrowers hereby promise to pay the Increase to the order of Mortgagee. Accordingly, the Note is hereby amended to evidence the total principal amount of up to \$4,877,352.00. The Loan, as

increased by the Increase, will continue to bear interest as set forth in that certain Amended and Restated Loan Agreement dated as of March 23, 2016, among Borrowers and Mortgagee (as amended, modified, restated and supplemented from time to time, the "Loan Agreement"), and will continue to be payable in accordance with the terms of the Loan Agreement and the Note.

2. Exhibit A to the Mortgage is hereby amended by adding thereto the description of real property contained on Schedule A hereto (such described real property being hereinafter referred to as the "Additional Land"). The term "Land" as defined in the Mortgage is hereby amended to include the Additional Land.

3. To further effect the foregoing, Mortgagor does hereby MORTGAGE, GRANT, BARGAIN, SELL, CONVEY, TRANSFER, ALIEN, ASSIGN and SET OVER to Mortgagee, as security for the payment and performance of the Secured Indebtedness (as defined in the Mortgage), the Additional Land, together with all appurtenances and rights thereto and all improvements thereon, to the same extent as given with respect to all other Property (as defined in the Mortgage) under the Mortgage, with all covenants, representations and warranties as to such property as are given with respect to all other Property under the Mortgage; TO HAVE AND TO HOLD the Additional Land and all rights, estates, powers, benefits, interests and privileges appurtenant thereto of every kind and character which Mortgagor now has or hereafter acquires in, to or for the benefit of the Additional Land and all other property and rights used or useful in connection with the therewith, unto Mortgagee, and Mortgagee's successors and assigns, forever.

4. It is the intent of Mortgagor that the Mortgage be construed in every sense as though the Additional Land was originally described in the Mortgage, and each and every other term and provision of the Mortgage should be applicable thereto as though the Additional Land had been originally described therein.

5. Except as expressly modified or amended herein, all of the terms and conditions of the Note and the Mortgage shall remain in full force and effect and are hereby ratified, affirmed, and approved.

6. Mortgagee may attach a copy of this Agreement to the Note, and all references hereinafter in any of the other Loan Documents (as defined in the Loan Agreement) shall be to the Note, as amended hereby. Mortgagee is authorized to type on the Note the following:

This Note has been amended by that certain Note and Mortgage Modification and Spreader Agreement dated as of September 7, 2017, entered into by and among SDH Birmingham LLC, SDC Gwinnett LLC and Regions Bank, a copy of which Agreement is attached hereto and made a part hereof.

7. Borrowers acknowledge and agree that this Agreement is not indented to be, and shall not be deemed to or construed to be, a novation or release of the Note. Borrowers represent and warrant that they have no defenses, claims, or rights of setoff under the Note or the Mortgage as of the date hereof and agree that this Agreement is not to be construed as affecting the priority of the Mortgage with respect to the other Property (as defined in the Mortgage).


8. This Agreement shall be binding upon Borrowers and shall inure to the benefit of Mortgagee and its successors and assigns.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have caused this instrument to be executed, delivered and sealed by their duly authorized representatives as of day and year first above written.

MORTGAGOR:

SDH BIRMINGHAM LLC,
a Georgia limited liability company

By: 

Name: John W. Sax

Title: Director of Finance


Mortgagor's Address for Notices:
110 Village Trail, Suite 215
Woodstock, Georgia 30188
Attention: John W. Sax

STATE OF Georgia)
COUNTY OF Cherokee)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that John W. Sax as Director of Finance of SDH Birmingham LLC, a Georgia 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 for and as the act of said limited liability company.

Given under my hand and official seal this 7th day of September, 2017.

[NOTARIAL SEAL]


NOTARY PUBLIC
My Commission Expires: 10/8/18

DONNA SCHEIBLE
NOTARY PUBLIC
CHEROKEE COUNTY, GEORGIA
MY COMMISSION EXPIRES OCTOBER 8, 2018

SDC GWINNETT LLC,
a Georgia limited liability company

By: [Signature]
Name: John W. Sax
Title: Director of Finance

STATE OF GEORGIA)
COUNTY OF CHEROKEE)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that John W. Sax as Director of Finance of SDC Gwinnett LLC, a Georgia 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 for and as the act of said limited liability company.

Given under my hand and official seal this 7th day of September, 2017.

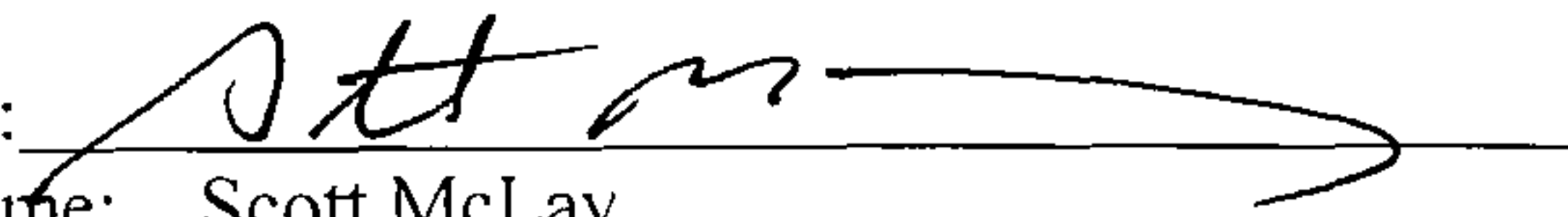
[NOTARIAL SEAL]

[Signature]
NOTARY PUBLIC
My Commission Expires: 10/8/18

DONNA SCHEIBLE
NOTARY PUBLIC
CHEROKEE COUNTY, GEORGIA
MY COMMISSION EXPIRES OCTOBER 8, 2018

MORTGAGEE:

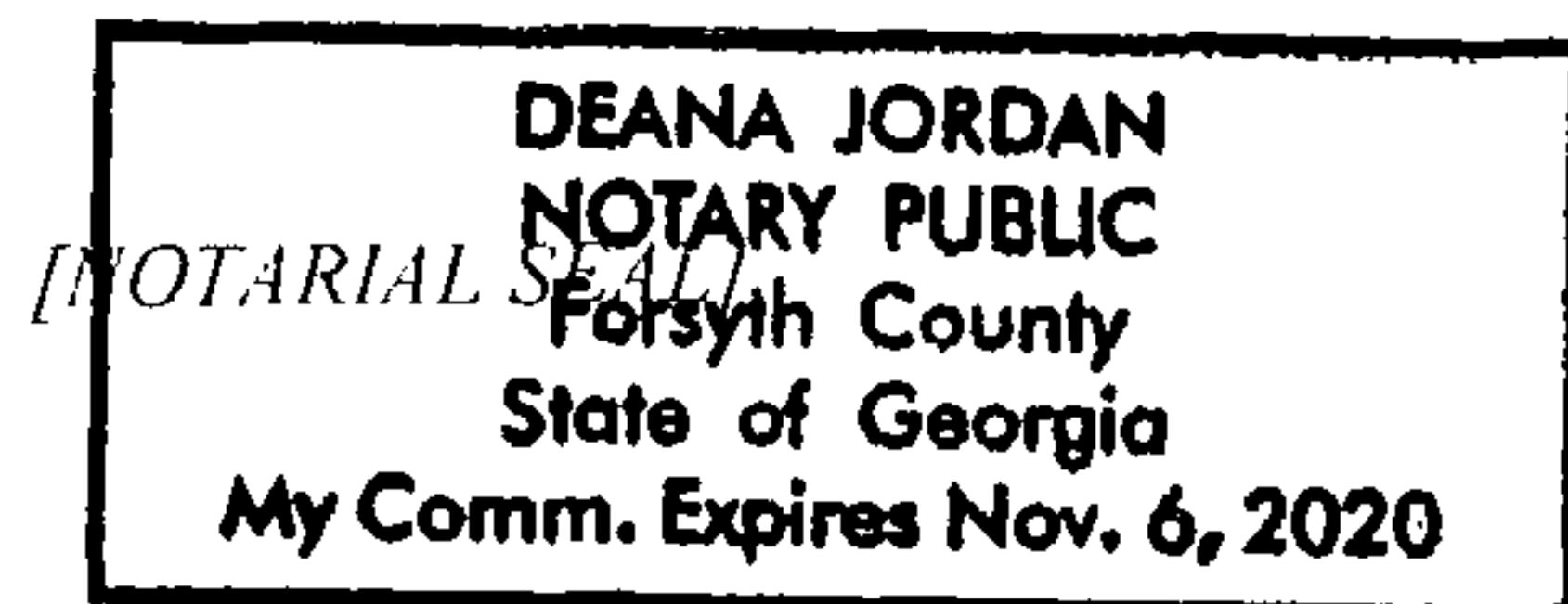
REGIONS BANK


By: 
Name: Scott McLay
Title: Vice President

STATE OF Georgia)
COUNTY OF Forsyth)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Scott McLay as Vice President of Regions 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 for and as the act of said banking corporation.

Given under my hand and official seal this 7 day of September, 2017.




NOTARY PUBLIC
My Commission Expires: 11-6-20

SCHEDULE A

Legal Description of the Additional Land

Lots 186, 200, 201, and 202, according to the Survey of Kensington Place Phase II, as recorded in Map Book 42, Page 117, in the Probate Office of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
09/14/2017 01:37:54 PM
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20170914000335360

A handwritten signature in black ink, appearing to be "J. W. Fuhrmeister", is written over the printed name of the Probate Judge.