

STATE OF ALABAMA       )  
COUNTY OF SHELBY       )

AGREEMENT AND EASEMENT

This Agreement and Easement by and between MICKEY J. HARDY, SR., a married man ("Owner") and THE HARBERT-EQUITABLE JOINT VENTURE, an Alabama general partnership ("HEJV").

W I T N E S S E T H:

WHEREAS, Owner is the owner of certain real property in Shelby County, Alabama, more particularly described as follows ("Owner's Property"):

A parcel of land lying in the NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , Section 25, T19S, R3W, and more particularly described as follows:

Starting at the southeast corner of the said NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  Section 25, T19S, R3W, which is the point of beginning, run westerly along the south boundary line of said NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  a distance of 443.1 feet to an iron marker; thence turn 103 degrees-55 minutes to the right and run northeasterly 269.0 feet to an iron marker; thence turn 76 degrees-15 minutes to the right and run easterly 376.9 feet to an iron marker on the east boundary line of the said NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; thence turn 89 degrees-30 minutes to the right and run southerly along the said east boundary line of said NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  a distance of 260.0 feet to the point of beginning.

Said parcel of land lies in the said NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , Section 25, T19S, R3W, and contains 2.5 acres, more or less.

WHEREAS, HEJV is the owner of certain real property in Shelby County, Alabama, across which the following described twenty foot (20') easement area lies (the "Easement"):

A 20.0 foot wide easement for a paved driveway and underground utilities lying in the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ , Section 25, T19S, R3W, as described on Exhibit "A", and more particularly described as follows:

Starting at the northeast corner of the said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , Section 25, T19S, R3W, which is the point of beginning, turn an angle of 67 degrees-33 minutes to the left from the north boundary line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  and run southwesterly along the east R/W line of said easement a distance of 190.0 feet, more or less, to the north R/W line of Old U.S. Highway #31; thence run northwesterly along said R/W of said Old U.S. Highway #31, along a curve to the left, a distance of 20.0 feet to the west R/W line of said easement; thence run northeasterly, 20.0 feet west of, and parallel to, the said east R/W line of said easement a distance of 175.0 feet, more or less, to the north boundary line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; thence run easterly along said north boundary line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  a distance of 23.0 feet to the point of beginning.

Said parcel of land lies in the said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , Section 25, T19S, R3W, and contains 0.09 acres, more or less.

WHEREAS, Owner has requested HEJV to grant Owner the 20" Easement for roadway and utility purposes between old U.S. Highway 31 and Owner's property; and

**RIVERCHASE**

WHEREAS, HEJV is willing to grant ~~an~~ Easement upon the terms, conditions and agreements set forth herein.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, each party paid to the other, the receipt and sufficiency of which is hereby acknowledged, Owner and HEJV hereby agree as follows:

1. HEJV hereby grants to Owner the twenty foot (20') Easement described above for roadway and underground utility purposes. Such Easement shall be exclusively for access to the Owner's Property, shall run with said Owner's Property, and shall not be used for access to any other property or parcel whatsoever.

2. Owner hereby agrees and by these presents declares that the Owner's Property is restricted for the use of one single family home to be developed on Owner's Property. The Owner's Property is not to be further subdivided or used for any other purpose. In the event that said Owner's Property is used for more than one single family home, or is subdivided or is otherwise used for some other purpose, then the easement granted hereby shall automatically terminate, be void and of no force and effect.

3. The creation of the roadway and underground utility easement herein shall in no way affect or otherwise restrict any future use of the property of HEJV through which the subject easement lies by HEJV or its assigns. In no way shall any future use of subject property obstruct the use of the roadway easement granted herein; provided however, that HEJV shall have the right in connection with future use of the property of HEJV through which the subject easement lies, to relocate the roadway easement and any roads located thereon at HEJV's expense.

4. Any road constructed over the Easement shall be constructed and maintained by Owner. At the time of construction of said roadway by Owner, Owner shall construct a deceleration lane for north-northwest-bound traffic off Montgomery Highway in accordance with plans approved by the City of Hoover and the Riverchase Architectural Committee.

5. Owner agrees and covenants to release, indemnify, protect and hold harmless HEJV, its successors, assigns, employees or agents, from and against any and all claims and demands by Owner, any member of his family, his tenants, guests, invitees, licensees, assigns, or any other persons whomsoever, for damages to property and injury or death to persons (whether or not caused by HEJV's negligence, including, but not limited to, HEJV's contributory negligence, concurring negligence, active negligence and passive negligence) which may arise out of or be caused directly or indirectly by said roadway and underground utility easement and/or the use of said roadway and underground utility easement by Owner, his family, tenants, guests, invitees, licensees, assigns or any other persons.

BOOK 003 PAGE 801

6. Owner does by these presents agree and declare that the Owner's Property is submitted to and shall be subject to the Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Riverchase (Residential), recorded in Book 14, beginning at Page 536, as amended by Amendment No. 1 recorded in Book 17, beginning at Page 550, in the Office of the Judge of Probate of Shelby County, Alabama. Owner agrees that the Owner, and the Owner's property shall be bound by the said Protective Covenants now in existence, as modified, and as may be modified in the future, and Owner, for himself, and for any subsequent owner of Owner's Property, agree to become a member of the Riverchase Residential Association, Inc., under Articles of Incorporation recorded in Miscellaneous Book 14, beginning at Page 19, in the Probate Office of Shelby County, Alabama, and further agrees to pay all assessments as may be provided under said Articles of Incorporation and said Protective Covenants.

7. Owner hereby represents that the Owner's Property as owned by Owner is presently vacant land and does not constitute the homestead of the Owner.

IN WITNESS WHEREOF, Owner and HEJV have caused this instrument to be executed effective the 20<sup>th</sup> day of Sept, 1984.

Frances Hardy                      Mickey J. Hardy, Sr.  
Witness                                      Mickey J. Hardy, Sr.

THE HARBERT-EQUITABLE JOINT VENTURE,  
an Alabama general partnership

By: The Equitable Life Assurance  
Society of the United States,  
as General Partner

ATTEST:  
By: [Signature]  
Its HEJV

By: [Signature]  
Its Asst Vice President

By: Harbert International, Inc., as  
General Partner

ATTEST:  
By: [Signature]  
Its HEJV

By: [Signature]  
Its: Executive Vice President

STATE OF ALABAMA )  
COUNTY OF Shelby )

I, Pamela R. Ansley, a Notary Public in and for said County in said State, hereby certify that Mickey J. Hardy, Sr., 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 the above and foregoing instrument, he executed the same voluntarily.

Given under my hand and official seal of the office this 18<sup>th</sup> day of July, 1984.

Pamela R. Ausley  
Notary Public

My Commission expires: March 11, 1986

STATE OF Alabama  
COUNTY OF Shelby

I, Cynthia A. Aldridge a Notary Public in and for said County in said State, hereby certify that Donald L. Batson, whose name as Asst. Vice President of The Equitable Life Assurance Society of the United States, as general partner of The Harbert-Equitable Joint Venture, 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 the instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation as general partner of The Harbert-Equitable Joint Venture.

Given under my hand this the 20<sup>th</sup> day of September, 1984

Cynthia A. Aldridge  
Notary Public

My Commission expires: \_\_\_\_\_

STATE OF ALABAMA )  
COUNTY OF SHELBY

I, Cynthia A. Aldridge a Notary Public in and for said County in said State, hereby certify that E. D. Dixon, whose name as Executive Vice President of Harbert International, Inc., as general partner of The Harbert-Equitable Joint Venture, 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as general partner of The Harbert-Equitable Joint Venture.

Given under my hand this the 20<sup>th</sup> day of September, 1984

Cynthia A. Aldridge  
Notary Public

My Commission expires: MY COMMISSION EXPIRES FEBRUARY 3, 1986

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT IS FILED  
1984 OCT -1 AM 11:28  
JUDGE: [Signature]

And tax 50  
Rec. 10.00  
And. 1.00  
11.50