

THIS INSTRUMENT PREPARED BY:

Helen W. Whealton  
THE HARBERT-EQUITABLE JOINT VENTURE  
One Riverchase Office Plaza, Suite 200  
Birmingham, Alabama 35244  
(205) 988-4730

PURCHASER'S ADDRESS: BANEERRY LAKE SUBDIVISION ASSOCIATION  
c/o McKay Management Corporation  
One Riverchase Office Plaza, Suite 200  
Birmingham, Alabama 35244

STATE OF ALABAMA )

COUNTY OF SHELBY )

KNOW ALL MEN BY THESE PRESENTS, that in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) in hand paid by BANEERRY LAKE SUBDIVISION ASSOCIATION, INC., (hereinafter referred to as "GRANTEE"), to the undersigned, THE HARBERT-EQUITABLE JOINT VENTURE, under Joint Venture Agreement dated January 30, 1974 composed of Harbert Properties Corporation, a corporation, and The Equitable Life Assurance Society of the United States, a corporation (hereinafter referred to as "GRANTOR"), the receipt of which is hereby acknowledged, the said GRANTOR does by these presents grant, bargain, sell and convey unto the said GRANTEE, the following described real estate situated in Shelby County, Alabama:

Lots 3019B and 3019C, according to the survey of Riverchase Country Club, 30th Addition, Second Sector as recorded in Map Book 13, Page 150A and B, in the Office of the Judge of Probate of Shelby County, Alabama (the "Property").

Such Property is conveyed subject to the following:

1. Ad valorem taxes due and payable October 1, 1994.
2. Mineral and mining rights not owned by GRANTOR.
3. Any applicable zoning ordinances.
4. Easements, rights of way, reservations, agreements, restrictions and setback lines of record.
5. Said Property conveyed by this instrument is hereby subjected to the Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Riverchase (Residential), recorded in Miscellaneous Book 14, beginning at page 536, in the Office of the Judge of Probate of Shelby County, Alabama, as amended in Miscellaneous Book 17, beginning at page 550, in the Office of the Judge of Probate of Shelby County, Alabama and the Protective Covenants, Agreements, Easements, Charges and Liens for Baneberry Lake Subdivision Association, Inc. (Residential) recorded in Book 246, Page 889 in the Office of the Judge of Probate of Shelby County, Alabama.
6. Grantee has made its own independent inspections and investigations of the Property, and is taking the Property "as is" and based solely upon and in reliance upon such inspection and investigations of the Property. Grantor makes no representation, warranty or agreement concerning the conditions of the Property, the soil or the sub-soil. Grantee, for itself and its heirs, successors and assigns, waives all claims, present and future, against Grantor based upon or in connection with the condition of the Property, including but not limited to underground mines, tunnels, or sinkholes, and hereby releases Grantor from any liability whatsoever with respect thereto.

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01/07/1994-00558  
08:32 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
003 MCD 14.00

Inst # 1994-00558

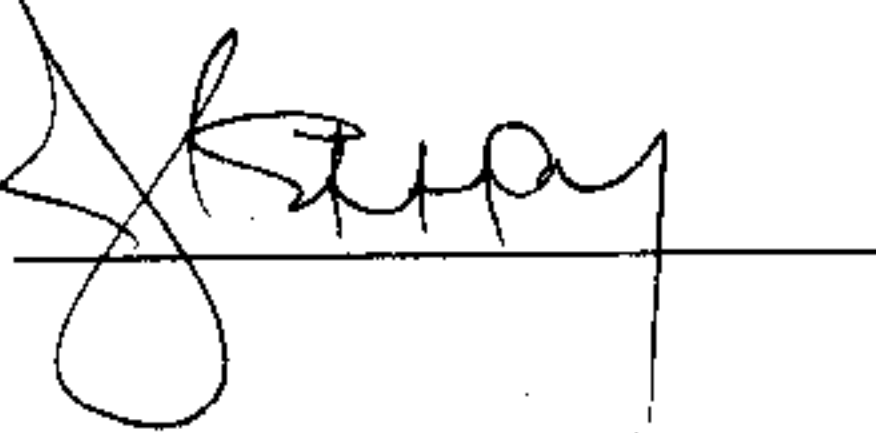
7. Said Property conveyed by this instrument is hereby restricted to use as a park or other recreational or related purpose, which restriction shall run with the land, and shall be binding on the successors and assigns of Grantee. The Property is hereby specifically designated as "Association Land" for the purposes of Section 8.1 of the Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Baneberry Lake Subdivision Association, Inc. (Residential) described in Paragraph 5 above, said restriction to be effective for the same period of time as the Baneberry Lake Subdivision Covenants.
8. The Property is conveyed subject to the reservation by Grantor of a permanent easement, for the benefit of Grantor, its successors or assigns and any utility companies or governmental entities providing utility services: (i) to maintain, repair and replace all existing underground water and sewer lines, which are currently located on the Property; and (ii) at any time, and from time-to-time in the future, to locate underground sanitary sewer lines and other underground utility lines at various locations across and through the Property. Purchasers from Grantor and assigns of Grantor shall have the right to use such facilities so constructed for such utility purposes, subject to the foregoing provisions and conditions. No action shall be taken or permitted by Grantor or its assigns which would interfere with the property use, exercise and enjoyment of the Property by Grantee except as herein provided. These facilities shall be constructed at Grantor's or its assigns' expense and Grantor or its assigns shall restore and repair the Property to substantially its original condition after completion of construction and shall be responsible for the proper maintenance of such facilities; provided, however, that should Grantor assign its rights contained in this easement to a municipal or other governmental agency which shall assume the maintenance of the facilities, then Grantor shall have no further liability or obligation with respect to such facilities. It is understood that the exercise by Grantor or its assigns of the rights of Grantor stated in this paragraph may interfere with or preclude use of the involved part of the Property for reasonable periods of time. Grantor or its assigns shall use all reasonable effort to minimize such interference. Grantee shall not oppose nor in any manner interfere with the exercise by Grantor or its assigns of the rights of Grantor stated in this paragraph, nor with any effort of Grantor or its assigns to obtain approval from regulatory authorities to exercise such rights.

TO HAVE AND TO HOLD unto GRANTEE, its successors and assigns, forever.

IN WITNESS WHEREOF, the GRANTOR has caused this conveyance to be executed by each Venturer by their respective duly authorized officers effective on this the 18<sup>th</sup> day of November, 1993.

THE HARBERT-EQUITABLE JOINT VENTURE  
An Alabama General Partnership

Witness:



BY: THE EQUITABLE LIFE ASSURANCE  
SOCIETY OF THE UNITED STATES  
~~Its General Partner~~

BY: Terrell C. Ascher  
Its Investment Officer

Witness:



BY: HARBERT PROPERTIES CORPORATION  
Its General Partner

BY: Donald J. Cal  
Its President

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, Hele W. Wheaton, a Notary Public in and for said County, in said State hereby certify that Terrell E. Daffer, whose name as Investment Officer of The Equitable Life Assurance Society of the United States, a corporation, as General Partner of The Harbert-Equitable Joint Venture, under Joint Venture Agreement dated January 30, 1974, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, 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 and official seal, this the 18<sup>th</sup> day of November, 1993.

Hele W. Wheaton  
Notary Public

My Commission expires:  
MY COMMISSION EXPIRES SEPTEMBER 2, 1997

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, Hele W. Wheaton, a Notary Public in and for said County, in said State, hereby certify that Barnett J. Giles, whose name as President of Harbert Properties Corporation, a corporation, as General Partner of The Harbert-Equitable Joint Venture, under Joint Venture Agreement dated January 30, 1974, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, 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 and official seal, this the 18<sup>th</sup> day of November, 1993.

Hele W. Wheaton  
Notary Public

My commission expires:  
MY COMMISSION EXPIRES SEPTEMBER 2, 1997

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