

This instrument prepared by:
John E. Hagefstration, Jr.
Bradley Arant Rose & White LLP
420 North 20th Street, Suite 2000
Birmingham, Alabama 35203

DECLARATION OF UTILITY EASEMENT

THIS DECLARATION OF UTILITY EASEMENT (this "Declaration") is executed on January 14, 1998 by BIRMINGHAM REALTY COMPANY, an Alabama corporation ("Declarant").

RECITALS:

A. Declarant is the owner of a parcel of property more particularly described on Exhibit A attached hereto on which the Columbiana Square Shopping Center is located (the "Shopping Center").

B. Declarant is also the owner of a certain parcel of property adjacent to the Shopping Center which is more particularly described on Exhibit B attached hereto (the "Future Development Site").

C. The electrical lines which provide service to the Shopping Center cross the Future Development Site and Declarant desires to declare and establish an easement for such electrical service lines across the Future Development Site to benefit the Shopping Center.

NOW, THEREFORE, Declarant hereby declares that the Shopping Center shall be benefitted by a non-exclusive easement for the installation, operation, maintenance, repair, replacement and removal of the electrical lines and systems which are presently located on the Future Development Site.

This Declaration is made subject to the following:

1. Declarant reserves the right to relocate such utility systems to other portions of the Future Development Site, provided it does not interrupt electrical service to the Shopping Center.

2. Upon such time as Alabama Power Company or another electric utility service provider obtains an easement across the Future Development Site to serve the Shopping Center, or otherwise obtains other easements to provide suitable electrical service to the Shopping Center, this easement shall terminate and cease to be effective.

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Alabama Title

3. Nothing contained in this Declaration will be deemed to constitute a gift, grant or dedication of any part of the Future Development Site to the general public or for any public purpose whatsoever, it being the intention of Declarant that this Declaration will be strictly limited to the private use of the owner of the Shopping Center. This Declaration is intended to benefit the owner of the Shopping Center, and its respective successors, assigns and mortgagees.

4. This Declaration shall be governed and construed in all respects with the laws of the State of Alabama.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed and delivered on the day and year first above written.

BIRMINGHAM REALTY COMPANY

By: _____

Its: _____

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Russell M. Cunningham, III, whose name as President of Birmingham Realty Company, 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 14th day of January, 1998.

John E. Haglund

Notary Public

[NOTARIAL SEAL]

My commission expires: 9-19-98

EXHIBIT "B"

FUTURE DEVELOPMENT AREA REMAINING LAND COLUMBIANA WINN-DIXIE SITE

A PARCEL OF LAND LOCATED IN THE NE 1/4 OF THE NW 1/4 AND THE NW 1/4 OF THE NE 1/4 OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NE CORNER OF THE NW 1/4 OF SAID SECTION 26; THENCE IN A NORTHERLY DIRECTION ALONG THE PROJECTION OF THE EASTERLY LINE OF SAID SECTION 26, A DISTANCE OF 2.82 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF DEPOT STREET SAID POINT ALSO BEING AN OLD REBAR CORNER WHICH IS ALSO THE SE CORNER OF THE ELLIOT LOT DESCRIBED IN DEED BOOK 12, PAGE 496; THENCE 137 DEGREES 14 MINUTES 28 SECONDS RIGHT IN A SOUTHEASTERLY DIRECTION ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 142.87 FEET; THENCE 86 DEGREES 37 MINUTES 09 SECONDS RIGHT IN A SOUTHWESTERLY DIRECTION AND ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 15.05 FEET TO A CONCRETE MONUMENT WHICH IS 40 FEET FROM THE CENTERLINE OF SAID DEPOT STREET; THENCE 93 DEGREES 25 MINUTES 46 SECONDS LEFT IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 47.55 FEET TO A MONUMENT AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF DEPOT STREET AND ALABAMA HIGHWAY NO. 25; THENCE 43 DEGREES 45 MINUTES 52 SECONDS RIGHT IN A SOUTHERLY DIRECTION AND ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 94.24 FEET TO A MONUMENT 60 FEET FROM THE CENTERLINE OF ALABAMA HIGHWAY NO. 25; THENCE 31 DEGREES 41 MINUTES 22 SECONDS RIGHT IN A SOUTHWESTERLY DIRECTION AND ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 648.64 FEET TO A 1" SOLID IRON AT THE NORTHEAST CORNER OF THAT PARCEL DESCRIBED IN VOLUME 305, PAGE 237; THENCE 59 DEGREES 03 MINUTES 43 SECONDS RIGHT IN A NORTHWESTERLY DIRECTION ALONG THE NORTHERLY LINE OF SAID PARCEL, A DISTANCE OF 289.44 FEET TO AN OPEN END IRON; THENCE 0 DEGREES 11 MINUTES 30 SECONDS LEFT IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF THAT PARCEL DESCRIBED IN VOLUME 228, PAGE 49, A DISTANCE OF 96.94 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG LAST DESCRIBED COURSE, A DISTANCE OF 14.04 FEET TO A 1" OPEN TOP IRON; THENCE 0 DEGREES 14 MINUTES 42 SECONDS RIGHT IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF THAT PARCEL DESCRIBED IN VOLUME 303, PAGE 413, A DISTANCE OF 170.30 FEET TO A 1" REBAR; THENCE 5 DEGREES 48 MINUTES 53 SECONDS LEFT IN A SOUTHWESTERLY DIRECTION ALONG THE NORTH LINE OF PARCELS DESCRIBED IN VOLUME 342, PAGE 739 AND VOLUME 284, PAGE 863, A DISTANCE OF 180.02 FEET (RECORDED 187.50') TO A 1 1/4" OPEN TOP IRON; THENCE 3 DEGREES 09 MINUTES LEFT IN A SOUTHWESTERLY DIRECTION ALONG THE NORTH LINE OF PARCELS DESCRIBED IN VOLUME 250, PAGE 379 AND VOLUME 262, PAGE 849, A DISTANCE OF 170.89 FEET (RECORDED 171.34') TO A 1/2" REBAR;

THENCE 1 DEGREE 58 MINUTES 56 SECONDS RIGHT IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF THAT PARCEL DESCRIBED IN VOLUME 300, PAGE 111, A DISTANCE OF 85.61 FEET (RECORDED 85.67') TO A POINT ON THE EASTERLY LINE OF LOT 15 OF COLUMBIANA HOUSE INC., SUBDIVISION RECORDED IN MAP BOOK 3, PAGE 82 IN THE OFFICE OF THE JUDGE OF PROBATE IN SHELBY COUNTY, ALABAMA; THENCE 103 DEGREES 00 MINUTES 12 SECONDS RIGHT IN A NORTHERLY DIRECTION ALONG THE EASTERLY LINE OF LOTS 15, 14 AND 13 OF SAID COLUMBIANA HOMES INC. SUBDIVISION, A DISTANCE OF 271.08 FEET (RECORDED 260'); THENCE 99 DEGREES 02 MINUTES 50 SECONDS (RECORDED 98 DEGREES 56 MINUTES) LEFT IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF SAID LOT 13 AND ITS WESTWARD EXTENSION, A DISTANCE OF 222.05 FEET (RECORDED 210.00'); THENCE 98 DEGREES 56 MINUTES RIGHT IN A NORTHERLY DIRECTION ALONG THE EASTERLY LINE OF SAID COLUMBIANA HOMES INC., SUBDIVISION, A DISTANCE OF 257.60 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF THE SOUTHERN RAILWAY; THENCE 55 DEGREES 05 MINUTES RIGHT IN A NORTHEASTERLY DIRECTION ALONG THE SAID SOUTHERN RAILWAY RIGHT OF WAY (PARALLEL TO AND 50' AS MEASURED PERPENDICULARLY FROM THE MAIN TRACK), A DISTANCE OF 624.31 FEET; THENCE 90 DEGREES RIGHT IN A SOUTHEASTERLY DIRECTION ALONG SAID SOUTHERN RAILWAY RIGHT OF WAY, A DISTANCE OF 50.00 FEET; THENCE 90 DEGREES LEFT IN A NORTHEASTERLY DIRECTION ALONG SAID SOUTHERN RAILWAY RIGHT OF WAY, A DISTANCE OF 300.00 FEET; THENCE 90 DEGREES RIGHT IN A SOUTHEASTERLY DIRECTION, ALONG SAID SOUTHERN RAILWAY RIGHT OF WAY, A DISTANCE OF 92.00 FEET; THENCE 59 DEGREES 53 MINUTES 40 SECONDS RIGHT IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 462.07 FEET; THENCE 51 DEGREES 18 MINUTES 52 SECONDS LEFT IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 412.28 FEET TO THE POINT OF BEGINNING, CONTAINING 10.57 ACRES, MORE OR LESS.

SHOPPING CENTER SITE

A PARCEL OF LAND LOCATED IN THE NE 1/4 OF THE NW 1/4 AND THE NW 1/4 OF THE NE 1/4 OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NE CORNER OF THE NW 1/4 OF SAID SECTION 26; THENCE IN A NORTHERLY DIRECTION ALONG THE PROJECTION OF THE EASTERLY LINE OF SAID SECTION 26, A DISTANCE OF 2.82 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF JOINER TOWN ROAD SAID POINT ALSO BEING AN OLD REBAR CORNER WHICH IS ALSO THE SE CORNER OF THE ELLIOT LOT DESCRIBED IN DEED BOOK 12, PAGE 496; THENCE 137 DEGREES 14 MINUTES 28 SECONDS RIGHT IN A SOUTHEASTERLY DIRECTION ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 30.06 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG LAST DESCRIBED COURSE AND SAID RIGHT OF WAY LINE, A DISTANCE OF 40.09 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS RIGHT IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 200.73 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS LEFT IN A SOUTHEASTERLY DIRECTION A DISTANCE OF 77.68 FEET; THENCE 21 DEGREES 21 MINUTES 23 SECONDS LEFT IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 171.49 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF ALABAMA HIGHWAY NO. 25; THENCE 90 DEGREES RIGHT IN A SOUTHWESTERLY DIRECTION AND ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 497.95 FEET; THENCE 90 DEGREES RIGHT IN A NORTHWESTERLY DIRECTION, A DISTANCE OF 328.00 FEET; THENCE 90 DEGREES LEFT IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 20.00 FEET; THENCE 90 DEGREES RIGHT IN A NORTHWESTERLY DIRECTION, A DISTANCE OF 325.09 FEET; THENCE 90 DEGREES RIGHT IN A NORTHEASTERLY DIRECTION, A DISTANCE OF 467.05 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF SOUTHERN RAILWAY; THENCE 30 DEGREES 06 MINUTES 20 SECONDS RIGHT IN A NORTHEASTERLY DIRECTION, A DISTANCE OF 235.48 FEET TO A POINT ON THE WEST LINE OF SAID ELLIOT LOT; THENCE 81 DEGREES 15 MINUTES 03 SECONDS RIGHT IN A SOUTHEASTERLY DIRECTION ALONG SAID WEST LINE OF THE ELLIOT LOT, AND PARALLEL WITH THE WESTERLY RIGHT OF WAY LINE OF JOINERTOWN ROAD, A DISTANCE OF 146.98 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS RIGHT IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 10.02 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS LEFT, IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 130.06 FEET; THENCE 86 DEGREES 13 MINUTES 39 SECONDS LEFT IN A NORTHEASTERLY DIRECTION, A DISTANCE OF 200.73 FEET TO THE POINT OF BEGINNING, CONTAINING 8.56 ACRES, MORE OR LESS.

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