

This instrument prepared by:
John E. Hagefstration, Jr.
Bradley Arant Rose & White LLP
2001 Park Place, Suite 1400
Birmingham, Alabama 35203-2736

Inst # 1999-03820
01/28/1999-03820
11:05 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

ACCESS EASEMENT

THIS ACCESS EASEMENT (this "Easement") is made by and between **BIRMINGHAM REALTY COMPANY**, an Alabama corporation ("Grantor") and **J. ALLEN CHESSER** and wife, **BETTY S. CHESSER** ("Grantees") on this 25th day of January, 1999.

RECITALS:

- A. Grantor owns certain property which it is developing as a shopping center to be known as "Chelsea Corners" (the "Shopping Center").
- B. Grantees own a parcel of property which adjoins the Shopping Center (the "Benefitted Parcel"). Grantees have requested that Grantor grant to Grantees an easement to provide access between the Benefitted Parcel and the Shopping Center.
- C. Grantor has agreed to grant such an easement to Grantees on the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the recitals and Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant unto Grantees, subject to the terms hereinafter stated, a non-exclusive easement for ingress and egress for pedestrian and vehicular traffic to and from the Benefitted Parcel over and across the parcel of land described on Exhibit A attached hereto, said parcel of land being approximately thirty (30) feet in width by twenty-five (25) feet in depth (the "Easement Area").

Grantor and Grantee do hereby agree that this Easement is granted upon the following terms and conditions:

1. This Easement shall serve the businesses that may be located on the Benefitted Parcel which are, in Grantor's sole opinion, complimentary to the businesses located in the Shopping Center. This Easement shall be used solely for pedestrian and vehicular traffic (including small delivery trucks, but not heavy vehicles such as tractor-trailers). This Easement shall not be used for construction traffic.
2. Grantees shall be responsible for constructing an asphalt driveway with curb and gutters in accordance with plans that must be approved in advance by Grantor. Once constructed, Grantees shall be responsible for maintaining all improvements located in the Easement Area in good repair at all times. If Grantees shall fail to repair the Easement Area within thirty (30) days

after receiving written notice thereof from Grantor, Grantor may, in its sole discretion, deny access across the Easement Area until repairs are completed to Grantor's satisfaction.

3. Grantor may close access across the Easement Area one (1) day per year (or at such other period as may be required by law) in order to maintain its ownership rights to the Easement Area.

4. Grantor may relocate of the Easement Area in connection with any future development, redevelopment or modification of the Shopping Center. If Grantor elects to relocate the Easement Area, it shall pay the cost of reconstructing the access drive to be constructed by Grantee in the Easement Area.

5. The Easement established hereby: (i) shall be perpetual, but may be terminated if the Grantees (or any future owner of the Benefited Parcel) abandons its use of the Easement and shall cease to use the same for a continuous period of six (6) months, and (ii) shall run with the land, and be binding upon Grantor, Grantees and all future owners of the Shopping Center and the Benefitted parcel and their respective heirs, executors, successors and assigns.

6. Nothing contained in this Easement will be deemed to constitute a gift, grant or dedication of any portion of the Easement Area to the general public or for any public purpose whatsoever, it being the intention of the Grantor that this Easement will be strictly limited to the private use of the Grantor and Grantees. This Easement is not intended to benefit any person other than Grantee.

7. Grantees hereby agree to indemnify and hold harmless Grantor from and against any and all losses, costs, claims, damages or expenses of any kind which may incurred by or asserted against Grantor and arising from or related in any way to this Easement or the use of the Easement Area by Grantees and/or their agents, employees, customers or invitees.

8. This Easement and any provision herein contained may be modified or amended only with the express written consent of Grantor.

9. Grantor and Grantees further agree as follows:

a. All notices, statements, demands, approvals and other communications given pursuant to this Easement will be in writing and will be delivered in person or by certified or registered mail, postage prepaid, to the owners of the parcels at the addresses maintained by such owners in the office of the Shelby County Tax Assessor for delivery of ad valorem tax statements relating to its property until such addresses are changed by notice.

b. If any provision of this Easement is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Easement (or the application of such provision to persons or circumstances other than those in respect of which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Easement will be valid and enforceable to the fullest extent permitted by law.

c. This Easement will be construed in accordance with the laws of the State of Alabama.

d. Time is of the essence of this Easement.

e. The provisions of this Easement will be binding on the Grantor and Grantees and their respective heirs, executors, successors, assigns.

IN WITNESS WHEREOF, Grantor and Grantees have executed this Easement on the date first above written.

GRANTOR:

BIRMINGHAM REALTY COMPANY

By: Stephen W. House
Its: Senior Vice President

GRANTEES:

J. Allen Chesser [L.S.]
J. Allen Chesser

Betty S. Chesser [L.S.]
Betty S. Chesser

EXHIBIT A

Depiction of Easement Area

WALTER SCHOEL ENGINEERING COMPANY, INC.

CONSULTING ENGINEERS
1001 22ND STREET SOUTH
BIRMINGHAM, ALABAMA 35205

PHONE (205) 323-0106

FAX (205) 328-2252

EXHIBIT
"A"

LEGAL DESCRIPTION

An easement for ingress and egress situated in the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama and run in a Northerly direction along the West line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 1048.33 feet to a point; thence $66^{\circ}52'40''$ to the right in a Northeasterly direction a distance of 210.13 feet to a point; thence $16^{\circ}06'07''$ to the right in a Northeasterly direction a distance of 109.35 feet to a point; thence $18^{\circ}54'05''$ to the left in a Northeasterly direction a distance of 117.46 feet to a point; thence $67^{\circ}45'50''$ to the right in a Southeasterly direction a distance of 20.00 feet to a point; thence $90^{\circ}00'$ to the left in a Northeasterly direction a distance of 568.78 feet to a point on the Southerly right-of-way line of U.S. Highway #280; thence $90^{\circ}26'05''$ to the right in a Southeasterly direction a distance of 38.32 feet along said right-of-way line to a point; thence $90^{\circ}00'$ to the left in a Northeasterly direction a distance of 210.00 feet along said right-of-way line to a point; thence $24^{\circ}53'00''$ to the right in a Northeasterly direction a distance of 72.77 feet, along said right-of-way line to the a point, said point being on the Southerly right-of-way line of U.S. Highway #280; thence continue along the last stated course and along said U.S. Highway #280 right-of-way a distance of 78.70 feet to a point; thence $103^{\circ}34'46''$ to the right in a Southeasterly direction (leaving said U.S. Highway #280 right-of-way) a distance of 153.75 feet to a point; thence $90^{\circ}00'$ to the left in a Northeasterly direction a distance of 188.09 feet to a point; thence $90^{\circ}00'$ to the left in a Northwesterly direction a distance of 63.48 feet to a point; thence $51^{\circ}18'02''$ to the right in a Northeasterly direction a distance of 158.21 feet to a point on the Southerly right-of-way line of said U.S. Highway #280; thence $39^{\circ}04'58''$ to the right in a Northeasterly direction along said U.S. Highway #280 right-of-way line a distance of 59.66 feet to a point; thence $89^{\circ}51'10''$ to the right in a Southeasterly direction (leaving said U.S. Highway #280 right-of-way) a distance of 206.74 feet to the POINT OF BEGINNING; thence $90^{\circ}00'00''$ to the right in a Southwesterly direction a distance of 28.00 feet to a point; thence $90^{\circ}00'00''$ to the left in a Southeasterly direction a distance of 25.00 feet to a point; thence $90^{\circ}00'00''$ to the left in a Northeasterly direction a distance of 28.00 feet to a point; thence $90^{\circ}00'00''$ to the left in a Northwesterly direction a distance of 25.00 feet to the POINT OF BEGINNING.

January 22, 1999

ledel67

STATE OF ALABAMA)
JEFFERSON COUNTY)

Inst # 1999-03820
01/28/1999-03820
11:05 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 WMS 21.50

I, the undersigned, a notary public in and for said county in said state, hereby certify that Stephen W. House, whose name as Senior Vice 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 25th day of January, 1999.

Jay C Newman
Notary Public

[NOTARIAL SEAL]

My commission expires MY COMMISSION EXPIRES OCTOBER 3, 2001

STATE OF ALABAMA)
Shelby
JEFFERSON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that J. Allen Chessser and wife, Betty S. Chessser, whose names are signed to the foregoing instrument, and who are known me, acknowledged before me on this day that, being informed of the contents of said, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 25 day of January, 1999.

[Signature]
Notary Public

[NOTARIAL SEAL]

My commission expires 4-12-99

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