


This instrument prepared by:
J. Keith Windle
Bradley Arant Rose & White LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203


20070608000270400 1/8 \$32.00
Shelby Cnty Judge of Probate, AL
06/08/2007 04:04:32PM FILED/CERT

STATE OF ALABAMA)
SHELBY COUNTY)

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement (this "Agreement") is made and entered into as of the 7th day of June, 2007, by **Wachovia Bank, National Association**, a national banking association ("Wachovia"), and **MJM Chelsea, LLC**, an Alabama limited liability company ("MJM").

WITNESSETH:

WHEREAS, Wachovia and MJM have entered into that certain Agreement of Purchase dated as of March 7, 2007 (the "Purchase Agreement") for the purchase by Wachovia of certain real property located in Shelby County, Alabama designated as "Outparcel 2" (the "Wachovia Property") which is described or illustrated on the preliminary site plan for Chelsea Crossings (the "Development") as shown on Exhibit A attached hereto (the "Plan").

WHEREAS, MJM is in the process of developing the property surrounding the Wachovia Property (the "Development"), which is shown more fully on the Plan.

WHEREAS, the Wachovia Property has no direct access to a public right of way.

WHEREAS, Wachovia has requested and MJM has agreed to provide an access easement as described more fully herein.

WHEREAS, Wachovia would not have entered into the Purchase Agreement without the agreement by MJM to grant the easements and rights provided herein.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid to MJM, and other good and valuable consideration (including without limitation, the execution by Wachovia of the Purchase Agreement and the consummation of the transaction contemplated therein), the receipt and sufficiency of which is hereby acknowledged, MJM does hereby grant, bargain, sell and convey to Wachovia, upon the conditions and subject to the limitations hereinafter set forth, the easements and rights hereinafter set forth.

TO HAVE AND TO HOLD, said easements and rights unto Wachovia, its successors and assigns.

1. Representations and Warranties.

(a) By MJM. MJM does hereby represent and warrant that it is the owner of the fee simple interest in and to such real property comprising the Existing Access Easement Area and the New Access Easement Area (as such terms are defined hereinbelow) and that all necessary steps have been taken to authorize it to enter into this Agreement.

(b) By Wachovia. Wachovia does hereby represent and warrant that it has taken all steps necessary to authorize it to enter into this Agreement.

2. Access Easement Area. MJM does hereby declare, establish, grant and convey an access easement (the "Access Easement") over, across, through and upon the property as more fully described or designated on Exhibit B (as cross-hatched on Exhibit A) as attached hereto (the "Access Easement Area") and all roadways and/or drives now or hereafter located thereon for the purpose of providing reasonable access and a means of ingress and egress for passenger vehicles and pedestrians to and from U. S. Highway 280 (utilizing a stoplight to be installed at the location designated on Exhibit A) and the Wachovia Property.

3. Pavement of Access Easement Area. The parties hereto do hereby acknowledge that as of the date hereof all or a portion of the Access Easement Area is not paved. MJM covenants and agrees that, prior to the opening for business of the bank branch to be constructed on the Wachovia Property, MJM will construct curbs, gutters and paving on the Access Easement Area in accordance with all applicable laws, rules and regulations.

4. Nature and Duration of Easement. The Access Easement shall be permanent, perpetual and non-exclusive in nature. Notwithstanding the foregoing, the Access Easement shall terminate, without further action of the parties hereto, upon the completion of (i) the opening of the bank branch on the Wachovia Property, (ii) the responsibilities of MJM in accordance with Section 3 hereinabove, and (iii) the recording of a declaration of easements (or similar instrument) acceptable to Wachovia which establishes access easements over the driveways contained in the Development. Upon request of MJM, Wachovia hereby agrees to file an appropriate instrument terminating the Access Easement upon the satisfaction of the conditions necessary to terminate the Access Easement as described in this Section 4.

5. Agreements Run with Land. Both the benefits and the burdens of all easements and rights established by this Agreement shall run with and bind the lands described herein and shall be binding upon and inure to the benefit of any and all owners thereof and their respective tenants, licensees, invitees, employees, personal representatives, heirs, successors, and assigns.

6. Interpretation. The easements, benefits, rights and obligations set forth herein shall be interpreted so as to allow the owners of the lands affected hereby to enjoy the commercially reasonable use and benefit of the same while fulfilling the essential purposes of such easement, covenants and restrictions.

7. Captions and Headings. The captions and headings contained in this Agreement are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Agreement.

8. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, covenants, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or

unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

9. Governing Law. This Agreement shall be construed in accordance with and governed by the internal laws of the State of Alabama.

10. Entire Agreement. This Agreement contains the entire agreement between the parties hereto in respect of the easement hereby conveyed, and neither party is bound by any previous representations or agreements of any kind regarding the Access Easement except as herein contained. This Agreement and any provision herein contained may be terminated, extended, modified or amended only with the express written consent of the then-owners of the Wachovia Property and the portion of the Development so affected.

[signatures on following pages]

[signature page to Access Easement Agreement]

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WACHOVIA:

Wachovia Bank, National Association

By: [Signature]
Name: Dave Kinder
Title: VP Development & Construction

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Dave Kinder, whose name as Vice President Development & Construction of Wachovia Bank, National Association, a national banking association, 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 national banking association.

Given under my hand and official seal this 7th day of June, 2007.

[Signature]
Notary Public

[NOTARIAL SEAL]

My commission expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Aug 1, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

[signature page to Access Easement Agreement]

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MJM:

MJM Chelsea, LLC,
an Alabama limited liability company

By: 

Name: John M. Walters

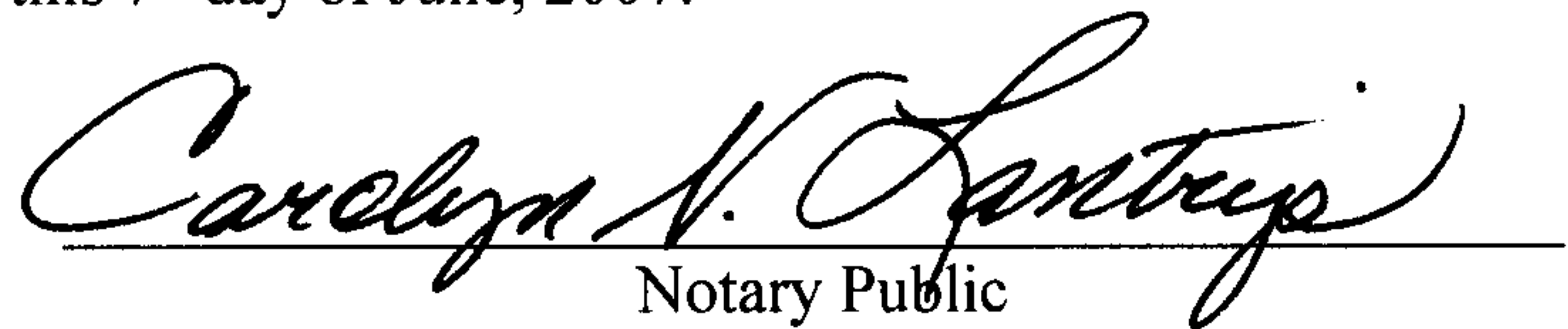
Title: Authorized Member

STATE OF ALABAMA

JEFFERSON COUNTY

I, the undersigned, a notary public in and for said county in said state, hereby certify that John M. Walters, whose name as Authorized Member of MJM Chelsea, LLC, an Alabama 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 Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 7th day of June, 2007.


Notary Public


[NOTARIAL SEAL]

My commission expires: _____

My Commission Expires September 29, 2009

EXHIBIT A

THE PLAN


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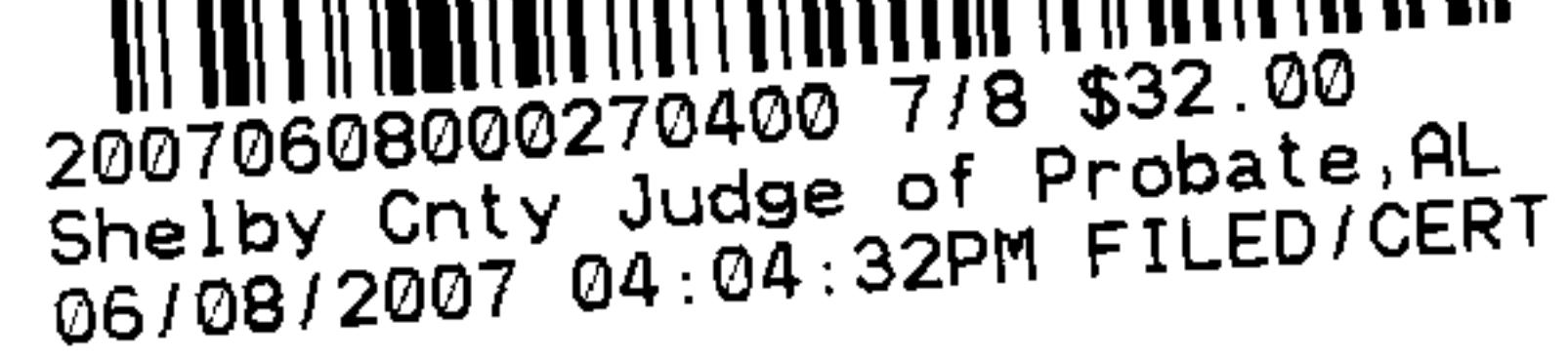

[illegible]

EXHIBIT B

ACCESS EASEMENT AREA

All of the common entrances, exits, streets, roads, roadways, driveways and parking areas located on Lot 4, Chelsea Crossings, according to the plat thereof recorded in Map Book 37, Page 49, of the records in the Office of the Judge of Probate, Shelby County, Alabama.


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