

[PHASE III TO PHASE I & PHASE II]

STATE OF ALABAMA)
SHELBY COUNTY)

SANITARY SEWER EASEMENT

THIS EASEMENT made as of this 28th day of August, 1991 by and among COLONIAL PROPERTIES, INC., an Alabama corporation (the "Grantor"), HEATHERBROOKE INVESTORS, LTD., an Alabama limited partnership and EQUITY PARTNERS JOINT VENTURE, an Alabama joint venture (collectively referred to as the "Grantees").

W I T N E S S E T H:

WHEREAS, the Grantor is the owner of the real property located in Shelby County, Alabama described in Exhibit "A" attached hereto and incorporated herein which is commonly known as Heatherbrooke Apartments Phase III ("Phase III"); and

WHEREAS, Heatherbrooke Investors, Ltd. is the owner of the real property located in Shelby County, Alabama described in Exhibit "B" attached hereto and incorporated herein which is commonly known as Heatherbrooke Apartments Phase I ("Phase I"); and

WHEREAS, Equity Partners Joint Venture is the owner of the real property located in Shelby County, Alabama described in Exhibit "C" attached hereto and incorporated herein which is commonly known as Heatherbrooke Apartments

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Land Title

Phase II ("Phase II") (the property described in Exhibit "B" and Exhibit "C" being collectively referred to herein as "Phases I and II"); and

WHEREAS, in connection with the development, construction, improvement and operation of Phase III and Phases I and II and in order to provide sanitary sewer service to Phase III and Phases I and II, the Grantee has requested that the Grantor grant to the Grantee a sanitary sewer easement over and through Phase III; and

WHEREAS, the Grantor is willing to grant to the Grantee a sanitary sewer easement over a portion of Phase III in accordance with the terms and provisions hereinafter set forth.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor and the Grantee, agree for themselves, their successors and assigns, as follows:

1. GRANT OF SEWER EASEMENT. The Grantor does hereby grant, bargain, sell and convey unto the Grantee, its successors and assigns, a non-exclusive easement and right-of-way for sanitary sewers over, under, through and across that portion of Phase III that is designated and described in Exhibit "D" which is attached hereto and incorporated herein (the "Easement Premises") for the purpose of constructing, connecting or tying into a

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sanitary sewer service that has been or is to be constructed across the Easement Premises, together with all rights and privileges necessary or convenient for the reasonable enjoyment or use thereof, including the right to enter upon the Easement Premises and Phase III for the purpose of constructing, maintaining, repairing and removing the sewers. The Grantee's use of the Easement Premises shall be uninterrupted and in common with the Grantor, its successors and assigns, and others to whom the Grantor may grant similar easements in the future, and their respective customers, tenants, invitees, licensees, lessees, employees, and others described herein.

TO HAVE AND TO HOLD the easement and right-of-way unto the Grantee, its successors and assigns, forever.

2. MAINTENANCE OF EASEMENT PREMISES: Grantor and Grantee, for themselves and their respective successors and assigns, do hereby agree as follows:

(a) All costs and expenses incurred for the maintenance of the sewer located within the Easement Premises and for all work performed in and to the Easement Premises related to the maintenance of the sewer located thereon shall be borne by the Grantor and the Grantee in proportion to the gallons per day allocated to completed improvements located on their respective properties that are served by the sewer located within the Easement Premises (or proportionately in accordance with such other

comparable index as may be established from time to time by the utility company or government agency then supplying sewer service to Phase III and Phases I and II). By way of example only, if completed improvements on Phase III served by the sewer within the Easement Premises have a sewer allocation of 10,000 gallons per day, and the completed improvements on Phases I and II served by said sewer have an allocation of 15,000 gallons per day, forty percent (40%) of the maintenance expenses shall be paid by the Grantor and the balance of such expenses shall be paid by the Grantee. For purposes of this Section 2, the term "completed improvements" shall mean improvements for which a certificate of occupancy or comparable certification has been issued or which are otherwise suitable for occupancy for residential or commercial purposes. The number of such completed improvements shall be determined on December 31 of each year for the purpose of making the calculations and allocations prescribed by this Section 2 for the calendar year concluding on that date. By March 31 of each year, Grantor and Grantee shall provide to each other an accounting of their respective expenses as described hereinabove incurred during the immediately preceding calendar year. Within thirty (30) days from its receipt of such accounting, Grantor shall pay to Grantee or Grantee shall pay to Grantor, as the case may be, its proportionate share of such expense as is necessary to

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satisfy their pro rata obligations as required by this Section 2. In the event either party defaults under the terms of this paragraph (a), the defaulting party shall be liable to the nondefaulting party for its proportionate share of such expense, plus interest on such amount at the rate of 15% per annum from the date such funds are expended by the nondefaulting party, and all costs, including attorneys' fees, incurred by the nondefaulting party in enforcing the terms of this paragraph (a).

(b) The Grantor does reserve the right to (i) build roads, roadways and parking lots over said right-of-way, (ii) add fill dirt and other landscaping materials over the right-of-way and any sewers constructed therein, and (iii) relocate the Easement Premises at Grantor's expense if the Easement Premises interferes with Grantor's use of its property; and Grantor shall further have the right to use Grantor's property in any other manner not inconsistent with the Grantee's use of the Easement Premises; provided, however, that such relocation or use does not interfere with the continuous provision of sewer service to Phases I and II; and

(c) The Grantor, its successors and assigns, shall have the right to connect to the sewer without payment to the Grantee of any connection fee.

(d) Nothing in this Agreement is intended to govern expenses incurred by any party to the Water Works

Board for the City of Birmingham or similar governing body for use of the sewer within the Easement Premises.

(e) The easement hereby granted is herein sometimes referred to as the "Sewer Easement".

(f) Neither the Grantor nor the Grantee hereby assume any obligation or duty whatsoever concerning the maintenance or repair of the lift station and/or the force main located on Phase I which are owned by and have heretofore been dedicated to the Birmingham Water Works Board.

(g) Notwithstanding Grantor's obligation to pay maintenance expenses as described in paragraph (a) above, Grantor shall have no obligation to pay, in whole or in part, for any construction costs attributable to the construction of new sewer service within the Easement Premises incurred by any party after the date of this Agreement, unless otherwise specifically provided herein.

3. COVENANT RUNNING WITH LAND. The Sewer Easement and this Agreement shall be an easement, restriction and covenant running with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, executors, successors and assigns including, without limitation, all subsequent owners of Phase III and Phases I and II and all persons claiming under them.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first set forth above.

COLONIAL PROPERTIES, INC., an Alabama corporation, as a general partner

By: Thomas H. Lowder
THOMAS H. LOWDER
Its President

HEATHERBROOKE INVESTORS, LTD., an Alabama limited partnership

By: COLONIAL PROPERTIES MANAGEMENT ASSOCIATION, its general partner

By: Thomas H. Lowder
THOMAS H. LOWDER
Its Managing Partner

EQUITY PARTNERS JOINT VENTURE, an Alabama joint venture

By: COLONIAL PROPERTIES MANAGEMENT ASSOCIATION, its general partner

By: Robert E. Lowder
ROBERT E. LOWDER
Its General Partner

By: James K. Lowder
JAMES K. LOWDER
Its General Partner

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By: Thomas H. Lowder
THOMAS H. LOWDER
Its General Partner

BY: COLONIAL PROPERTIES, INC., an
Alabama corporation, as a
general partner

By: Thomas H. Lowder
THOMAS H. LOWDER
Its President

STATE OF ALABAMA)
JEFFERSON COUNTY)

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I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that THOMAS H. LOWDER, whose name as President of COLONIAL PROPERTIES INC., a corporation, is signed to the foregoing Easement, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, 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 the 28th
day of August, 1987.

W. J. [Signature]
NOTARY PUBLIC

My Commission Expires: 12/4/94

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that THOMAS H. LOWDER, whose name as Managing Partner of COLONIAL PROPERTIES MANAGEMENT ASSOCIATION as general partner of HEATHERBROOKE INVESTORS, LTD., is signed to the foregoing Easement, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal, this the 28th
day of August, 1987.



NOTARY PUBLIC

My Commission Expires: 12/4/94

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that ROBERT E. LOWDER, whose name as General Partner of COLONIAL PROPERTIES MANAGEMENT ASSOCIATION, an Alabama general partnership, as General Partner of Equity Partners Joint Venture is signed to the foregoing Mortgage, Assignment of Rents and Security Agreement, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal, this the 28th
day of August, 1991.



NOTARY PUBLIC

My Commission Expires: 12/4/94

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STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that JAMES K. LOWDER, whose name as General Partner of COLONIAL PROPERTIES MANAGEMENT ASSOCIATION, an Alabama general partnership, as General Partner of Equity Partners Joint Venture is signed to the foregoing Mortgage, Assignment of Rents and Security Agreement, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal, this the 28th day of August, 1991.


NOTARY PUBLIC

My Commission Expires: 12/4/94

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that THOMAS H. LOWDER, whose name as General Partner of COLONIAL PROPERTIES MANAGEMENT ASSOCIATION, an Alabama general partnership, as General Partner of Equity Partners Joint Venture is signed to the foregoing Mortgage, Assignment of Rents and Security Agreement, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal, this the 28th day of August, 1991.


NOTARY PUBLIC

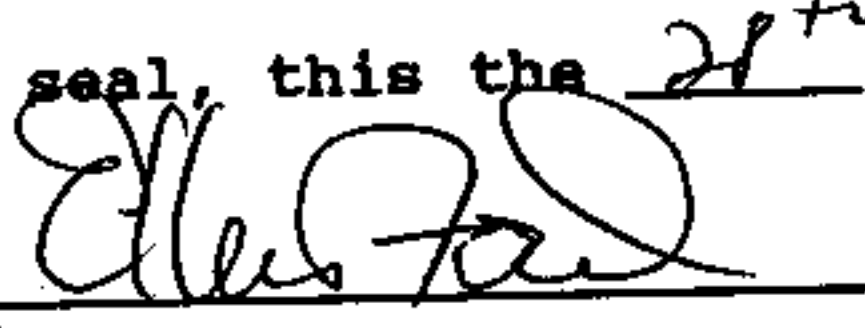
My Commission Expires: 12/4/94

STATE OF ALABAMA)
JEFFERSON COUNTY)

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I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that THOMAS H. LOWDER, whose name as President of COLONIAL PROPERTIES INC., a corporation, as general partner of Equity Partners Joint Venture, is signed to the foregoing Easement, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, 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 the 28th day of August, 1987.


NOTARY PUBLIC

My Commission Expires: 12/4/94

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EXHIBIT A

HEATHERBROOKE, PHASE III

A part of land situated in the Southwest 1/4 of the Northeast 1/4 and the Northwest 1/4 of the Northeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Northeast corner of the Southwest 1/4 of the Northeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, and from the East line of said 1/4 - 1/4 Section, turn an angle of 50 degrees, 21 minutes 41 seconds to the right and run in a Southwesterly direction a distance of 447.65 feet to a point; thence turn an interior angle of 107 degrees 32 minutes 48 seconds and run to the right in a Northwesterly direction a distance of 581.40 feet to a point; thence turn an interior angle of 30 degrees 08 minutes 54 seconds and run to the right in an Easterly direction a distance of 64.47 feet to a point; thence turn an interior angle of 271 degrees 22 minutes 10 seconds and run to the left in a Northerly direction a distance of 60.02 feet to a point; thence turn an interior angle of 88 degrees, 50 minutes 58 seconds and run to the right in an Easterly direction a distance of 270.67 feet to a point; thence turn an interior angle of 271 degrees, 07 minutes 03 seconds and run to the left in a Northerly direction a distance of 190.00 feet to a point; thence turn an interior angle of 76 degrees, 29 minutes 45 seconds and run to the right in a Southeasterly direction a distance of 327.05 feet to a point; thence turn an interior angle of 106 degrees 22 minutes 30 seconds and run to the right in a Southerly direction a distance of 12.70 feet to a point; thence turn an interior angle of 270 degrees 00 minutes 00 seconds and run to the left in an Easterly direction a distance of 10.00 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a Southerly direction a distance of 56.00 feet to a point thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a Westerly direction a distance of 7.50 feet to a point; thence turn an interior angle of 270 degrees 00 minutes 00 seconds and run to the left in a Southerly direction a distance of 6.00 feet to a point; thence turn an interior angle of 270 degrees 00 minutes 00 seconds and run to the left in an Easterly direction a distance of 7.50 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a Southerly direction a distance of 70.00 feet to a point; thence turn an interior angle of 270 degrees 00 minutes 00 seconds and run to the left in an Easterly direction a distance of 66.00 feet to a point; thence turn an interior angle of 156 degrees 43 minutes 56 seconds and run to the right in a Southeasterly direction a distance of 104.15 feet to point of beginning.

EXHIBIT B

HEATHERSBROOKE, PHASE I

Parcel One:

Beginning at the Southwest corner of the NW1/4 of the NE1/4, Section 36, Township 18 South, Range 2 West, run North along the West boundary of said quarter-quarter a distance of 83.35 feet; thence right 45+06' a distance of 63.10 feet; thence left 49+11'30" a distance of 170.55 feet; thence right 24+46' a distance of 588.26 feet; thence left 36+03' a distance of 156.52 feet; thence right 37+27' a distance of 135.37 feet; thence right 89+18'30" a distance of 119.33 feet; thence left 80+18' along a traverse line which approximates the water's edge of Lake Dixie, said water's edge being the true property line, a distance of 204.08 feet; thence right 80+48' and continuing along said traverse line a distance of 265.33 feet; thence left 17+25' a distance of 77.06 feet; thence right 5+11' a distance of 65.07 feet; thence right 51+03' a distance of 94.44 feet; thence right 43+56' a distance of 132.54 feet; thence right 18+31' a distance of 230.34 feet; thence right 6+55' a distance of 142.56 feet; thence left 85+30' a distance of 251.21 feet, which ends the traverse line approximating the water's edge of Lake Dixie, the remaining being the description of the exact property line of the land herein described, thence right 46+22' a distance of 420.00 feet; thence right 91+07' a distance of 271.66 feet thence left 88+53' a distance of 60.01 feet; thence right 91+07' a distance of 548.37 feet to the point of beginning.

AND:

Beginning at the SE corner of the NE 1/4 of the NW 1/4, Section 36, Township 18 South, Range 2 West, run North along the East boundary of said 1/4-1/4 a distance of 83.35 feet; thence right 45+06' a distance of 63.10 feet; thence left 49+11'30" a distance of 170.55 feet; thence left 155+14' along the centerline of a road easement having a width of 30 feet on each side of the center line, a distance of 61.00 feet to the point of tangency of a curve to the left; thence left along the arc of the curve having a radius of 880.67 feet, a distance of 199.15 feet through an angle of 12+57'23"; thence continue along the projected tangent to the aforementioned curve a distance of 47.12 feet to the South boundary of said

1/4-1/4 Section; thence left 95+39'01" along said South boundary a distance of 44.10 feet to the point of beginning.

Parcel Two:

A non-exclusive easement for ingress and egress and the installation of utilities, 60 feet in width being 30-feet on each side of centerline described as follows:

From the SE corner of the NE 1/4 of the NW 1/4, Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, run West along the South boundary of said 1/4-1/4 a distance of 44.10 feet to the point of beginning; thence 30 feet each side of a line described as: From the said 1/4-1/4 line, turn an angle of the right of 95+39'07" and go 47.13 feet; thence right along the arc of a curve with a radius of 280.67 feet, a distance of 199.15 feet; thence along the tangent line to said curve a distance of 570.51 feet; thence along a curve to the left with a radius of 242.04 feet a distance of 152.29 feet; thence, along the arc of a curve to the right with a radius of 232.35 feet a distance of 42.38 feet, said point being the end of this easement. Said easement being originally created by instrument recorded in Real Record 13, page 426 in the Probate Office of Shelby County, Alabama.

Parcel Three:

From the NW corner of the NW 1/4 of the NE 1/4, Section 36, Township 18 South, Range 2 West, run South along the West boundary of said 1/4-1/4 a distance of 370.01 feet; thence left 88+01'30" a distance of 212.71 feet to the point of beginning, said point on the centerline of a road, said centerline being a curve to the right with a radius of 232.35 feet; thence turn left 97+53'56" to the tangent of said curve and follow the arc of the curve a distance of 109.49 feet to the point of tangency of said curve; thence continue along the projection of said tangent a distance of 56.61 feet. Said easement being originally created by instrument recorded in Real Record 028, page 673 in the Probate Office of Shelby County, Alabama.

EXHIBIT C

HEATHERBROOKE, PHASE II

A parcel of land situated in the Northwest 1/4 of the Northeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast corner of the Northwest 1/4 of the Northeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, and from the East line of said 1/4-1/4 section turn an angle to the left of 68 degrees, 16' 22" and run in a Northwesterly direction a distance of 104.15 feet to a point; thence turn an interior angle of 203 degrees, 16' 04" and run to the left in a Westerly direction a distance of 66.00 feet to a point; thence turn an interior angle of 90 degrees, 00' 00" and run to the right in a Northerly direction a distance of 70.00 feet to a point; thence turn an interior angle of 270 degrees, 00' 00" and run to the left in a Westerly direction a distance of 7.5 feet to a point; thence turn an interior angle of 90 degrees, 00' 00" and run to the right in a Northerly direction a distance of 6.0 feet to a point; thence turn an interior angle of 90 degrees, 00' 00" and run to the right in a Easterly direction a distance of 7.5 feet to a point; thence turn an interior angle of 270 degrees, 00' 00" and run to the left in a Northerly direction a distance of 58.00 feet to a point; thence turn an interior angle of 270 degrees, 00' 00" and run to the left in a Westerly direction a distance of 10.0 feet to a point; thence turn an interior angle of 270 degrees, 00' 00" and run to the right in a Northerly direction a distance of 10.70 feet to a point; thence turn an interior angle of 253 degrees, 37' 30" and run to the left in a Westerly direction a distance of 327.05 feet to a point; thence turn an interior angle of 103 degrees, 30' 15" and run to the right in a Northerly direction a distance of 230.00 feet to a point; thence turn an interior angle of 226 degrees, 21' 56" and run to the left in a Northwesterly direction a distance of 251.21 feet to a point; thence turn an interior angle of 94 degrees, 29' 04" and run to the right in a Northeasterly direction a distance of 142.56 feet to a point; thence turn an interior angle of 186 degrees, 53' 00" and run to the left in a Northeasterly direction a distance of 230.34 feet to a point; thence turn an interior angle of 198 degrees, 31' 00" and run to the right in a Northeasterly direction a distance of 132.54 feet to a point; thence turn an interior angle of 223 degrees, 56' 00" and run to the left in a Northwesterly direction a distance of 94.44 feet to a point; thence turn an interior angle of 231 degrees, 03' 00" and run to the left in a Northwesterly direction a distance of 65.07 feet to a point; thence turn an interior angle of 185 degrees 11' 00" and run to the left in a Westerly direction a distance of 77.06 feet to a point; thence turn an interior angle of 162 degrees 35' 00" and run to the right in a Northwesterly direction a distance of 107.00 feet to a point; thence turn an interior angle of 70 degrees 49' 13" and run to the right in a Northeasterly direction a distance of 164.21 feet to a point; thence turn an interior angle of 101 degrees 45' 33" and run to the right in a Southeasterly direction a distance of 676.55 feet to a point on the East line of the Northwest 1/4 of the Northeast 1/4 of Section 36; thence turn an interior angle of 119 degrees 43' 03" and run to the right in a Southerly direction along the East line of said 1/4-1/4 section a distance of 1029.58 feet to the point of beginning.

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STATE OF ALABAMA
I CERTIFY THIS
INSTRUMENT WAS FILED

91 SEP -4 AM 8:27

JUDGE OF PROBATE

EXHIBIT D

SANITARY SEWER
EASEMENT PREMISES

1. Dead Tax	\$	
2. Mig. Tax	\$	
3. Recording Fee	\$	27.00
4. Indexing Fee	\$	9.00
5. No Tax Fee	\$	
6. Certified Fee	\$	1.00
Total	\$	44.00

10' SANITARY SEWER EASEMENT (CENTERLINE DESCRIPTION)

Commence at the Southeast corner of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, and from the East line of said $\frac{1}{4}$ - $\frac{1}{4}$ section turn an angle of $68^{\circ}16'22''$ to the left and run in a Northwesterly direction a distance of 104.15 feet to a point; thence turn a deflection angle of $23^{\circ}16'04''$ to the left and run in a Westerly direction a distance of 66.00 feet to a point; thence turn a deflection angle of $90^{\circ}00'00''$ to the right and run in a Northerly direction a distance of 87.56 feet to the point of beginning; thence turn a deflection angle of $20^{\circ}26'06''$ to the left and run in a Northwesterly direction a distance of 59.91 feet to a point; thence turn a deflection angle of $22^{\circ}05'51''$ to the right and run in a Northerly direction a distance of 4.17 feet to the point of ending; the easement lines 5 feet right and left of the herein described centerline are to be lengthened or shortened as required to intersect with the property lines at the points of beginning and ending.