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1089p

[PHASE III to PHASE I & PHASE II]

STATE OF ALABAMA )

SHELBY COUNTY )

EASEMENT FOR INGRESS AND EGRESS

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

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

✓ Land Title

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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 in order to provide ingress to and egress from Phase III, the Grantee has requested that the Grantor grant to Grantee an easement for ingress and egress over and through Phase III; and

WHEREAS, the Grantor is willing to establish an easement over and through Premises A in accordance with the terms and provisions hereinafter set forth; and

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

1. GRANT OF EASEMENT. The Grantor hereby grants, sells and conveys unto the Grantee, its successors, assigns and others described herein, subject to the limitations, terms and conditions herein, a non-exclusive easement for ingress and egress for vehicular and pedestrian traffic upon, over and through that portion of Phase III that is designated and described in Exhibit "D" attached hereto and incorporated herein (the "Easement

Premises"). 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.

It is expressly agreed that such easement shall be for the non-exclusive use and benefit of the Grantee, its successors and assigns, and guests, and their respective customers, tenants, invitees, licensees, lessees, and employees, at all times during the term hereof, for the purposes and subject to the limitations described herein.

2. PROHIBITION OF IMPROVEMENTS ON EASEMENT PREMISES. The Grantor shall not build or maintain, or permit to be built or maintained, any structure on the Easement Premises. This restriction shall not apply to paving, asphalt, and other materials related to the installation, construction and maintenance of a roadway, light towers, appurtenant electrical equipment, signs relating to business conducted on Phase III, traffic or directional signs, fences, gates, or other similar structures which at the time of the erection thereof are usual in the operation of an apartment complex and the management of vehicular traffic therein and do not otherwise interfere with the ingress and egress of the grantee as provided for herein.

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3. MAINTENANCE OF EASEMENT PREMISES. Grantor shall maintain and keep in good repair the Easement Premises and shall keep such right-of-way clear and free of rubbish and obstructions of every nature. The expense of such maintenance shall be borne by the Grantor.

In the event of default by Grantor under the terms of this paragraph, Grantee may notify the Grantor in writing of the necessity for repairs or maintenance hereunder. If Grantor shall not remedy the default within a reasonable time, not to exceed thirty (30) days after receipt of notice, Grantee may enter upon Phase III and the Easement Premises for the purpose of making such repairs and the Grantor will be responsible for the cost thereof together with interest at the rate of 15% per annum from the date said funds are expended without further notice.

4. TERM. This agreement and the easement created hereby shall continue for so long as Phases I and II are utilized for the development, construction and operation of a residential multifamily housing facility and other operations incidental thereto and no other purpose. Should Phase I no longer be used for such purpose, the easement granted by this Agreement shall remain in force and effect, but only to the extent required to benefit Phase II. Should Phase II hereto no longer be used for such purpose, the easement granted by this Agreement shall remain in force and effect, but only to the extent required to benefit Phase I.

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5. COVENANT RUNNING WITH LAND. The easement hereby granted, the restrictions hereby imposed, and the agreements herein contained shall be easements, restrictions, and covenants running with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors and assigns, including, but without limitation, all subsequent owners of Phase III and Phases I and II and all persons claiming under them.

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  
Grantor

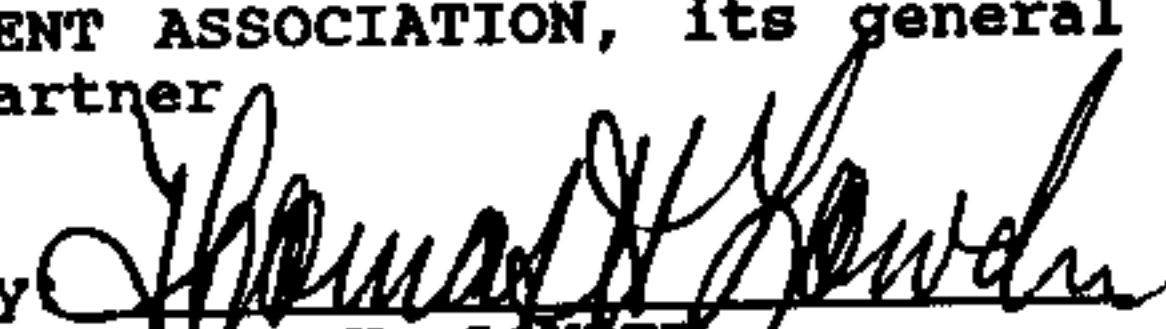
By:

  
THOMAS H. LOWDER  
Its President

HEATHERBROOKE INVESTORS, LTD., an  
Alabama limited partnership

By: COLONIAL PROPERTIES MANAGE-  
MENT ASSOCIATION, its general  
partner

By:

  
THOMAS H. LOWDER  
Its Managing Partner

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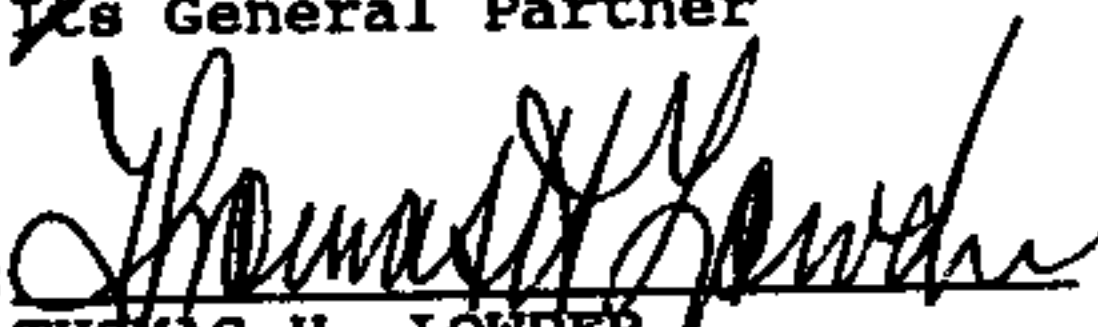
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EQUITY PARTNERS JOINT VENTURE, an  
Alabama joint venture

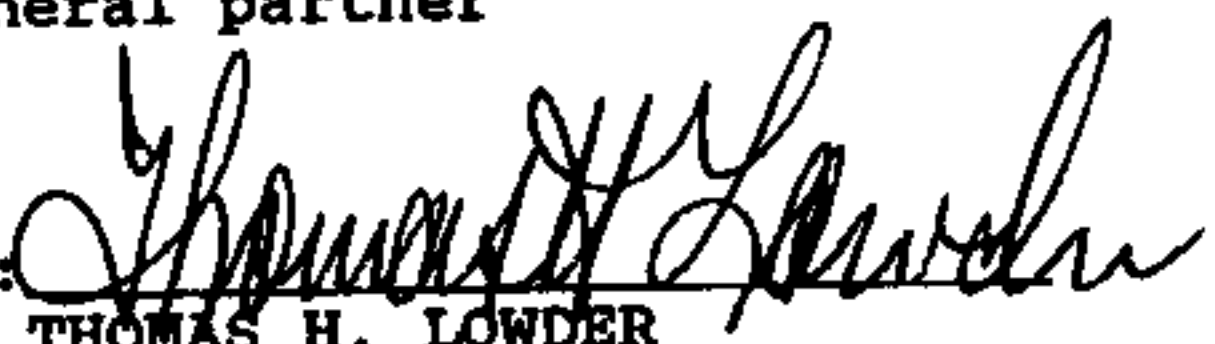
By: COLONIAL PROPERTIES MANAGE-  
MENT ASSOCIATION, its general  
partner

By:   
ROBERT E. LOWDER  
Its General Partner

By:   
JAMES K. LOWDER  
Its General Partner

By:   
THOMAS H. LOWDER  
Its General Partner

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

By:   
THOMAS H. LOWDER  
Its President

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 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 28<sup>th</sup>  
day of August, 1987.  
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 Managing Partner of COLONIAL PROPERTIES MANAGEMENT ASSOCIATION as general partner of HEATHER-BROOKE 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 28<sup>th</sup>  
day of August, 1987.  
1991.

  
NOTARY PUBLIC

My Commission Expires: 12/4/94

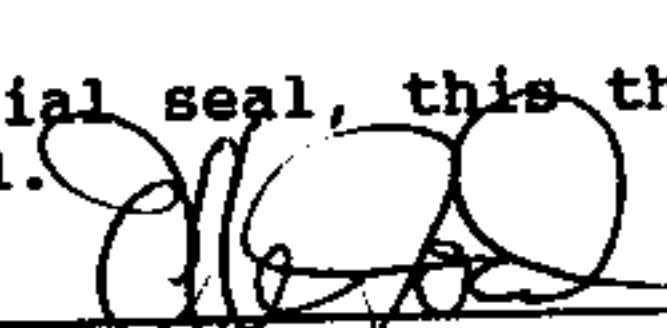
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STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that 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 28<sup>th</sup> 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 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 28<sup>th</sup> 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 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 28<sup>th</sup>  
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 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 28<sup>th</sup>  
day of August, ~~1987~~  
1991.

  
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 0 degrees 43 minutes 56 seconds and run to the right in a Southerly direction a distance of 104.15 feet to the point of beginning.

EXHIBIT B

HEATHERBROOKE, 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, 55' 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.



# EXHIBIT D

## INGRESS AND EGRESS EASEMENT PREMISES

1. Bond Fee	_____
2. Mfg. Tax	_____
3. Recording Fee	35.00
4. Indemnity	2.00
5. No Tax	_____
6. Corr.	1.00
<b>Total</b>	<b>38.00</b>

I CERTIFY THIS  
INSTRUMENT WAS FILED

91 SEP 4 AM 8:23

JUDGE OF PROBATE

## 28' ROADWAY EASEMENT (CENTERLINE DESCRIPTION)

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land for roadway easement situated in the Northwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  and the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama and being more particularly described as follows:

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 an deflection angle of  $90^{\circ}00'00''$  to the right and run in a Northerly direction a distance of 134.00 feet to a point; thence turn a deflection angle of  $90^{\circ}00'00''$  to the left and run in a Westerly direction a distance of 10.00 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 10.70 feet to a point; thence turn a deflection angle of  $73^{\circ}37'30''$  to the left and run in a Northwesterly direction a distance of 168.50 feet to the POINT OF BEGINNING of the herein described easement, said point also being a point on a curve; thence turn a deflection angle of  $88^{\circ}44'38''$  (angle measured to tangent) to the left and run in a Southwesterly direction along the arc of said curve to the left having a central angle of  $14^{\circ}55'01''$  and a radius of 135.89 feet a distance of 35.38 feet to the PT of said curve; thence run tangent to last described curve in a Southwesterly direction a distance of 12.81 feet to the PC of a curve; thence run in a Southwesterly direction along the arc of a curve to the right having a central angle of  $38^{\circ}53'59''$  and a radius of 366.26 feet a distance of 248.66 feet to the PT of said curve; thence run tangent to last described curve in a Southwesterly direction a distance of 10.00 feet to the PC of a curve; thence run in a Southwesterly direction along the arc of a curve to the left having a central angle of  $15^{\circ}35'39''$  and a radius of 299.98 feet a distance of 81.64 feet to the PT of said curve; thence run tangent to last described curve in a Southwesterly direction a distance of 58.84 feet to the point of ending of the herein described easement centerline; the easement lines 14 feet to 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.

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