

GREENFIELD PARTNERSHIP

AN ALABAMA GENERAL PARTNERSHIP

THIS AGREEMENT OF GENERAL PARTNERSHIP entered into on August 18, 1992, by and among Awtrey Building Corporation and J.A.D. Enterprises, Inc. (hereinafter collectively referred to as "Partners" and individually as "Partner").

1. **NAME AND PURPOSE.** The Partnership shall be carried on under the name of Greenfield Partnership. The Partnership has been formed for the purpose of owning, developing, operating, selling and otherwise dealing with real property owned by the Partnership and described as follows:

10 acres more or less adjacent to Greenfield

Sub-division, fronting Industrial Road.

Correct legal description will be determined
by Survey.

The Partnership may engage in any and all other activities as may be necessary, incidental or convenient to carry out the business of the Partnership as contemplated by the Agreement.

2. **PLACE OF BUSINESS.** The principal Office of the Partnership shall be located at 3201 Lorna Road, Hoover, Alabama, or at such other place as shall be agreed upon by a majority in interest of the Partners from time to time.

3. **PARTNERS.** The name and address of each of the Partners are as follows:

Inst # 1992-19122

1 09/04/1992-19122
01:24 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
013 MCD 36.50

Tingle, Linton

AWTREY BUILDING CORPORATION

3201 Lorna Road

Birmingham, Alabama 35216

J.A.D. ENTERPRISES, INC.

3462 Crayrich Drive

Birmingham, Alabama 35226

4. **TERM.** The Partnership shall commence on August 18, 1992, and shall continue until terminated as provided in this agreement.

5. **CAPITAL CONTRIBUTIONS.** Each of the Partners has contributed to the capital of the Partnership, in cash, the amount set forth opposite it's name:

PARTNERS	CONTRIBUTIONS
Awtrey Building Corporation	\$5,000.00
J.A.D. Enterprises, Inc.	\$5,000.00

An individual capital account shall be established and maintained for each Partner, who shall receive an interest in the Partnership and shall be credited with the amounts of it's capital contributions to the Partnership from time to time. A Partner shall not be entitled to interest on it's capital contributions, or to withdraw any part of it's capital account, or to receive any distributions from the Partnership, except as specifically provided herein.

6. **NET PROFITS, NET LOSSES AND CASH FLOW.** (a) **PROFITS AND LOSSES.** Subject to such adjustments as may be required pursuant to paragraph 7 below, the net profits and the net losses shall be shared by the Partners as follows:

PARTNER

PERCENTAGE

Awtrey Building Corporation

50%

J.A.D. Enterprises, Inc.

50%

The term "net Profits" and "net Losses" shall mean the net profits and losses of the Partnership as determined for Federal Income Tax purposes by the Certified Public Accountant servicing the Partnership account.

(b) **CASH FLOW.** The "cash Flow of the Partnership" shall be the net profits and losses of the Partnership as defined in Paragraph 6(a) above, plus (i) depreciation and other noncash charges deducted in determining such net profits and losses (ii) the net proceeds from a refinancing of the Partnership's mortgages, and (iii) the net proceeds from the sale of any of the Partnership's assets, minus (i) principal payments on all mortgages, (ii) any other cash expenditures which have not been deducted in determining the net profits and losses of the Partnership, and (iii) any amount reasonably required to maintain sufficient **WORKING CAPITAL AND A REASONABLE RESERVE FOR REPLACEMENTS**. The cash flow of the Partnership shall be determined separately for each fiscal year and not cumulatively and, as so determined shall be distributed in the same proportion as profits and losses are shared in accordance with paragraph 7. The cash flow shall be distributed at the discretion of the Managing Partner, but at least semiannually.

(c) **INCOME ACCOUNTS.** A separate income account shall be maintained for each Partner. Partnership profits and losses shall

be charged or credited to the separate income account of each Partner. If the Partner has no credit balance in it's income account, losses shall be charged to it's Capital account.

7. ADDITIONAL FUNDS AND ADJUSTMENTS. (a) CALL FOR FUNDS.

The Partners recognize that the income produced by the Partnership's properties may be insufficient to pay the operating costs of the properties. If, in the judgement of the Managing Partner, additional funds shall be called for by the Managing Partner they shall be contributed by the Partners in Proportion to their Capital interests in the Partnership. However, the amount of funds subject to call and contributions in any calendar year shall not exceed \$100,000.00 in the aggregate, unless any excess is approved by Partners holding at least a 70 percent interest in the Capital of the Partnership. As used above, the term "operating costs" shall include, without limitation: Principal and interest payments on loans, whether or not secured by mortgages on Partnership Properties; costs of repair, maintenance, and improvements; insurance premiums; and real estate taxes, assessments, and other governmental charges.

(b) CONTRIBUTIONS FOR NONDEFAULTING PARTNERS. If any Partner is unable or willing to make any or all of it's proportionate additional Capital contributions, then the remaining Partners who are able and willing to do so may make a contribution in excess of their proportionate share, in such amount as they may agree among themselves. If they are unable to agree, each Partner who is able and willing to make a contribution shall have the primary right to

contribute that portion of such Partner's Capital interest in the Partnership which bears to the aggregate capital interests of all contributing Partners, and a secondary right to contribute any remaining portion of such excess which is not desired to be contributed by any other contributing Partner in the exercise of it's primary right. If more than one Partner desires to exercise secondary rights, all such Partners shall be entitled to contribute the remaining portion of such excess in the same proportion as stated above with regard to their primary rights.

(c) **CONTRIBUTIONS BY NONDEFAULTING PARTNERS.** Any Partner who makes a contribution to the Partnership pursuant to Paragraph 7(b) above shall have the option to (1) treat the contribution as additional Capital of the Partnership, to (2) treat the contributions as a loan to the defaulting Partner, which election shall be made, in writing, at the time the contribution is made.

(1) If the contributing Partner elects to treat it's contribution as additional Capital, such funds shall be allocated to it's Capital account. After such contributions are made, each Partner's Percentage interest in the profits, losses and cash flow of the Partnership shall be adjusted and determined by dividing the aggregate cash contributions of all the Partners to the Partnership, into the aggregate cash contributions of each Partner. The resulting quotient with respect to each Partner shall be the adjusted percentage interest of such Partner. Such adjusted percentage interest of each Partner as set forth in paragraphs 6(a) and 6(n) above.

(2) If the contributing Partner elects to treat it's contribution as a loan to the defaulting Partner, then no adjustment shall be made to the contributing Partner's capital account, and it's share in profits, losses and cash flow of the Partnership shall remain the same. However, the capital account of the defaulting Partner shall be increased by the amount of the loan, and a defaulting Partner's share in the profits, losses, and cash flow of the Partnership shall be adjusted as if it had made a contributions to the capital of the Partnership in the amount of the loan. The amount advanced by the Partner on behalf of the defaulting Partner shall be a debt of the defaulting Partner to the contributing Partner and shall bear interest at the rate of 8% (Eight) percent per annum. Thereafter, all distributions of cash from the Partnership due to the defaulting Partner shall be paid to the Partner (or pro rata to each partner) who elected to treat a contributions as a loan, until such time as the principal and interest of the loans(s) are paid in full.

8. **MANAGING PARTNER.** (a) The day-to-day affairs of the Partnership shall be handled by the Managing Partner, H. Albert Awtrey as President of Awtrey Building Corporation. If at any time H. Albert Awtrey is unable or unwilling to serve as Managing Partner, the successor Managing Partner of the Partnership, as well as the successor to fill any vacancy thereafter occurring in such office, shall be the first, in order named, who is able and willing to serve of the following: David W. Farr, President of J.A.D. Enterprises, Inc. or the individual appointed by Partners owning a

majority in the interest of the Capital of the Partnership.

(b) Partners owning a majority in interest of the capital of the Partnership may remove the acting managing Partner at any time; in such event, the successor Managing Partner shall be the person named or appointed, as the case may be, pursuant to the provisions of the preceding sentence.

(c) The Managing Partner shall provide such services to the operation of the Partnership business as it shall deem proper and necessary, including keeping all Partners informed of all letters, accounts, writing and other information which shall come to it's attention concerning the business of the Partnership.

(d) The Managing Partner shall keep or cause to be kept full record, of each transaction of the Partnership and shall maintain such record, at the Principal Office of the Partnership or at the principal office of the Partnership's accounting firm. Said records shall be open for inspection and examination by all Partners, or their duly authorized representative, all reasonable times. The Managing Partner shall furnish, or cause to be furnished, to each Partner statements of financial condition of the Partnership within 90 days after the end of each fiscal year of the Partnership. The fiscal year of the Partnership shall end on December 31.

(e) The Managing Partner shall cause the funds of the Partnership to be deposited in such bank account as it shall designate and withdrawals shall be made upon such signatures as the Partners shall authorize.

(f) The Managing Partner shall not be liable to the Partnership or to any partner for any mistake or error in judgment or for any act or omission believed in good faith to be within the scope of authority conferred by this agreement. The Managing Partner shall be liable only for acts and or omissions involving intentional wrongdoing.

(g) The Managing Partner is hereby given the authority by the Partners to execute on behalf of the Partnership (1) contracts for development of lands owned by the Partnership; (2) contracts for the sale of Developed lots owned by the Partnership; (3) general and or statutory warranty deeds conveying title of the Partnership in developed lots owned by the Partnership. In the event the Managing Partner is not available to carry out the duties enumerated hereinabove, the day-to-day affairs of the Partnership shall be in accordance with paragraph 10(c) of this agreement.

9. **VOTING.** Each partner shall vote in proportion to it's capital interest in the Partnership from time to time. Each Partner may exercise it's vote by written or oral notification to the Managing Partner, in each of those instances hereinafter stated.

10. **CONSENT TO OPERATIONS.** The procedure for the operation of the Partnership shall be as follows:

(a) The day-to-day affairs of the Partnership shall be handled by the Managing Partner, as hereinabove stated.

(b) The following actions shall require the vote and unanimous approval of all Partners:

- (1) The purchasing and developing of new properties;
- (2) The amendment of this Partnership Agreement; and
- (3) The admission of New Partners to the Partnership.

(c) All other actions taken by the Partnership, excluding those mentioned in subparagraphs (a) and (b) above, shall require the vote and approval of Partners owning majority in interest of the Capital of the Partnership.

11. **NEW PARTNERS.** Except as provided in paragraph 13, new Partners may be admitted into the Partnership, after the required vote, only if they agree to execute and acknowledge such instruments as are necessary or desirable to effect such admission and to confirm their agreement, as the same may have been amended. Each new Partner shall receive a Capital interest and share in the profits, losses and cash flow of the Partnership in an amount to be determined by other Partners at the time of admission.

12. **AMENDMENTS.** Amendments to this agreement shall become effective only if in writing, signed by all Partners and filed with the Judge of Probate of Jefferson County, Alabama.

13. **TRANSFER OF PARTNERSHIP INTEREST.** (a) **PERMITTED TRANSFERS DURING LIFETIME.** During the life of a Partner, he may transfer all or any part of his Partnership interest by gift, sale, or other transfer, either in trust or outright, to or for the benefit of his spouse and/or any of his descendants, including his stepchildren and any descendent whose relationship to the Partner is created by birth or adoption. Thereafter, the transferee shall become a Partner with all the interests, rights and duties

previously held by the transferor. Unless expressly consented to in writing by the nontransferring Partners, no transfer of a Partnership interest shall in any way alter or diminish the transferor's obligation with respect to any then unpaid additional contributions required to be made pursuant to paragraph 7 above.

(b) **PROHIBITED TRANSFERS DURING LIFE.** During the life of a Partner, he shall not pledge, cause a lien to be placed against or encumber his Partnership Interest in any way. Except as otherwise provided in Paragraph 13(a) above, a Partner shall not sell or in any way transfer his Partnership interest during his lifetime without first offering such interest for sale to the Partnership in writing addressed and delivered to the principal office of the Partnership. The notice shall set forth the proposed sale price and terms of sale. Thereupon, the Partnership shall have a period of 30 days to notify the selling Partner of its intention to purchase the interest offered for sale pursuant to the terms of that offer. If the Partnership timely elects to purchase the selling Partner's interest (which election shall be made on behalf of the Partnership by a majority in interest of Partners other than the selling Partner), then within 45 days after receipt by the Partnership of such offer to sell, the Partnership shall purchase said interest at the price and upon the terms at which said interest is offered for sale to any person whomsoever; provided, however, that said interest shall not be sold at a lower price or on more favorable terms than the price and terms set forth in the notice sent by the Partner in accordance with this paragraph 13(a)

without first reoffering said interest within the six month period, it shall thereafter not sell or in any other way transfer such interest without first reoffering such interest to the Partnership, in the manner set forth in this paragraph 13(a).

Unless expressly consented to in writing by their nontransferring Partners, no transfer of a Partnership interest shall in any way alter or diminish the transferror's obligations with respect to any then unpaid additional contributions required to be made pursuant to paragraph 7 above.

14. TERMINATION OF THE PARTNERSHIP. The Partnership shall be terminated and dissolved upon the vote of a majority in interest of the Partners. Upon termination of the Partnership as herein provided, a full and general accounting shall be taken of the Partnership business and affairs of the Partnership shall wind up. Any profit or losses incurred since the previous accounting shall be divided among the Partners and shall be added to the distribution to be made to the Partners. The Managing Partner shall wind up and liquidate the Partnership by selling the Partnership assets and, after the payment of Partnership liabilities, expenses and fees incurred in connection with such liquidation, by distributing the net proceeds therefrom in cash to the Partners in proportion to their capital interest in the Partnership. Except as otherwise expressly provided in this Partnership agreement, dissolution of the Partnership shall be subject to provision of code of Alabama, 1975 and the Internal Revenue code, as now constituted or hereafter amended or

substituted. Unless otherwise required by law or by court order and subject to the provisions of paragraph 14 of this Partnership agreement, the Partnership business shall not terminate upon the occurrence of any event causing dissolution of the Partnership. Any Successor by the operation of law to a surviving Partner's interest, including, by way of example and not by way of limitation, a guardian, receiver, or trustee in bankruptcy, shall be deemed an assignee having the rights which an assignee of such Partner's interest would have under the provisions of the code of Alabama (1975).

15. **NOTICES.** All notices, consents and other instruments hereunder shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, and shall be directed to the parties hereto at the addresses hereinabove set forth or at the last addresses of the Parties furnished to them in writing to the Managing Partner. Notices to the personal representative of a deceased Partner's estate shall be mailed in the same manner to the last known address of such representative.

16. **BINDING EFFECT.** This agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective legal representatives, successors and permitted assigns.

IN WITNESS WHEREOF, the Parties have executed six copies of this agreement on the day and year first above written.

AWTREY BUILDING CORPORATION

BY: 

H. Albert Awtrey, President

J.A.D. ENTERPRISES, INC.

BY: 

David W. Farr, President

**STATE OF ALABAMA
JEFFERSON COUNTY**

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that H. Albert Awtrey, President of Awtrey Building Corporation whose name is signed to the foregoing Partnership Agreement, and who is known to me, acknowledges before me on this day, that being informed of the contents of the General Partnership Agreement, 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 18th day of August 1992.

My Commission Expires:

11-14-93


Notary Public

**STATE OF ALABAMA
JEFFERSON COUNTY**

I, the undersigned, a Notary Public in and for said county, in said State, hereby certify that David W. Farr, President of J.A.D. Enterprises, Inc. whose name is signed to the foregoing Partnership Agreement, and who is known to me, acknowledged before me on this day, that being informed of the contents of the General Partnership Agreement, 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 18th day of August 1992.

My Commission Expires:

11-14-93


Notary Public

Inst # 1992-19122

09/04/1992-19122

13 01:24 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

013 MCD 36.50