

STATE OF ALABAMA)
SHELBY COUNTY)

Declaration of Easement

This Declaration of Easement (this "Declaration") is executed on August 13th, 1993 by Thompson Properties 119AA370, Ltd. and Thompson Properties 123AA370, Ltd. (collectively, hereinafter called the "Declarant").

Recitals

A. The Declarant is the owner of property located in Shelby County, Alabama, and more particularly described on Exhibit A attached hereto (the "Subservient Parcel")

B. The Declarant is also the owner of property located in Shelby County, Alabama, and more particularly described on Exhibit B attached hereto (the "Dominant Parcel"). The Subservient Parcel and the Dominant Parcel are hereinafter sometimes together referred to as the "Parcels".

B. The Declarant plans to sell the Subservient Parcel to Reamer Development Corporation ("Reamer"), who plans to develop a residential subdivision thereon. Reamer has requested and the Declarant wishes to provide for a means of ingress and egress to the Dominant Parcel across the Subservient Parcel and thereby connect the Dominant Parcel to another parcel of property currently owned by the Declarant, that is being sold to Reamer concurrently with the sale of the Dominant Parcel as more particularly described on Exhibit C attached hereto (the "First Parcel"). The Subservient Parcel, the Dominant Parcel and the First Parcel are hereinafter sometimes together referred to as the "Parcels".

C. The Declarant desires to declare, establish, grant and provide for the benefit of (i) the Declarant, Reamer and any subsequent owners of all or any portion of all or any of the Parcels, and their respective heirs, successors and assigns (hereinafter collectively called the "Owners"), and (ii) the holder or holders of any mortgage now or hereafter constituting a lien against all or any of the Parcels, and the heirs, successors and assigns of any such holder (herein collectively called the "Mortgagees") specifically including, but not limited to the National Bank of Commerce of Birmingham, as mortgagee of the Dominant Parcel, the First Parcel and the easement created hereby, certain rights, obligations and easements to run with the title to the Parcels for this purpose of establishing a mutually beneficial ingress and egress plan covering the Parcels.

Declaration

NOW, THEREFORE, for the purposes set forth in the foregoing recitals, and for the benefit of the Declarant and the Owners, the Declarant does hereby declare and provide as follows:

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Inst # 1993-24183

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N.B.C.

1. The Declarant hereby establishes and creates for the benefit of the Dominant Parcel and for the benefit of the Owners and Mortgagees, having from time to time an interest in the Dominant Parcel; and does hereby grant, bargain, sell and convey to each such Owner and Mortgagee a nonexclusive easement appurtenant to the Dominant Parcel for the benefit of the Dominant Parcel for (i) the right of passage and use, both pedestrian and automotive, and (ii) the right to construct, maintain, operate, use and locate utilities, including, but not limited to, electrical lines, gas lines, water lines, sewer lines, cable television lines and telephone lines over, across, upon and under a sixty foot strip of land located on the Subservient Parcel for the purpose of ingress, egress and providing utility services, to and from the Dominant Parcel and such an easement is expressly reserved and set apart for such purpose or purposes. The intention of this grant is to place a blanket easement for the purposes stated above on the Subservient Parcel, subject to the limitation that said easement when actually developed for the uses set forth above shall not exceed sixty feet in width. The actual location of the sixty foot easement shall be determined either by the mutual agreement of the Declarant, Mortgagees and the Owners, or if such an agreement can not be reached, then the location of the sixty foot easement shall be determined by [Carr Engineering]. Upon the determination of the location of the easement by the construction of or location of either a road or the placement of utilities thereon or the amendment of this Declaration, then the remaining portion of the Subservient Parcel shall no longer be subject to the blanket easement created hereby.

2. Modification. The terms, covenants, conditions and provisions of this Declaration may be extended, abrogated, modified, rescinded or amended in whole or in part only with the prior written consent of the Declarant, the Mortgagees and the Owners; but subject to such consent, the Declarant expressly reserves the right to extend, abrogate, modify, rescind or amend the grants herein by an instrument in writing duly executed by the appropriate parties in interest and recorded in the Office of the Judge of Probate of Shelby County, Alabama.

3. Easements Appurtenant, Term, etc.. The easement, rights, privileges and benefits created or granted under this Declaration and each provision hereof shall be enforceable by the Declarant, the Mortgagees and the Owners by injunction or by specific performance and shall be deemed an easement appurtenant and a covenant running with the title to the Parcels perpetually except to the extent provided to the contrary above or later terminated pursuant to paragraph 2 above. This Declaration shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the Declarant, the Mortgagees and the Owners as herein provided.

4. No Public Dedication. This Declaration is not intended, and shall not be construed to dedicate any easements to the general public or to grant to the general public any rights whatsoever.

5. Other Access. If at any time prior to the construction of or location of either a road or the placement of utilities on the Subservient Parcel pursuant to Paragraph 1 above, another easement for utilities serving the Dominant Parcel and a means of ingress and egress to and from the Dominant Parcel to a public road is provided, then in such event the

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Declarant, the Owners and Mortgagees shall execute a termination of the Easement created by this Declaration.

6. **Severability.** If any term, covenant or restriction is established by this Declaration shall be invalid or unenforceable, and the remainder of this Declaration shall not be effected thereby, and each term, covenant and restriction shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

**THOMPSON PROPERTIES 119AA370,
LTD.**

By Brookhaven Properties III, Inc.
Its General Partner

By Albert J. Thomasson
Its President

**THOMPSON PROPERTIES 123AA370,
LTD.**

By Brookhaven Properties III, Inc.
Its General Partner

By: Albert J. Thomasson
Its President

STATE OF Alabama)
 COUNTY OF Jefferson)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Albert F. Thomasson, whose name as President of Brookhaven Properties III, Inc., a corporation, General Partner of Thompson Properties 119AA370, Ltd., a limited partnership, 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, acting in its capacity as General Partner of said limited partnership.

Given under my hand and official seal this the 13th day of August, 1993.


 Notary Public

AFFIX SEAL

My commission expires: 5-29-95

STATE OF Alabama)
 COUNTY OF Jefferson)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Albert F. Thomasson, whose name as President of Brookhaven Properties III, Inc., a corporation, General Partner of Thompson Properties 123AA370, Ltd., a limited partnership, 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, acting in its capacity as General Partner of said limited partnership.

Given under my hand and official seal this the 13th day of August, 1993.


 Notary Public

AFFIX SEAL

My commission expires: 5-29-95

EXHIBIT A

(Description of Subservient Parcel)

E-1/2 of SE-1/4 of Section 7; W-1/2 of SW-1/4 of Section 8; All of the E-1/2 of SW-1/4 of Section 8 lying West of Highway 280 except that tract belonging to Carolyn C. Smith as described in Deed Book 127, Page 548, Probate Office of Shelby County, Alabama, and located in Southwest corner of SE-1/4 of SW-1/4; All of the SE-1/4 of NW-1/4 lying West of Highway 280 except the North 628.72 feet of the SE-1/4 of NW-1/4 as conveyed to Thompson & Franklin 120 AG 370 (GA) and Thompson & Franklin 120 (S) AG 370 (GA) as described in Real 214, Page 964, Probate Office of Shelby County, Alabama; Also the NW diagonal 1/2 of NW-1/4 of NW-1/4 of Section 17, all in the Township 19 South, Range 1 West.

EXHIBIT B

(Description of Dominant Parcel)

EAGLE POINT - PARCEL 2 (AMENDED ON 8/12/93)

DESCRIPTION:

A PARCEL OF LAND LYING IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 19 SOUTH, RANGE 1 WEST AND ALSO THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 19 SOUTH, RANGE 1 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 19 SOUTH, RANGE 1 WEST AND RUN WEST ALONG THE NORTH LINE OF SAID 1/4-1/4 SECTION FOR 1330.40 FEET TO THE NORTHWEST CORNER OF SAID 1/4-1/4 SECTION; THENCE TURN 88°51'43" LEFT AND RUN SOUTH ALONG THE WEST LINE OF SAID 1/4-1/4 SECTION FOR 763.90 FEET TO A POINT; THENCE TURN 90°00'00" LEFT AND RUN EAST 398.72 FEET; THENCE TURN 90°00'00" LEFT AND RUN NORTH 200.23 FEET; THENCE TURN 14°52'20" RIGHT AND RUN NORTHEASTERLY 108.12 FEET; THENCE TURN 52°58'37" RIGHT AND RUN NORTHEASTERLY 407.35 FEET; THENCE TURN 2°30'10" LEFT AND RUN NORTHEASTERLY 487.48 FEET; THENCE TURN 5°26'20" RIGHT AND RUN NORTHEASTERLY 246.17 FEET; THENCE TURN 8°35'59" LEFT AND RUN NORTHEASTERLY 98.42 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 19 SOUTH, RANGE 1 WEST; THENCE TURN 151°46'06" LEFT AND RUN 236.17 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 13.57 ACRES.

EXHIBIT C

(First Parcel)

PARCEL 1

DESCRIPTION:

COMMENCE AT THE SW CORNER OF THE SE 1/4 OF THE NW 1/4 OF SECTION 8, T. 19 S., R. 1 W., AND RUN NORTHERLY ALONG THE WEST LINE OF SAID 1/4-1/4 SECTION A DISTANCE OF 631.08 FT. TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE AND ALONG SAID 1/4-1/4 LINE 169.63 FT. TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF EAGLE WOOD COURT; THENCE TURN 69° 46' 23" RIGHT AND RUN EASTERLY ALONG SAID RIGHT OF WAY LINE OF EAGLE WOOD COURT AND ALONG THE SOUTH BOUNDARY OF EAGLE POINT FIRST SECTOR - PHASE I, AS RECORDED IN MAP BOOK 14, PAGE 114, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, A DISTANCE OF 1,382.84 FT. TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U. S. HIGHWAY NO. 280; THENCE TURN 102° 11' 19" RIGHT AND RUN SOUTHERLY ALONG SAID HIGHWAY 280 RIGHT OF WAY 390.82 FT.; THENCE TURN 10° 14' 18" LEFT AND RUN SOUTHERLY ALONG SAID RIGHT OF WAY LINE 163.72 FT.; THENCE TURN 10° 14' 18" RIGHT TO THE TANGENT OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 2,714.79 FT. AND RUN SOUTHERLY ALONG SAID CURVE AND SAID HIGHWAY 280 RIGHT OF WAY LINE 236.87 FT.; THENCE TURN 92° 26' 23" RIGHT FROM THE TANGENT TO SAID CURVE AND RUN NORTHWESTERLY 513.21 FT.; THENCE TURN 43° 35' 30" LEFT AND RUN SOUTHWESTERLY 66.28 FT.; THENCE TURN 90° 00' 00" RIGHT TO THE TANGENT TO A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 25.00 FT., AND RUN ALONG SAID CURVE 39.80 FT. TO THE BEGINNING OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 339.21 FT.; THENCE RUN ALONG SAID CURVE 80.91 FT. TO A POINT; THENCE TURN 90° 00' 00" RIGHT FROM THE TANGENT TO SAID CURVE AT SAID POINT AND RUN NORTHWESTERLY 60.00 FT.; THENCE TURN 21° 20' 17" LEFT AND RUN NORTHWESTERLY 241.11 FT.; THENCE TURN 39° 41' 32" RIGHT AND RUN NORTHWESTERLY 349.74 FT.; THENCE TURN 69° 19' 03" LEFT AND RUN 220.00 FT. TO THE POINT OF BEGINNING, being a part of the SE 1/4 of NW 1/4 of Section 8, Township 19 South, Range 1 West. SAID PARCEL OF LAND CONTAINING 16.43 ACRES.

***Less and Except all of Eagle Point, third Sector, Phase I, as recorded in Map Book 17, Page 68, in the Office of the Judge of Probate of Shelby County, Alabama.

Inst # 1993-24183

08/13/1993-24183
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