

SIGN EASEMENT AGREEMENT

THIS SIGN EASEMENT AGREEMENT ("Agreement") is made and entered into this 13<sup>th</sup> day of October, 1993, by and between BROOK HIGHLAND LIMITED PARTNERSHIP ("Partnership"), a Georgia limited partnership and AMSOUTH BANK, N.A., AS ANCILLARY TRUSTEE FOR NATIONSBANK OF NORTH CAROLINA, N.A., AS TRUSTEE FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO ("AmSouth/NationsBank").

W I T N E S S E T H :

WHEREAS, AmSouth/NationsBank of even date herewith has conveyed to the Partnership certain real property located in Shelby County, Alabama, and being more particularly described as Lot 1, Brook Highland Plaza as shown on plat recorded at Map Book 16, Page 102, Probate Records of Shelby County, Alabama ("Lot 1");

WHEREAS, AmSouth/NationsBank currently has located on a portion of Lot 1 a monument sign ("Sign") for the Brook Highland Development;

WHEREAS, AmSouth/NationsBank has requested and the Partnership has agreed, upon the terms and conditions set forth herein, to grant to AmSouth/NationsBank an easement for the use of the Sign in its present location, for the maintenance thereof, and for landscaping in such easement area.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars in hand paid, the covenants contained herein and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Partnership and AmSouth/NationsBank do hereby agree as follows:

1. Grant of Easement. The Partnership hereby grants, declares and establishes for the benefit of AmSouth/NationsBank, its successors and assigns, a nonexclusive and perpetual easement on, over and across that portion of Lot 1 more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof ("Easement Area") for the use, repair and maintenance of the Sign and for landscaping the Easement Area.

This Agreement prepared by:  
 Jeanna A. Brannon, Esq.  
 Morris, Manning & Martin  
 1600 Atlanta Financial Center  
 3343 Peachtree Road, N.E.  
 Atlanta, Georgia 30326  
 (404) 233-7000

ist # 1993-32519

10/20/1993-32519  
 08:55 AM CERTIFIED  
 SHELBY COUNTY JUDGE OF PROBATE  
 007 MCD 24.00

9321WPPJAB

*Alabama Title*

2. Conditions and Obligations With Respect to Easement. The easement granted herein and AmSouth/NationsBank's use thereof are subject to the following terms and conditions:

(a) The Partnership reserves the right to use the Easement Area for any and all other purposes not inconsistent with and in a manner which shall not materially interfere with or obstruct maintenance and use of the Easement Area for the purposes herein described.

(b) AmSouth/NationsBank agrees to maintain the Sign located in the Easement Area and the landscaping in the Easement Area in accordance with all applicable rules, regulations and restrictions affecting Lot 1, including, but not limited to those set forth in that Agreement between AmSouth/NationsBank and Woman's Mission Auxiliary to Southern Baptist Convention dated August 31, 1990, recorded in Book 309, page 317, Probate Records of Shelby County, Alabama, as amended. The Easement Area shall be kept clean and free from litter and shall be mowed at regular intervals. All landscaping shall be compatible with the landscaping of the shopping center to be built on Lot 1.

3. Casualty. In the event the Sign shall be damaged by wind, storms or other casualties, AmSouth/NationsBank shall repair or replace the Sign as soon as possible but in all events within sixty (60) days of the date of such damage or destruction. In the event the Sign is not repaired or replaced within said sixty (60) day period, the Partnership shall have the right to remove any portion of the Sign then remaining in the Easement Area. In the event AmSouth/NationsBank, as a result of a casualty, elects to replace the Sign with any type of sign other than the type exactly the same as the Sign existing the date hereof, then prior to the erection of such sign ("New Sign") AmSouth/NationsBank shall submit to the Partnership for approval plans for the New Sign. The Partnership shall approve or disapprove such plans within ten (10) days of receipt of such plans; provided in the event the Partnership does not disapprove of such plans within said ten (10) day period, then the Partnership's approval shall be deemed given. If the Sign is not replaced within one (1) year of the date of any damage or destruction thereto, this Agreement automatically shall terminate. In the event the easement granted herein and this Agreement shall terminate for the reason set forth above, then the Partnership shall have the right to record an instrument in the appropriate public records of Shelby County, Alabama, evidencing the termination of this Agreement and all third parties shall have the right to rely thereon.

4. Replacement of Sign. In the event AmSouth/NationsBank wishes to replace the Sign with a New Sign, then prior to the erection of the New Sign, AmSouth/NationsBank shall submit



to the Partnership for approval plans for the New Sign. The Partnership shall approve or disapprove such plans, within ten (10) days of receipt of such plans provided in the event the Partnership does not disapprove of such plans within said ten (10) day period, then the Partnership's approval shall be deemed given.

5. Miscellaneous Provisions.

(a) This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto.

(b) The validity of this Agreement and any of its items, or provisions, as well as the rights and duties of the Parties to this Agreement shall be governed by the laws of the state of Alabama.

(c) This Agreement may be amended only by the mutual consent of the Parties in writing, said writing to be attached to and incorporated into this Agreement.

(d) In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality or unenforceability shall not effect any other provision of this Agreement and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

(e) All notices shall be in writing and shall be deemed to have been properly given on the earlier of (i) when delivered in person, (ii) when deposited in the United States Mail, with adequate postage, and sent by registered or certified mail with return receipt requested, to the appropriate party at the address set out below, or (iii) when deposited with Federal Express, Express Mail or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set out below.

AMSOUTH/  
NATIONSBANK:

AmSouth Bank, N.A., as Ancillary Trustee  
for NationsBank of North Carolina,  
N.A., as Trustee for the Public  
Employees Retirement System of Ohio  
c/o NationsBank of North Carolina, N.A.  
Real Estate Investment Services,  
Investment Division, Trust Department  
NationsBank Plaza  
101 South Tryon Street  
NC1-002-11-07  
Charlotte, North Carolina 28255-0131

**PARTNERSHIP:**

Brook Highland Limited Partnership  
1900 International Drive, Suite 303  
Birmingham, Alabama 35243  
Attn: Alex D. Baker

**With copy to:**

Brook Highland Limited Partnership  
1900 International Drive, Suite 303  
Birmingham, Alabama 35243  
Attn: W. Ernest Moss, Esq.

Rejection or other refusal by the addressee to accept, or the inability of the courier service or the United States Postal Service to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices to it shall be sent by giving to the other party or parties at least ten (10) days prior notice of the changed address.

IN WITNESS WHEREOF, AmSouth/NationsBank and the Partnership have caused this Agreement to be duly executed as of the day and year first above written.

**AMSOUTH/NATIONSBANK:**

[CORPORATE SEAL]

AMSOUTH BANK, N.A., AS ANCILLARY  
TRUSTEE FOR NATIONSBANK OF NORTH  
CAROLINA, N.A., AS TRUSTEE FOR THE  
PUBLIC EMPLOYEES RETIREMENT SYSTEM  
OF OHIO

**ATTEST:**

Linda S. Lebe  
Assistant Secretary *Vice*  
*President and Trust*  
*Officer*

By: *[Signature]*, Vice President  
+ *TRUST OFFICER*

STATE OF Alabama

COUNTY OF Jefferson

I, Debra M. Montgomery, a Notary Public in and for said County in said State, hereby certify that John A. Bastwick, whose name as Vice President of AmSouth Bank, N.A., a national banking association, as Ancillary Trustee for NationsBank of North Carolina, N.A., a national banking association, as Trustee for the Public Employees Retirement System of Ohio, 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 the foregoing instrument, he/she, as such officer, and with full authority, executed the same voluntarily for and as the act of said national banking association, acting in its capacity as Ancillary Trustee as aforesaid on the day the same bears date.

Given under my hand and official seal this the 12 day of Oct., 1993.

Debra M. Montgomery  
NOTARY PUBLIC

My Commission Expires:

2/94

PARTNERSHIP:

BROOK HIGHLAND LIMITED PARTNERSHIP,  
a Georgia limited partnership

By: BW 280 Limited Partnership, a  
Georgia limited partnership,  
general partner

By: Alex Baker, Inc., an  
Alabama corporation,  
general partner

By:   
Alex D. Baker, President

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Glenda P. Breland, a Notary Public in and  
for said County in said State, hereby certify that Alex D. Baker,  
whose name as President of Alex Baker, Inc., an Alabama  
corporation, as general partner of BW 280 Limited Partnership, a  
Georgia limited partnership, as general partner Brook Highland  
Limited Partnership, a Georgia 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 the  
foregoing instrument, he, as such officer, and with full  
authority, executed the same voluntarily for and as the act of  
Alex Baker, Inc., in its capacity as general partner of BW 280  
Limited Partnership in its capacity as general partner of Brook  
Highland Limited Partnership, on the day the same bears date.

Given under my hand and official seal this the 13<sup>th</sup> day  
of October, 1993.

  
NOTARY PUBLIC

My Commission Expires:

8/28/95



Exhibit "A"

ALL THAT TRACT OR PARCEL OF LAND situated within the Northeast Quarter of the Southwest Quarter of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, and is more particularly described as follows:

COMMENCE at the southwest corner of Lot 1 of Brook Highland Plaza, as recorded in Map Book 16, page 102, in the office of the Judge of Probate, Shelby County, Alabama, said corner being at the intersection of the northerly right-of-way line of U.S. Highway 280 (right-of-way width varies) and the easterly right-of-way line of Brook Highland Parkway (right-of-way width varies); thence run northeasterly for a distance of 18.86 feet along said easterly right-of-way line of Brook Highland Parkway and along the arc of a curve to the right, said curve having a radius of 173.32 feet, and a chord which bears North 37°51'24" East for a distance of 18.85 feet to a point; thence continue along said right-of-way line North 40°00'00" East for a distance of 59.19 feet to the TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED continue to run along said right-of-way line, North 40°00'00" East for a distance of 120.00 feet to a point; thence continue along said right-of-way line, South 50°00'00" East for a distance of 10.00 feet to a point; thence leave said easterly right-of-way line of Brook Highland Parkway and run South 50°00'00" East for a distance of 110.00 feet to a point; thence run westerly for a distance of 188.50 feet along the arc of a curve to the right, said curve having a radius of 120.00 feet and a chord which bears South 85°00'00" West for a distance of 169.71 feet to the TRUE POINT OF BEGINNING.

Said tract being more particularly shown as "Prop. Sign Easement" on that certain Development Plan, Brook Highland Plaza, prepared for Brook Highland Limited Partnership by Sain Associates, Inc., dated September 22, 1993.

Inst # 1993-32519

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08:55 AM CERTIFIED  
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007 MCD 24.00