

original

STATE OF ALABAMA)

COUNTY OF SHELBY)

EASEMENT AGREEMENT

This easement agreement (this "Agreement") made and entered into as of the 21st day of June, 1994, is by and among Allen F. Riha ("Riha"), S & K General Partnership ("S & K"), and David "Spud" Bishop Contractors, Inc. ("Spud") (collectively, the "Parties").

W I T N E S S E T H :

WHEREAS, Riha is the owner of a certain parcel of land located in Shelby County, Alabama, and shown on the attached Exhibit A as Parcel "I," and

WHEREAS, S & K is the owner of a certain parcel of land located in Shelby County, Alabama, and shown on the attached Exhibit A as Parcel "II," and

WHEREAS, Spud is the owner of a certain parcel of land located in Shelby County, Alabama, and shown on the attached Exhibit A as Parcel "III," and

WHEREAS, the Parties desire to establish a perpetual easement for pedestrian and vehicular ingress and egress over and across portions of their parcels (the "Common Driveway") for their mutual use and benefit, and

WHEREAS, the Parties desire to provide for the continued maintenance of the Common Driveway.

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, the receipt and sufficiency whereof are hereby acknowledged, Riha, S & K, and Spud do hereby covenant and agree as follows:

Inst # 1994-33903

11/14/1994-33903
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SHELBY COUNTY JUDGE OF PROBATE
008 MCD 26.00

David W. Bishop
375 Bishop Ln.
Pelham, AL 35124

Inst # 1994-33903

1. Common Driveway.

1.1 Grant by Riha. Riha, as owner of Parcel I, hereby grants, creates and conveys to S & K and Spud a perpetual non-exclusive easement for vehicular and pedestrian access, ingress and egress, on, over and across the north fifteen (15) feet of Parcel I, reserving all rights and privileges incident to the ownership of the fee simple estate of Parcel I which are not inconsistent with the rights and privileges herein granted.

1.2 Grant by S & K. S & K, as owner of Parcel II, hereby grants, creates and conveys to Riha and Spud a perpetual non-exclusive easement for vehicular and pedestrian access, ingress and egress, on, over and across the south fifteen (15) feet of Parcel II, reserving all rights and privileges incident to the ownership of the fee simple estate of Parcel II which are not inconsistent with the rights and privileges herein granted.

1.3 Grant by Spud. Spud, as owner of Parcel III, hereby grants, creates and conveys to Riha and S & K a perpetual non-exclusive easement for vehicular and pedestrian access, ingress and egress, on, over and across the south fifteen (15) feet of Parcel III, reserving all rights and privileges incident to the ownership of the fee simple estate of Parcel III which are not inconsistent with the rights and privileges herein granted.

7. **2. Maintenance of Common Driveway.**

The Parties shall be responsible for maintaining the Common Driveway in good condition and repair, including (i) keeping the area free of any obstructions at all times, except in the event of emergencies; (ii) removing trash and debris; and (iii) resurfacing, repairing and replacement of surfaces. The expense for maintenance of the Common Driveway shall be divided among the Parties in proportion to the number of square feet of the Common Driveway lying within each Party's parcel. The Parties agree that the duty to contribute to the maintenance of the easement as herein described shall be enforceable through a court of law or equity.

3. Miscellaneous Provisions.

3.1 Grants and Agreements. Riha, S & K, and Spud hereby declare that this Agreement, and all of the provisions contained herein, and all of the rights, easements and obligations hereunder, shall be and shall constitute covenants running with the fee simple estate of the property. The grants of easements, rights and privileges in this Agreement are independent of any contractual agreements undertaken by the Parties in this Agreement and a breach by any Party of any such contractual agreements shall not cause or result in a forfeiture or reversion of the easements, rights and privileges granted in this Agreement.

3.2 Recording and Filing. The original or a counterpart of this Agreement shall be recorded in the Office of the Judge of Probate of Shelby County, Alabama, or in such other office as may at the time be provided by law as the proper place for recordation thereof.

3.3 Relationship of Parties. No express or implied term, provision or condition of this Agreement shall be deemed to constitute the Parties as partners or joint venturers.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

Jerry DeLuca
Witness

Allen F. Riha
Allen F. Riha

Martin L. Smith
Witness

S & K GENERAL PARTNERSHIP
By: Ken Smith
Ken Smith, Partner

By: Gary Kitchens
Gary Kitchens, Partner

Martin L. Smith
Witness

DAVID "SPUD" BISHOP CONTRACTORS, INC.
By: David Bishop
David Bishop, as its President

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Allen F. Riha, whose name 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 instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 15th day of September, 1994.

Deborah L. Pili
Notary Public

My Commission Expires: 12-10-94

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Ken Smith, whose name as Partner of S & K General 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 instrument, he, in his capacity as such Partner of S & K General Partnership, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 21 day of September, 1994.

Marcie D. Foul
Notary Public

My Commission Expires: Notary Public, Alabama State At Large
My Commission Expires August 5, 1998

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Gary Kitchens, whose name as Partner of S & K General 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 instrument, he, in his capacity as such Partner of S & K General Partnership, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 21 day of September, 1994.

Marcie D. Foul
Notary Public

My Commission Expires: Notary Public, Alabama State At Large
My Commission Expires August 5, 1998

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that David Bishop, whose name as President of David "Spud" Bishop Contractors, Inc., a corporation, 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 instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this 21 day of September 1994.

Notary Public, Alabama State At Large
My Commission Expires August 5, 1998

W. J. L. L.
Notary Public

My Commission Expires: _____
Notary Public, Alabama State At Large
My Commission Expires August 5, 1998

Consent and Subordination
[SouthTrust Bank of Alabama N.A.]

The undersigned, being the holder of a security interest in the S & K General Partnership property (Parcel "II") pursuant to a Mortgage recorded as Instrument Number 1994-18489, in the Office of the Judge of Probate of Shelby County, Alabama, hereby consents to the grant by S & K General Partnership of the Common Driveway Easement described hereinabove and hereby subordinates the lien of the Mortgage to the aforesaid easement and to this Easement Agreement.

This Consent and Subordination is attached to and is a part of that certain Easement Agreement among Allen F. Riha, S & K General Partnership and David "Spud" Bishop Contractors, Inc. dated June 21, 1994.

SOUTHTRUST BANK OF ALABAMA N. A.

By: Craig Davis
Asits: Senior Vice President

ATTEST:

By: Scott Zykoski
As its: Vice-President

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Craig Davis and SCOTT ZYKOSKI, whose names as Sr. Vice Pres. and Vice Pres. of SouthTrust Bank of Alabama N.A., are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said SouthTrust Bank of Alabama N.A. on the day the same bears date.

Given under my hand and seal this 27 day of September, 1994.

Karen Ann Lane
Notary Public

My Commission Expires: 10/28/95

Consent and Subordination
[Colonial Bank]

The undersigned, being the holder of a security interest in the Allen F. Riha property (Parcel "I") pursuant to a Mortgage recorded as Instrument Number SEE EXHIBIT "B" in the Office of the Judge of Probate of Shelby County, Alabama, hereby consents to the grant by Allen F. Riha of the Common Driveway Easement described hereinabove and hereby subordinates the lien of the Mortgage to the aforesaid easement and to this Easement Agreement.

This Consent and Subordination is attached to and is a part of that certain Easement Agreement among Allen F. Riha, S & K General Partnership and David "Spud" Bishop Contractors, Inc. dated 9/15, 1994.

COLONIAL BANK

By: Bill Black
Asits: VICE PRESIDENT

ATTEST:

By: Alice Sanborn
As its: Asst. Branch Manager

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Bill Black and Alice Sanborn, whose names as Vice President and Asst. Branch Manager of Colonial Bank, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Colonial Bank on the day the same bears date.

Given under my hand and seal this 15th day of September, 1994.

Deborah L. Bika
Notary Public

My Commission Expires: 12-10-94

EXHIBIT "B"

1. INSTRUMENT # 1993-07559, RECORDED 3/19/93
2. ^{REAL}~~MAP~~ BOOK # 252, PAGE 185, RECORDED 8/21/89
3. ^{REAL}~~MAP~~ BOOK # 377, PAGE 819, RECORDED 12/16/91

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