

This instrument prepared by:
John E. Hagefstration, Jr.
Bradley, Arant, Rose & White
2001 Park Place Tower, Suite 1400
Birmingham, Alabama 35203

STATE OF ALABAMA)

COUNTY OF SHELBY)

SUBORDINATION AGREEMENT
(MORTGAGE DEBT)

This instrument is entered into this 7th day of April, 1995, by H. GARY WILKINS and JULIE A. WILKINS (collectively, the "Creditor") in favor of FIRST COMMERCIAL BANK (the "Bank").

WITNESSETH:

WHEREAS, the Creditor is the holder of a certain note in the original principal amount of \$325,000 (the "Subordinate Debt") made executed by COVENANT BUILDERS, INC. (hereinafter "Mortgagor"); and

WHEREAS, the Subordinate Debt is secured by a certain mortgage (the "Subordinate Mortgage") which is recorded as Instrument #1994-26934, in the Office of the Judge of Probate of Shelby County, Alabama, which encumbers the real property described on Exhibit A hereto (the "Property"); and

WHEREAS, the Mortgagor has received a commitment from the Bank to make a development loan in the amount of \$535,000.00 to fund the cost of installing curbs, gutters, streets and other building infrastructure on the Property, provided (i) that the Mortgagor secures such loan with a first priority mortgage lien on the Property (the "First Mortgage") and (ii) that the debt secured by the Subordinate Mortgage be reduced to not more than \$300,000 and be subordinated to the debt of the Mortgagor to Bank; and

WHEREAS, Creditor has agreed to subordinate the Subordinate Debt to the \$535,000 loan from the Bank and to subordinate the Subordinate Mortgage to the First Mortgage.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Creditor does hereby agree as follows:

1. The Subordinate Mortgage is now and shall forever be subordinate and subject to the rights and interests of the Bank under the First Mortgage, which First Mortgage is to be recorded concurrently herewith in the Probate Office of Shelby County, Alabama.

2. Creditor hereby agrees that he indebtedness secured by the Subordinate Mortgage (and any extensions, renewals, modifications, etc. thereto) is hereby wholly subordinate to all indebtedness of Mortgagor to Bank. Creditor hereby further agrees that (i) the Subordinate Debt shall not exceed \$300,000 without the Bank's prior written consent; and (ii) Mortgagor shall not be permitted to make any payments on the Subordinate Debt unless Mortgagor is not in default on the indebtedness owing to Bank and secured by the First Mortgage. After receipt of notice of a default by Mortgagor on the indebtedness owing to Bank, the Creditor agrees not to accept any payment or satisfaction of any kind of, or any security for, and not to surrender or release, any of said claims hereby subordinated. If the Creditor should so receive any such payment, satisfaction or security, the Creditor agrees forthwith to deliver the same to the Bank in the form received, endorsed or assigned as appropriate, for application on account of, or as security for, said claims of the Bank, and until so delivered agrees to hold the same in trust for the Bank. At any time and insofar as any of said claims hereby subordinated may be evidenced by any instrument in writing, the Creditor agrees to affix to each such instrument, in form and manner satisfactory to the Bank, a statement to the effect that the same is subject to this agreement and, upon request, agrees to assign or endorse and deliver all such instruments to the Bank.

3. The Creditor agrees from time to time, upon request of the Bank, to make, execute and deliver any endorsements, assignments, financing statements, proofs of claim, affidavits, consents, agreements or other instruments which the Bank may, in its discretion, deem necessary or desirable to effectuate the purposes of this agreement. The Creditor hereby irrevocably constitutes and appoints the Bank and any of its present or future officers individually as attorneys-in-fact for and on behalf of the Creditor, with full power of substitution, in the name of the Creditor or otherwise, to execute and deliver all of the aforesaid writings which the Creditor has agreed to execute and deliver.


4. Without notice to the Creditor and without in any way impairing or affecting this agreement, the Bank may from time to time, in its discretion, for value or without value, renew or extend the time of payment of any of said claims of the Bank, modify in any manner or release in whole or in part any security therefor or the obligations of any endorsers, sureties or guarantors thereof, or release from the terms of this or any other subordination agreement any claims subordinated.

5. The Mortgagor, for the consideration hereinabove stated, authorizes and approves any act or thing which may be done in accordance herewith and agrees not to make any payment of or on account of the Subordinate Debt in contravention of the terms of this agreement.

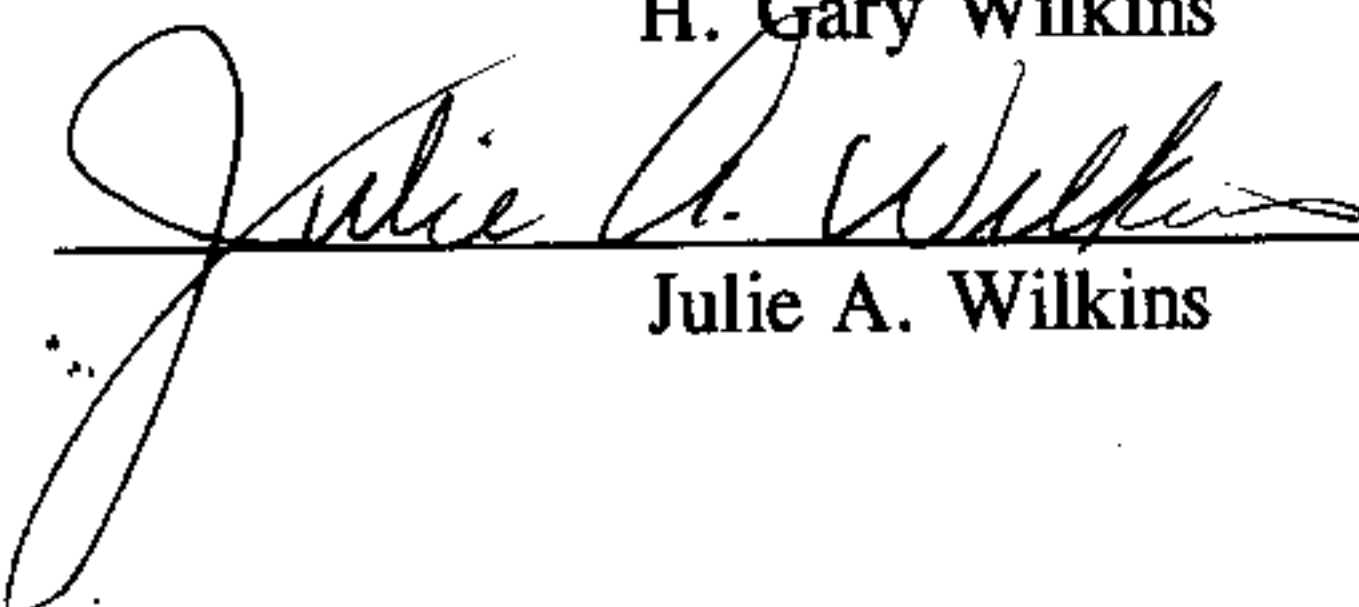
6. This agreement shall inure to the benefit of the Bank, its successors and assigns, and shall be binding upon the Creditor and the Mortgagor and their respective heirs, administrators, executors, successors and assigns. This shall be a continuing agreement and shall be irrevocable and shall remain in full force and effect until all of said claims of the Bank shall have been paid in full and until the Bank shall have received notice in writing of the Creditor's election to terminate this agreement as to future loans or extensions of credit. Notwithstanding such notice or any other notice or the death or incompetency of any party thereto, this agreement shall continue in full force and effect as to all claims of the Bank then outstanding and any renewals or extensions thereof and all interest owed and thereafter accruing thereon.

7. The terms of the subordination provided for in this agreement shall be deemed to have been accepted and consented to by any subsequent holder of the Subordinate Mortgage or any subsequent holder of any title or interest through the lien of the Subordinate Mortgage, whether by foreclosure deed, assignment, or otherwise. Mortgagor and any subsequent owner of the Property shall be entitled to rely upon and enforce the provisions of this agreement.

IN WITNESS WHEREOF, the Creditor has caused this agreement to be executed by an officer thereunto duly authorized and its seal to be hereunto affixed, all as of the date first hereinabove written.



H. Gary Wilkins



Julie A. Wilkins

STATE OF ALABAMA

)

Individual

:

COUNTY OF JEFFERSON

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that H. Gary Wilkins and Julie A. Wilkins, whose names are signed to the foregoing, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand this 7th day of April, 1995.

Jane C. Howard
Notary Public

[NOTARIAL SEAL]

My commission expires: _____

EXHIBIT A

Legal Description

A parcel of land situated in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast Corner of the said NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6, Township 19 South, Range 1 West; thence run in a Northerly direction along the East line of said $\frac{1}{4}$ - $\frac{1}{4}$ section for a distance of 247.40 feet to an iron; thence turn an angle to the left of 90 degrees 33 minutes and run in a Westerly direction parallel with the South line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6, Township 19 South, Range 1 West for a distance of 2101.30 feet to a point on the Southeasterly right-of-way line of Little Ridge Estates, as recorded in Map Book 9, Page 174 in the Office of the Judge of Probate in Shelby County, Alabama for a distance of 2101.30 feet to a point on the Southeasterly right-of-way line of Cahaba Valley Road (Highway No. 119); thence turn an angle to the left of 59 degrees 52 minutes and run in a Southwesterly direction along said right-of-way line for a distance of 286.04 feet; thence turn an angle to the left of 120 degrees 08 minutes and run in an Easterly direction along said South line of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6, Township 19 South, Range 1 West for a distance of 2242.52 feet to the point of beginning.

1995-09586

04/13/1995-09586
11:07 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE
005 MCD 18.50