

STATE OF ALABAMA)
COUNTY OF SHELBY)

Declaration of Easement

This Declaration of Easement (this "Declaration") is executed on March 9, 1995 by Highland Lakes Development, Ltd., an Alabama limited partnership (hereinafter called the "Declarant") and Highland Lakes Residential Association, Inc. (hereinafter referred to as the "Association").

Recitals

A. The Declarant is the owner of property located in Shelby County, Alabama, known as Highland Lakes (hereinafter referred to as "The Development"), and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Scenic View Lots"). Said number of Lots defined as Scenic View Lots not to exceed six (6) lots.

B. The Declarant desires to establish a permanent, perpetual, nonexclusive easement over, across, through and upon (i) the Common Roads as depicted on the recorded plat(s) of Highland Lakes, 1st Sector, as recorded in Map Book 18, Page 37 A-F and Highland Lakes, 4th Sector, Phase I, as recorded in Map Book 19, Page 79 A & B, as recorded in the Probate Office of Shelby County, Alabama and further described as a part of the Common Areas in Article 1, Paragraph 1.1 of the Declaration of Easements and Master Protective Covenants for Highland Lakes, a Residential Subdivision, as recorded in Instrument # 1994-07111, in the Probate Office of Shelby County, Alabama (hereinafter referred to as "Common Roads") and, (ii) that certain nonexclusive One Hundred (100') foot wide easement for a roadway to be constructed by Grantor upon that certain parcel of land more particularly described on Exhibit "B", attached hereto and incorporated herein by reference (the "Access Easement").

C. The Declarant desires that such Access Easement shall be a blanket nonexclusive One Hundred (100') foot wide easement for the right of passage and use, and ingress and egress, both pedestrian and automotive, subject to the limitation that said Access Easement when actually developed for the uses set forth above shall not exceed thirty (30') feet in width. The actual location of said Access Easement may vary within the original blanket easement due to terrain and the Declarant's desire to save as many existing trees and flora as is reasonably possible. The roadway to be constructed shall vary in width from twelve (12') feet to sixteen (16') feet. The primary portion of the roadway will be only twelve (12') feet wide with several passing zones widened to sixteen (16') feet to provide for adequate passing of

automobiles with the emphasis on saving as many existing trees and flora as possible during the construction of said roadway. The actual location of the thirty (30') foot wide nonexclusive easement shall be determined by mutual agreement of the Declarant, Mortgagees and any Grantees of Declarant's interest in the Scenic View Lots described in Exhibit "A".

D. The Declarant desires to declare, establish, grant and provide for the benefit of (i) the Declarant, and any Grantees of Declarant's interest in all or any portion of the Scenic View Lots described in Exhibit "A", 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 Scenic View Lots described in Exhibit "A" and the heirs, successors and assigns of any such holder (hereinafter collectively called the "Mortgagees"), specifically including, but not limited to Compass Bank, as mortgagee for the development loan for the Scenic View Lots described in Exhibit "A", and the Access Easement created hereby, certain rights, obligations and easements to run with the title to the property described in Exhibit "A" for the purpose of establishing a mutually beneficial ingress and egress plan covering the Scenic View Lots.

E. The Declarant desires that the Highland Lakes Residential Association, Inc. join in the execution of this Declaration of Easement to acknowledge that the Access Easement to be established hereinabove in paragraphs A through D shall be maintained by the Highland Lakes Residential Association, Inc. as a part of the Common Area pursuant to Article III paragraph 3.3(e) of the Declaration of Easements and Master Protective Covenants for Highland Lakes, a Residential Subdivision as recorded in Instrument #1994-07111 in the Office of the Judge of Probate of Shelby County, Alabama.

F. The Declarant further desires to establish a cross easement not to exceed thirty (30') feet in width from the side property lines of any lot developed within the Scenic View Lots described on Exhibit "A" for the purpose of locating all or a portion of the driveway(s) serving each lot so developed to allow said driveway to cross over onto adjacent lot in an effort to save as many trees and flora as possible and to avoid any extreme terrain problems on each lot. The location of such a driveway(s) crossing over onto an adjacent property shall first be approved by the Declarant, the Architectural Review Committee of Highland Lakes, Grantees of Declarant's interest in the Scenic View Lots, along with the adjoining lot owner(s) upon whose property the driveway shall encroach and any mortgagees. Upon determination of the location of the driveway(s) by the construction thereof, the remaining portion of each lot not effected by the driveway shall no longer be subject to the cross easement created hereby.

Declaration

NOW THEREFORE, for the purposes set forth in the foregoing recitals, and for the benefit of the Declarant its successors and assigns, Grantees, their successors and assigns (hereinafter referred to as "Owners" collectively), the Declarant does hereby declare and provide as follows:

1. Access Easement. The Declarant hereby establishes and creates for the benefit of the Scenic View Lots and for the benefit of the Declarant, Owners, and Mortgagees, (their respective successors and assigns) having from time to time an interest in the Scenic View Lots; and does hereby grant, bargain, sell and convey to each for the benefit of the Scenic View Lots for (i) the right of passage and use, both pedestrian and automotive over, across, upon and under a one hundred foot (100') Access Easement for the purpose of ingress, egress, to and from the Scenic View Lots and such an easement is expressly reserved and set apart for such purpose or purposes. The location of this Access Easement is shown on Exhibit "B". The intention of this grant is to place a blanket easement for the purposes stated above on the Scenic View Lots, subject to the limitation that said Access Easement when actually developed for the uses set forth above shall not exceed thirty feet (30') in width. The actual location of the thirty feet (30') easement shall be determined either by the mutual agreement of the Declarant, Mortgagees and the Owners, or if such an agreement cannot be reached, then the location of the thirty feet (30') easement shall be determined by K.B. Weygand & Associates, P.C. The roadway to be constructed shall vary in width from twelve feet (12') to sixteen feet (16'). The primary portion of the roadway shall be only twelve feet (12') wide with several passing zones widened to sixteen feet (16') to provide adequate passing of automobiles with the emphasis on saving as many existing trees and flora as possible during the construction of said roadway. Once the roadway has been constructed with the Access Easement, Declarant shall have a metes and bounds description prepared for the roadway which, when recorded as an amendment to this Declaration, shall be substituted as a new Exhibit "B".

2. Easement Rights with Respect to Scenic View Lots. Subject to the terms and conditions set forth in Paragraphs 3, and 4 below, Declarant does hereby reserve for itself, its successors and assigns, and does hereby grant, bargain, sell, convey and assign unto any subsequent Grantees, their successors and assigns, forever, a permanent, perpetual and nonexclusive easement over, across, through and upon the Scenic View Lots, as described in Exhibit "A" hereto, and all private roadways now or hereafter constructed within the Development intersecting or abutting the Property for pedestrian and vehicular travel and transportation purposes which shall be constructed and maintained in a good and workmanlike manner and condition reasonably satisfactory to Grantor and in accordance with all applicable federal, state, county and

local governmental requirements, if any. Declarant hereby agrees to complete the construction of said road on or before December 31, 1995. Cost of construction to be at Declarant's expense. Nothing contained in this Paragraph 2 shall be deemed to obligate Grantee or Owners to install any of the foregoing improvements. Said Access Easement shall not serve more than six (6) developed Lots.

3. Maintenance of Access Easement by Association. The Highland Lakes Residential Association, Inc. joins in the execution of this Declaration of Easement to accept and acknowledge that the Access Easement as actually located shall be maintained by the Association as a part of the Common Area pursuant to Article III, paragraph 3.3(e) of the Declaration of Easements and Master Protective Covenants for Highland Lakes, a Residential Subdivision, as recorded in Instrument #1994-07111, in the Office of the Judge of Probate of Shelby County, Alabama.

4. Driveway Easement. The Declarant does hereby declare, grant, bargain, sell and convey to each Scenic View Lot, and the Owners thereof, as well as such Owner's successors and assigns, a perpetual driveway easement not to exceed thirty feet (30') in width over the adjoining Scenic View Lot(s) property line for the purpose of installation, construction, maintenance and use as a driveway and passageway to the Scenic View Lot from the Access Easement (hereinafter referred to as "Cross Easement"). The Owner of each Scenic View Lot may use up to thirty feet (30') of an adjoining Scenic View Lot in order to build, maintain and use a driveway to such Owners dwelling on its Scenic View Lot in an effort to save as many trees and as much flora as possible and to avoid any extreme terrain problems on each Scenic View Lot developed. The location of the driveway within said Cross Easement is subject to the consent provisions in paragraph F of the recitals provided hereinabove, such consent shall not be unreasonably withheld.

5. 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.

6. 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 8 below. The 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.

7. 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.

8. Other Access. If at any time prior to the construction of or location of a road on the Access Easement pursuant to Paragraph 1 above, another means of ingress and egress to and from the Scenic View Lots to a public road is provided by dedicated public right of ways, then in such event the Declarant, the Owners and Mortgagees shall execute a termination of the Easement created by this Declaration.

9. 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.

HIGHLAND LAKES DEVELOPMENT, LTD.

By: Eddleman Properties, Inc.,
Its General Partner

By: 
Douglas D. Eddleman,
Its President

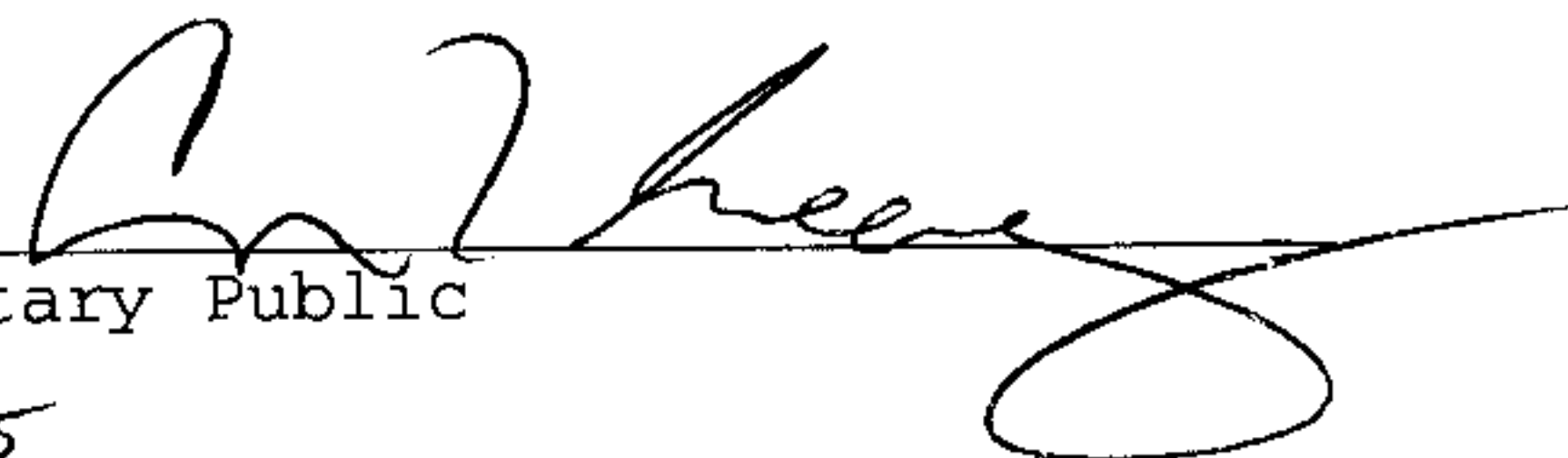
HIGHLAND LAKES RESIDENTIAL
OWNERS ASSOCIATION, INC.

By: 
Douglas D. Eddleman,
Its President

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Douglas D. Eddleman, whose name as President of Eddleman Properties, Inc., a corporation, General Partner of Highland Lakes Development, 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 9th day of March, 1995.



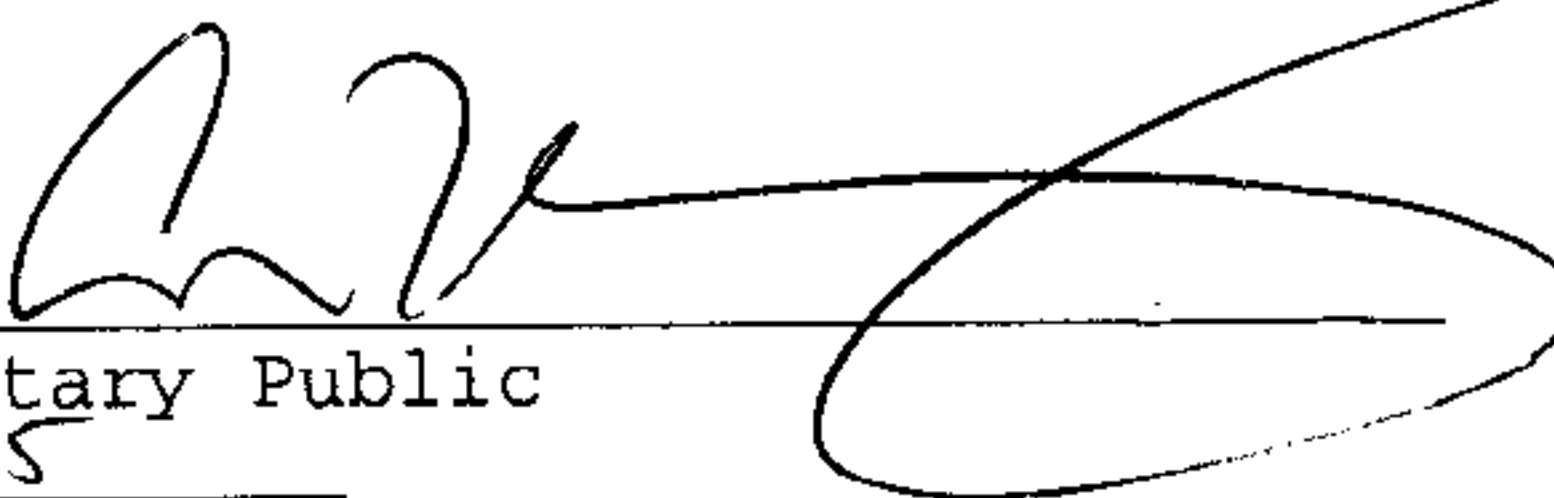
Notary Public

My Commission Expires: 5-29-95

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Douglas D. Eddleman, whose name as President of Highland Lakes Residential Owners Association, 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 said instrument, 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 the 9th day of March, 1995.



Notary Public

My Commission expires: 5-29-95

EXHIBIT "A"

Lots 426, 427 and 428 according to the Map of Highland Lakes, 4th Sector, Phase 1, an Eddleman Community, as recorded in Map Book 19, Page 79 A & B, in the Probate Office of Shelby County, Alabama, and the undeveloped lot lying immediately to the northeast of Lot 426 and the two (2) undeveloped lots lying immediately to the northwest of Lot 428.

EXHIBIT "B"

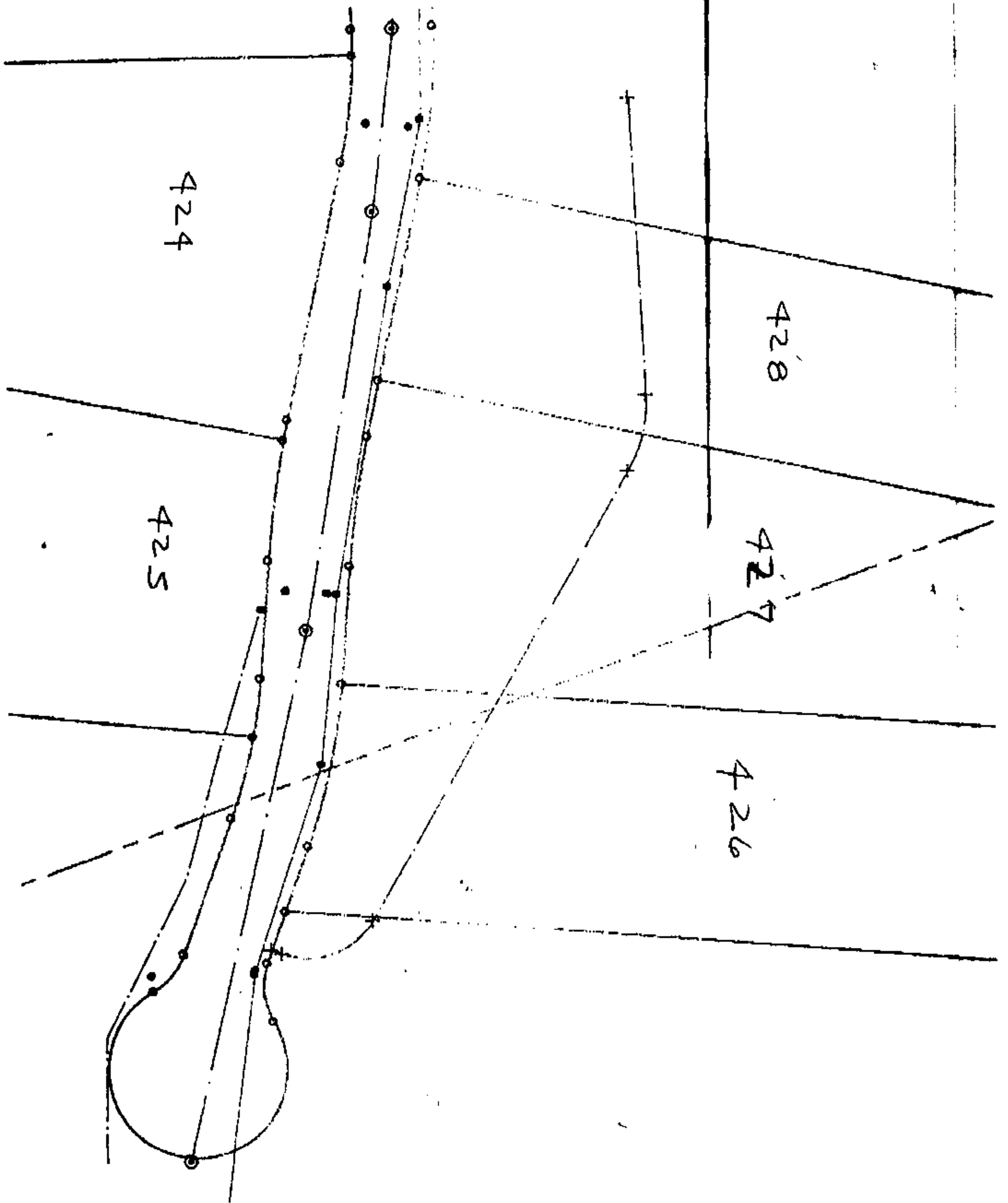


EXHIBIT "B"

A 30 foot easement situated in Sections 5 and 8, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows: Commence at an iron pin locally accepted to be the Northeast corner of said Section 8, thence run South 0 degrees 59 minutes 35 seconds West along the East line of said Section 8 for a distance of 302.77 feet to a point; thence run North 89 degrees 00 minutes 25 seconds West for a distance of 64.37 feet to a point; thence run North 21 degrees 02 minutes 13 seconds East for a distance of 86.04 feet to a point; thence run North 64 degrees 10 minutes 56 seconds West for a distance of 415.54 feet to a point on a curve to the right having a radius of 385.00 feet and a central angle of 9 degrees 02 minutes 32 seconds and a chord bearing of North 35 degrees 23 minutes 15 seconds East; thence run in a Northeasterly direction along the arc of said curve for a distance of 60.76 feet to a point; thence run North 39 degrees 54 minutes 31 seconds East or a distance of 100.23 feet to a point on a curve to the left having a radius of 445.00 feet and a central angle of 0 degrees 38 minutes 04 seconds and a chord bearing of North 39 degrees 35 minutes 29 seconds East; thence run in a Northeasterly direction along the arc of said curve for a distance of 4.93 feet to a point on a reverse curve to the right having a radius of 50.00 feet and a central angle of 41 degrees 18 minutes 52 seconds and a chord bearing of North 59 degrees 55 minutes 53 seconds East; thence run in a Northeasterly direction along the arc of said curve for a distance of 26.05 feet to a point on a reverse curve to the left having a radius of 66.00 feet and a central angle of 272 degrees 18 minutes 49 seconds and a chord bearing of North 55 degrees 34 minutes 05 seconds West; thence run along the arc of said curve for a distance of 313.68 feet to a point on a reverse curve to the right having a radius of 50.00 feet and a central angle of 51 degrees 38 minutes 02 seconds and a chord bearing of South 14 degrees 05 minutes 31 seconds West; thence run along the arc of said curve for a distance of 45.06 feet to a point; thence run South 39 degrees 54 minutes 31 seconds West for a distance of 9.81 feet to the beginning of said 30 foot easement lying 15 feet either side of the following described line: Thence run North 50 degrees 05 minutes 29 seconds West for a distance of 8.26 feet to a point on a curve to the left having a radius of 55.96 feet and a central angle of 79 degrees 19 minutes 58 seconds and a chord bearing of North 89 degrees 45 minutes 28 seconds West; thence run in a Southwesterly direction along the arc of said curve for a distance of 77.48 feet to a point; thence run South 50 degrees 17 minutes 47 seconds West for a distance of 377.95 feet to a point on a curve to the left having a radius of 100.00 feet and a central angle of 33 degrees 27 minutes 12 seconds and a chord bearing of South 33 degrees 34 minutes 11 seconds West; thence run in a Southwesterly direction along the arc of said curve for a distance of 58.39 feet to a point; thence run South 16 degrees 50 minutes 35 seconds West for a distance of 216.72 feet to the end of said easement.

Inst # 1995-18135

07/11/1995-18135
01:18 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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