

STATE OF ALABAMA )  
SHELBY COUNTY )

ESTABLISHMENT OF EASEMENT

This Establishment of Easement made this 20<sup>th</sup> day of SEPT, 1996 by INTERSTATE RESTAURANT INVESTORS, AN ALABAMA GENERAL PARTNERSHIP (herein "IRI") and FRANK C. ELLIS, JR., a married man (herein "Ellis"). Collectively herein, IRI and Ellis are referred to as IRI/Ellis.

WHEREAS, IRI/Ellis are the owners of Parcel A, Parcel 1, Parcel 2 and Parcel 3, all as set out on the attached Exhibit "A"; and

WHEREAS, Parcel A is improved with a frontage road and separates Alabama Highway 119 from Parcels 1, 2 and 3; and

WHEREAS, IRI/Ellis are desirous of dedicating Parcel A to the City of Alabaster for use as a public road; and

WHEREAS, prior to such dedication, there is no access from Alabama Highway 119 to Parcels 1, 2 and 3.

NOW, THEREFORE, in consideration of the premises, IRI/Ellis hereby does the following:

1. For the purpose of this document, Parcel A is referred to as the Servient Estate and Parcels 1, 2 and 3 are collectively referred to as the Dominant Estate.

2. IRI/Ellis, as owner of the Servient Estate, hereby grants, bargains, sells and conveys to the Dominant Estate a perpetual, nonexclusive easement for vehicular and pedestrian ingress and egress over and across Parcel A subject to the provisions of paragraph 3 as hereinafter set out.

3. At such time as Parcel A is accepted for dedication as a public road by the City of Alabaster or any other appropriate governmental authority, the easements established herein shall automatically expire.

4. First Alabama Bank, the mortgagee in those certain mortgages appearing in Instrument #1993-21694 and Instrument #1996-12603, both in the Office of the Judge of Probate of Shelby County, Alabama (the "Mortgages") has executed this document to indicate

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10:07 AM CERTIFIED  
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that the Mortgages are subordinate to the easement created herein, and further, upon recordation with the Judge of Probate of Shelby County, Alabama of a document dedicating Parcel A as a public road, Parcel A shall be deemed released from the Mortgages.

5. None of the property described herein is the homestead of Frank C. Ellis, Jr. or his spouse.

6. John McGeever, John G. Benner and William R. Robertson are all of the General Partners of Interstate Restaurant Investors, an Alabama General Partnership.

INTERSTATE RESTAURANT INVESTORS,  
AN ALABAMA GENERAL PARTNERSHIP

By: John M. McGeever  
John McGeever  
Its: General Partner

By: John G. Benner  
John G. Benner  
Its: General Partner

By: William R. Robertson  
William R. Robertson  
Its: General Partner

Frank C. Ellis, Jr.  
Frank C. Ellis, Jr.

FIRST ALABAMA BANK

By: Charles A. Smith  
Its: Vice President

STATE OF ALABAMA )

COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that JOHN MCGEEVER, JOHN G. BENNER and WILLIAM R. ROBERTSON, whose names as General Partners of INTERSTATE RESTAURANT INVESTORS, AN ALABAMA GENERAL PARTNERSHIP, 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 said instrument, they, as such General Partners and with full authority, executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand and seal this 6th day of September, 1996.

Norma Y. M. Anderson  
Notary Public  
My Commission Expires: 5-21-2000

STATE OF ALABAMA )

COUNTY OF SHELBY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that FRANK C. ELLIS, JR., a married man, 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 foregoing instrument he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 12 day of September, 1996.

Dorothy Jackson  
Notary Public  
My Commission Expires: 10-25-97

STATE OF ALABAMA )

COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles H. Hester, whose name as Vice President President of FIRST ALABAMA BANK, a state banking institution, 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/she, as such officer and with full authority, executed the same voluntarily for and as the act of said state banking institution on the day the same bears date.

Given under my hand and seal this 20 day of September, 1996.

Louise D. Holland  
Notary Public  
My Commission Expires: \_\_\_\_\_

MY COMMISSION EXPIRES FEBRUARY 24, 1997

SHELBY COUNTY )

EXHIBIT "A"

The following is a description of a centerline of the easement being 27 feet wide, more or less, which easement extends between 4th Place S.W. to the NE line of Parcel A. Said easement is situated in the SW 1/4 of the NE 1/4 of Section 2, Township 21 South, Range 3 West, Shelby County, Alabama and also within the City Limits of Alabama:

## Parcel A:

Commence at the Southwest corner of the SE 1/4 of the NE 1/4 of Section 2, Township 21 South, Range 3 W, thence run in an easterly direction along the south line of said quarter-quarter section line 314.50 feet; thence 148° 27' 00" left run northwesterly 484.98 feet to the point of beginning of said centerline, said point of beginning being on a curve to the left with a center angle of 10° 21' 42" and a radius of 1298.39 feet thence left 51° 26' 56" to the tangent of said curve run along the arc of said curve 234.81 feet to the point of tangency; thence continue along the tangent 205.17 feet to a curve to the right, said curve having central angle of 11° 29' 33" and a radius of 150.0 feet, thence continue along the arc 30.09 feet to the right of way of 4th Place S.W. and to the westerly end of this centerline.

## Parcel 1

A parcel of land situated in the Northwest quarter of the Southeast quarter, the Southwest quarter of the Northeast quarter and the Southeast quarter of the Northeast quarter of Section 2, Township 21 South, Range 3 West, Shelby County Alabama and being more particularly described as follows:

Commence at an iron pin found, purported to be the Northeast corner of the Northwest quarter of the Southeast quarter of said Section 2, Township 21 South, Range 3 West, Also Being THE POINT OF BEGINNING of said parcel 1, thence with a right interior angle of  $33^{\circ} 07' 45''$  from a point South on the East Line of the Northeast quarter of the Southeast quarter of said Section 2, proceed in a Southwesterly direction, 180.57 feet to an iron pin set, thence with a left interior angle of  $89^{\circ} 48' 13''$ , proceed in a Northwesterly direction, 361.47 feet to a cross set in a concrete curb, said point being in a curve to the right, said curve having a central (delta) angle of  $8^{\circ} 51' 53''$ , a radius of 1284.89 feet and an arc length of 198.80 feet; thence with left interior angle of  $90^{\circ}$  to tangent of said curve, proceed in a Northeasterly direction, along the arc of said curve, 198.80 feet to a cross set in a concrete curb; thence with a left interior angle of  $129^{\circ} 01' 57''$  from the tangent of said previous curve, proceed in a Southeasterly direction, 199.57 feet to a point; thence with a left interior angle of  $90^{\circ} 01' 43''$ , proceed in a Southwesterly direction, 184.56 feet to THE POINT OF BEGINNING of said parcel.

Parcel contains 70734 square feet or 1.624 acres, more or less.

## Parcel 2

A parcel of land situated in the Northwest quarter of the Southeast quarter and the Southwest quarter of the Northeast quarter of Section 2, Township 21 South, Range 3 West, Shelby County Alabama and being more particularly described as follows:

Commence at an iron pin found, purported to be the Northeast corner of the Northwest quarter of the Southeast quarter of said Section 2, Township 21 South, Range 3 West; thence proceed in a Westerly direction, along the North line of the Southeast quarter of said Section 2 for 177.22 feet to THE POINT OF BEGINNING of said parcel; thence with a right interior angle of  $81^{\circ} 43' 01''$ , proceed in a Southeasterly direction, 174.78 feet to an iron pin set; thence with a left interior angle of  $120^{\circ} 11' 47''$ , proceed in a Southwesterly direction, 86.61 feet to an iron pin set; thence with a left interior angle of  $89^{\circ} 58' 47''$ , proceed in a Northwesterly direction, 179.34 feet to an iron pin set; thence with a left interior angle of  $149^{\circ} 49' 26''$ , proceed in a Northwesterly direction, 245.07 feet to an iron pin set; thence with a left interior angle of  $91^{\circ} 58' 42''$ , proceed in a Northeasterly direction, 120.72 feet to the beginning of a curve to the right and an iron pin set, said curve having a central (delta) angle of  $1^{\circ} 58' 42''$ , a radius of 1284.89 feet and an arc length of 44.36 feet; thence proceed in a Northeasterly direction, along the arc of said curve, 44.36 feet to a cross set in concrete curb and the end of said curve; thence with a left interior angle of  $90^{\circ} 00' 00''$  from the tangent of said previous curve, proceed in a Southeasterly direction, 186.89 feet to THE POINT OF BEGINNING of said parcel.

Parcel contains 57,860 square feet or 1.328 acres, more or less

## Parcel 3

A parcel of land situated in the Northwest quarter of the Southeast quarter and the Southwest quarter of the Northeast quarter of Section 2, Township 21 South, Range 3 West, Shelby County Alabama and being more particularly described as follows:

Commence at an iron pin found, purported to be the Northeast corner of the Northwest quarter of the Southeast quarter of said Section 2, Township 21 South, Range 3 West; thence with a right interior angle of  $33^{\circ} 07' 45''$  from a point South on the East Line of the Northeast quarter of the Southeast quarter of said Section 2, proceed in a Southwesterly direction, 267.18 feet to an iron pin found, said point being THE POINT OF BEGINNING of said parcel; thence continue in a Southwesterly direction, along said previous course, 72.81 feet to an iron pin found; thence with a left interior angle of  $89^{\circ} 58' 47''$ , proceed in a Northwesterly direction, 459.81 feet to an iron pin set on the Easterly right of way of 4th Place Southwest; thence with a left interior angle of  $89^{\circ} 59' 30''$ , proceed in a Northeasterly direction, along said right of way, 83.02 feet to a cross set in a concrete curb, said point being on a curve to the left, said curve having a central (delta) angle of  $16^{\circ} 53' 50''$ , a radius of 163.50 feet and an arc length of 48.22 feet; thence with a left interior angle of  $134^{\circ} 54' 48''$  to tangent of said curve, and leaving said right of way, proceed in a Northeasterly direction, along the arc of said curve, 48.22 feet to the end of said curve and a cross set in a concrete curb, thence proceed in a Northeasterly direction, tangent to the last curve, 84.45 feet to an iron pin set; thence with a left interior angle of  $88^{\circ} 01' 18''$ , proceed in a Southeasterly direction, 245.07 feet to an iron pin set; thence with a left interior angle of  $210^{\circ} 10' 34''$ , proceed in a Southeasterly direction, 129.96 feet to THE POINT OF BEGINNING of said parcel.

Inst. 1996-31472

Parcel contains 50,748 square feet or 1.165 acres, more or less.

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