

STATE OF ALABAMA)

COUNTY OF SHELBY)

CONSENT AND AGREEMENT OF MORTGAGEE

COMPASS BANK, an Alabama banking corporation, the holder of the mortgage evidenced by that certain Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated November 10, 1998, and recorded in Instrument No. 1998-44675 in the Office of the Judge of Probate of Shelby County, Alabama, hereby grants its consent and evidences its agreement to the terms and conditions of that certain Declaration of Easement dated as of April 19, 1999, and recorded in Instrument No. 21335, aforesaid records, and agrees that its rights, title and interests in and to the property described in said Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement shall be subject to the rights granted in said Declaration of Easement and the obligations imposed upon Southmark Properties, L.L.C., an Alabama limited liability company, Interstate Restaurant Investors, L.L.P., an Alabama limited liability partnership, and Frank C. Ellis, Jr., pursuant to such Declaration of Easement.

This the 12th day of MAY, 1999.

COMPASS BANK, an Alabama banking corporation



By:
Its:

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, the undersigned, a notary public in and for said county in said state, hereby certify that R. Scott Pulliam, whose name as Vice President of **COMPASS BANK**, an Alabama banking 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 such 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 12th day of MAY, 1999.



Notary Public

[Notarial Seal]

06/08/1999-23938
09:03 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE

001 HHS

9.50

My Commission Expires:

MY COMMISSION EXPIRES: MAY 12, 2002

Inst # 1999-23938