

RESTRICTIVE AGREEMENT
(IMPOSITION OF PROTECTIVE REAL COVENANTS
ON A SINGLE PROPERTY)

THIS RESTRICTIVE AGREEMENT is entered into as of the 5th day of November, 1999, between **BROOK HIGHLAND HIGHWAY, L.L.C.**, a Delaware limited liability company (the "Seller") and **DAVID E. FOLEY**, Bishop of Birmingham in Alabama, a corporation sole (the "Buyer").

RECITALS:

A. Seller is the owner of that certain parcel of real property described in Exhibit A attached hereto and located in Birmingham, Shelby County, Alabama (the "Retained Parcel") and that certain parcel of real property described in Exhibit B attached hereto and located in Birmingham, Shelby County, Alabama (the "Buyer Parcel").

B. Subject to and pursuant to the terms and conditions set forth in that certain Purchase and Sale Agreement dated as of the 20th day of May, 1999 between Buyer and Seller, the Seller agreed to sell to the Buyer the Buyer Parcel and the Seller also agreed to place certain restrictions upon the Retained Parcel.

C. Contemporaneously herewith, Seller has sold and conveyed to Buyer the Buyer Parcel and Buyer and Seller now desire to enter into this Agreement to establish the restrictions upon the Retained Parcel in favor of the owner of the Buyer Parcel.

AGREEMENT:

NOW THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars, the consideration paid contemporaneously herewith by Buyer to Seller for the Buyer Parcel and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Buyer and Seller hereby agree as follows:

SECTION 1. Restrictions. (a) At the cost and expense of the Seller, the property line between the Retained Parcel and the Buyer Parcel shall be landscaped in a manner reasonably consistent with the standards for similar commercial developments in the area. Seller, at Seller's sole cost and expense, shall maintain all such landscaping.

(b) All mechanical systems and loading docks situated, from time to time, on the Retained Parcel shall be screened from view of the Buyer Parcel through the use of landscaping, or a screening wall of material reasonably similar to and compatible with that of the improvements constructed on the Retained Parcel.

(c) With respect to any improvements constructed on the Retained Parcel, the Seller agrees that the exterior building materials must consist of decorative stone or decorative masonry or must consist of such other materials as are approved by Buyer in writing, such

approval not to be unreasonably withheld, conditioned or delayed. In no event shall any improvements on the Retained Property be constructed which consist of metal.

SECTION 2. Running with the Land. All restrictions, conditions, covenants and agreements contained in this Agreement are made for the direct benefit of the Buyer, its successors and assigns as owners of the Buyer Parcel and shall be binding upon Seller, its successors and assigns as owners of the Retained Parcel and shall operate as covenants running with the land for the benefit of each and every successor owner of the Buyer Parcel.

SECTION 4. Estoppel Certificates. Upon request from time to time by Seller, Seller and any mortgagee of Seller or any prospective purchaser or mortgagee of the Retained Parcel shall furnish a written certificate signed Buyer stating that the Retained Property is in compliance with the restrictions set forth in this Agreement. Such certificate shall be conclusive evidence as to the compliance by Seller with the terms and conditions of this Agreement.

SECTION 5. Term. This Agreement, every provision hereof and every covenant condition and restriction contained herein, shall continue in full force and effect for a period of ninety-nine (99) years from the date hereof.

SECTION 6. Termination and Modification. Neither this Agreement nor any provision hereof, nor any covenant, condition or restriction contained herein, may be terminated, extended, modified or amended as to any portion of the Retained Property without the prior written consent of the Buyer. No such termination, extension, modification or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the Office of the Judge of Probate of Shelby County, Alabama.

SECTION 7. Notices. Any notice or election required or permitted to be given or served by any party shall be deemed given or served in accordance with the provisions of this Agreement three (3) days after it is mailed in a sealed wrapper by United States registered or certified mail, return receipt requested, postage prepaid, properly addressed as follows:

To the Buyer:

Diocese of Birmingham in Alabama
8131 Fourth Avenue South
P.O. Box 12047
Birmingham, Alabama 35202
Attention: Sr. Mary Francis Loftin
Telephone: (205) 833-0175
Facsimile: (205) 836-1910

To the Seller

c/o Faison & Associates
121 West Trade Street, Suite 2550
Charlotte, North Carolina 28202
Attn: John B. Detwiler
Telephone: (704) 972-2621
Facsimile: (704) 972-2699

Please Return To:
Cahaba Title, Inc.
1900 Indian Lake Drive
Birmingham, AL 35244

Each of the Buyer and the Seller shall have the right to specify a different address for such notices by notice in writing given as provided above.

SECTION 9. Miscellaneous. (a) Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Retained Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Retained Property.

(b) Paragraph headings, where used herein, are inserted for convenience only and are not intended to be apart of this Agreement or in any way define, limit or describe the scope and intent of the particular paragraphs to which they refer.

(c) If any provision of this Agreement is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

(d) This Agreement shall be construed and enforced in accordance with the laws of the State of Alabama.

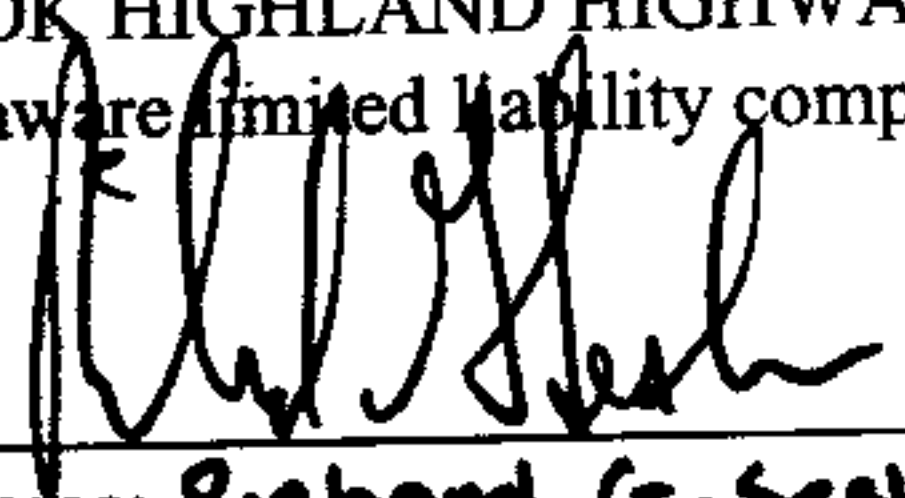
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IN WITNESS WHEREOF, each of the Buyer and the Seller has caused this Agreement to be executed under seal by persons duly empowered to bind the parties to perform their respective obligations hereunder the day and year first above written.

SELLER:

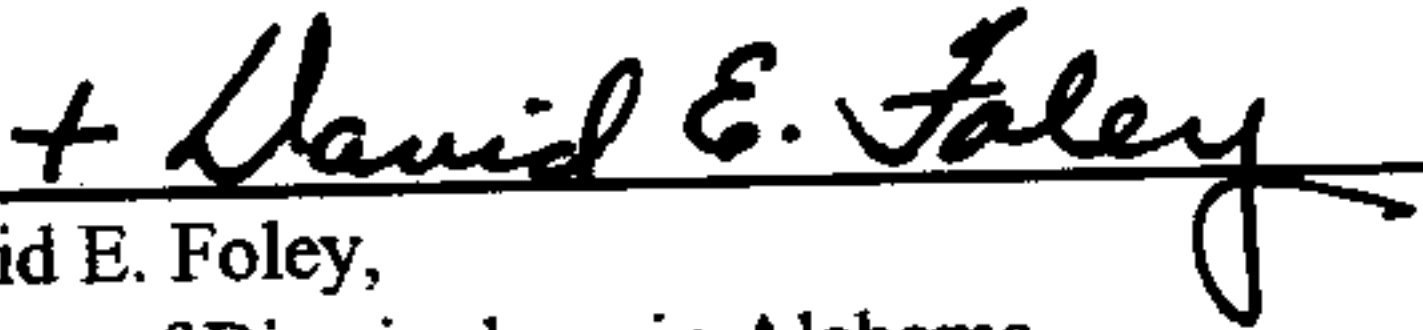
BROOK HIGHLAND HIGHWAY, L.L.C.
a Delaware limited liability company

By:  (SEAL)

Name: Richard G. Sester

Title: Manager

BUYER:

+ 
David E. Foley,
Bishop of Birmingham in Alabama,
a corporation sole

Attachments:

Exhibit A – Retained Parcel

Exhibit B – Buyer Parcel

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STATE OF North Carolina

COUNTY OF Mecklenburg

I, the undersigned, a Notary public in and for said County in said State, hereby certify that Richard G. Seiler, Manager of BROOK HIGHLAND HIGHWAY, L.L.C., a Delaware limited liability company, 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 Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

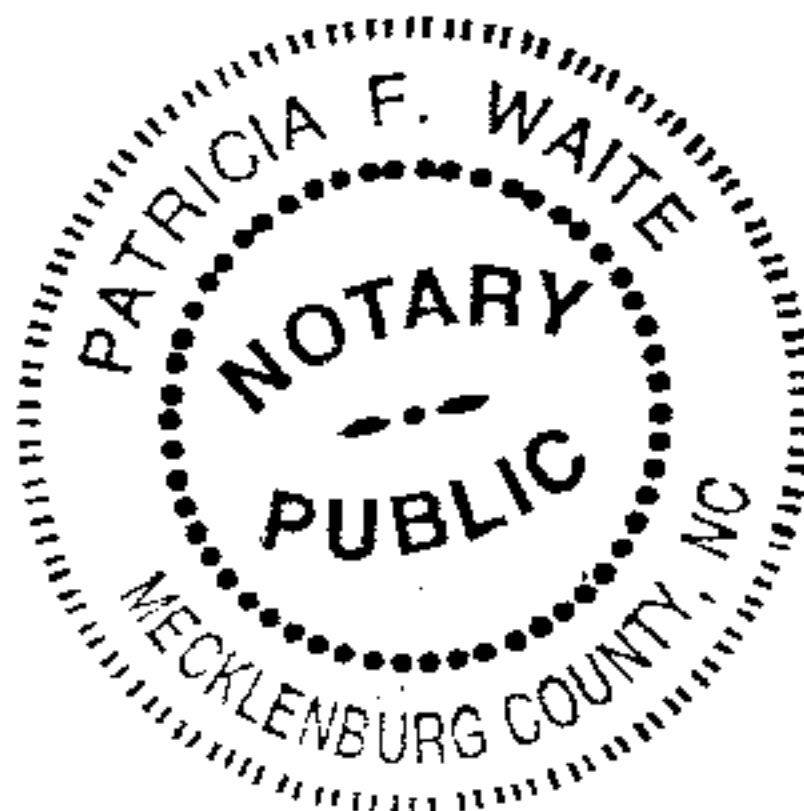
Given under my hand and official seal, this 28th day of October, 1999.

Patricia F. Waite

Notary Public

My commission Expires 6-22-2000

Patricia F. Waite



[NOTARIAL SEAL]

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STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary public in and for said County in said State, hereby certify that Most Reverend David E. Foley, whose name as Bishop of Birmingham in Alabama, a corporation sole, signed 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 said Bishop of Birmingham in Alabama, a corporation sole, with full authority, executed the same voluntarily for and as the official act of and on behalf of David E. Foley, Bishop of Birmingham in Alabama, a corporation sole.

Given under my hand and official seal, this 5th day of November, 1999.



Notary Public

My commission Expires 9/8/2001

[NOTARIAL SEAL]

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EXHIBIT A

Retained Parcel

Lot 3B, according to the Resurvey of Lot 3, Brook Highland Commercial No. 3, as recorded in Map Book 26, Page 41 in the Office of the Judge of Probate of Shelby County, Alabama.

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EXHIBIT B

Buyer Parcel

Lot 3A, according to the Resurvey of Lot 3, Brook Highland Commercial No. 3, as recorded in Map Book 26, Page 41 in the Office of the Judge of Probate of Shelby County, Alabama.

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Inst # 1999-45934

11/09/1999-45934
08:31 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
008 HNS 27.00