

STATE OF ALABAMA       )  
                                  :  
COUNTY OF SHELBY       )

Inst # 1999-50996

**DECLARATION OF EASEMENT**

12/17/1999-50996  
02:58 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE  
005 MMS 19.50

THIS DECLARATION OF EASEMENT (this "Agreement") is made and entered into as of the 15<sup>th</sup> day of December, 1999 by GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama limited liability company ("Developer").

**RECITALS:**

Developer is the owner of Lots 157 and 158 according to the Survey of Greystone Legacy, 1st Sector, as recorded in Map Book 26, Pages 79A B and C in the Office of the Judge of Probate of Shelby County, Alabama (collectively, the "Lots").

The Lots are subject to and encumbered by all of the terms and provisions of the Greystone Legacy Declaration of Covenants, Conditions and Restrictions dated as of December 1, 1999 and recorded as Instrument #1999- 50995 in the Office of the Judge of Probate of Shelby County, Alabama, as the same may be amended from time to time (collectively, with all amendments thereto, the "Declaration"). *Capitalized terms not otherwise expressly defined herein shall have the same definitions given to them in the Declaration.*

Developer desires to establish and reserve permanent and perpetual easements over and across those portions of the Lots described in Exhibit A attached hereto and incorporated herein by reference (the "Easement Property") for the purposes set forth below and to otherwise impose additional restrictions concerning the use of the Easement Property as hereinafter provided.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, Developer does hereby establish the following easements and restrictions with respect to the Easement Property:

1. **Establishment of Golf-Related Easements.** Subject to the terms and provisions of Paragraph 4 below, Developer does hereby establish and reserve for itself and Club Owner and their respective agents, employees, representatives, members, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant over, across, through, under and upon the Easement Property for the purposes of (a) providing vehicular and pedestrian ingress to and egress from any and all portions of the Golf Club Property abutting or contiguous to the Easement Property, (b) constructing, installing, erecting, maintaining, operating, repairing and replacing upon any portion of the Easement Property pedestrian and golf cart paths (collectively, the "Cart Path") and any and all signage, including, without limitation, no trespassing signage and directional signage, for the Golf Club Property, (c) cutting, trimming or removing trees, undergrowth and shrubbery thereon, including, specifically, the removal of underbrush, stumps, trash, debris, dead or diseased vegetation (including trees), and any other plant life of any nature situated on or within any portion of the Easement Property; (d) maintaining and landscaping any portion of the Easement Property, including, without limitation, the planting of grass and shrubbery thereon and the installation of berms for landscaping thereon, the installation of irrigation systems thereon and the application of fertilizers thereon; and (e) the installation of any underground Utilities, as hereinafter defined, thereon; provided, however, that nothing in this Paragraph 1 shall impose any obligation on either Developer or Club Owner to undertake any of the foregoing. The easements reserved and established pursuant to this Agreement over and upon the Easement Property are in addition to all of the other easements established and reserved or otherwise created on or with respect to the Lots pursuant to the terms and provisions of the Declaration.

2. **Additional Use Restrictions.** In addition to the use and other restrictions set forth in the Declaration, Developer does hereby declare and establish that, except for the uses and purposes set forth in Paragraph 1 above and the Driveway and Utilities which may be constructed and installed pursuant to Paragraph 3 below, no portion of the Easement Property shall be improved with any Improvements. No additional landscaping or plant material of any nature may be constructed or installed on or upon any portion of the Easement Property without the express prior written consent of both the ARC and Club Owner.

3. **Driveway and Utilities.**

(a) Notwithstanding anything provided to the contrary in Paragraph 2 above, Developer will construct and install or cause to be constructed and installed by the applicable utility company or utility provider one (1) asphalt paved driveway (the "Driveway") approximately 14 feet in width over and upon the Easement Property in the approximate location indicated on the subdivision plat for the Lots (which has been recorded in Map Book \_\_\_\_, Pages \_\_\_\_, \_\_\_\_ and \_\_\_\_ in the Probate Office) and underground utility lines, pipes, wiring and conduit (collectively, the "Utilities") immediately adjacent to such Driveway.

(b) Any alterations, modifications, renovations or improvements to the Driveway and any of the Utilities must be approved by both the ARC and Club Owner; provided, however, that patching and/or repaving of the Driveway may be undertaken without the prior written consent of the ARC and Club Owner, so long as (i) any existing Improvements to the Easement Property installed thereon by either Developer or Club Owner are not damaged or destroyed in connection therewith or are not otherwise adversely affected as to utility and use by such repaving or patching and (ii) neither the location or size of the Driveway will be changed or altered as a result of such repaving or patching. The Owner(s) of the Lots shall not construct, install, place or otherwise maintain any fences, gates or other barricades on any portion of the Easement Property without approval of the same by both Club Owner and the ARC.

(c) Pursuant to Section 3.09(g) of the Declaration, portions of the Easement Property constitute Buffer Areas. Developer, for itself and as Club Owner under the Declaration, specifically approves of the construction, installation and maintenance of the (i) Driveway and Utilities on the Easement Property subject to all of the terms and provisions of Paragraph 3(a) above and (ii) Cart Path on the Easement Property in accordance with all of the terms and provisions of Paragraph 4 below.

4. **Construction of Cart Path by Club Owner.** Club Owner has or will construct and install the Cart Path on the Easement Property, which Cart Path shall be limited to a width of not more than 20-feet and will cross the Driveway constructed pursuant to Paragraph 3 above. In no event shall any machinery or equipment of Club Owner utilized in the construction, maintenance, repair, operation or up-keep of the Golf Course Property utilize any portions of the Driveway to gain ingress or egress to and from Legacy Drive, the private roadway providing access to the Lots.

5. **Maintenance Obligations.**

(a) Club Owner shall be solely responsible for the maintenance and repair of the Cart Path and that portion of the Driveway which constitutes part of the Cart Path and is utilized to provide ingress and egress to and from the Golf Course Property which is situated adjacent to the Easement Property. Furthermore, to the extent any other portions of the Driveway or any of the Utilities are damaged by Club Owner or any of its agents, employees, representatives, members or invitees, then Club Owner shall be solely responsible for repairing such damage.

(b) The Owner(s) of the Lots shall be jointly responsible for maintaining the Driveway and all Utilities in a good and workmanlike condition and good order and repair at all times following completion of the same. Failure of the Owner(s) of the Lots to properly maintain the Driveway and the



Utilities shall result in the ARC and Club Owner having the right to exercise any and all of their respective rights and remedies set forth in the Declaration.

6. **Waiver and Release.** Subject to the terms and provisions of Paragraph 4 above, the Owner(s) of the Lots shall, for themselves and their respective heirs, executors, administrators, successors and assigns, by acceptance of a deed to either of the Lots, be deemed to irrevocably and unconditionally waive and release Developer, Club Owner, the operator of the Golf Club Property and their respective officers, directors, shareholders, members, managers, partners, employees, agents, invitees, successors and assigns, from any and all liability of any nature arising out of or in connection with any damage or injury (including death) to person or property caused by the exercise of any of the easement rights reserved herein in favor of Developer and Club Owner and neither Developer, Club Owner nor any of their respective officers, directors, shareholders, members, managers, partners, employees, agents, invitees, successors and assigns, shall be responsible or otherwise liable for any damage to the Driveway or Utilities caused by the exercise of the easement rights granted herein.

7. **Miscellaneous.**

(a) The terms and provisions of this Agreement may be modified, amended or supplemented only by a written instrument executed by Developer, Club Owner and the then record owner(s) of the Lots.

(b) All of the terms and provisions of this Agreement shall be deemed covenants running with the land which shall inure to the benefit of Developer and Club Owner and their respective successors and assigns, and shall be binding upon the Lots and each and every Owner and subsequent Owner of any portion of the Lots.

(c) If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent, be invalid or unenforceable, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

(d) The captions and headings contained in this Agreement are for convenience of reference only and shall not be used in the construction or interpretation of any of the terms and provisions hereof.

(e) All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the plural shall include the use of the singular.

(f) In the event the Owner(s) of the Lots violate or breach any of the terms and provisions set forth in this Agreement, then Developer and Club Owner, each in their sole discretion, shall have the right to undertake any legal or equitable action which either of them deem necessary to abate, enjoin, remove or extinguish any such violation or breach of this Agreement and any and all costs and expenses incurred by either of them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants or requirements set forth in this Agreement shall be paid for by the Owner(s) against whom such action was initiated.

IN WITNESS WHEREOF, Developer, for itself and as Club Owner, has caused this Agreement to be executed as of the day and year first above written.

**GREYSTONE DEVELOPMENT COMPANY,  
LLC, an Alabama limited liability company**

By: DANIEL REALTY CORPORATION,  
an Alabama corporation, Its Manager

By: *DK Lloyd*

Its: Sr. Vice President

STATE OF ALABAMA     )  
                                  :  
SHELBY COUNTY         )

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Donald K. Lloyd whose name as Sr. Vice President of DANIEL REALTY CORPORATION, an Alabama corporation, as Manager of GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation in its capacity as manager of said limited liability company.

Given under my hand and official seal this the 15<sup>th</sup> day of December, 1999.

*Mar Ann Dunaway*  
Notary Public

My Commission Expires: 2/2/2003

This instrument prepared by and  
upon recording should be returned to:

Stephen R. Monk, Esq.  
Bradley Arant Rose & White LLP  
2001 Park Place, Suite 1400  
Birmingham, Alabama 35203  
(205) 521-8429

Exhibit A

An easement, being a part of Lots 157 and 158 in proposed Greystone Legacy, 1<sup>st</sup> Sector and also being in the southwest quarter of Section 22, Township 18S, Range 1W, Shelby County, Alabama, being more particularly described as follows:

Commence at the northeast corner of said quarter section; thence run south along the east line of said quarter section for a distance of 170.73 feet to a point; thence turn an angle to the right of 88 degrees, 44 minutes, 55 seconds and run in a southwesterly direction for a distance of 129.65 feet to a point on a curve to the left having a central angle of 01 degree, 35 minutes, 30 seconds and a radius of 1,800.00 feet; thence turn an angle to the left to the tangent of said curve of 90 degrees, 00 minutes, 00 seconds and run in a southeasterly direction along the arch of said curve for a distance of 50.01 feet to the point of beginning, said point of beginning being the northeast corner of said Lot 158; thence turn an angle from the chord of last stated curve to the right of 90 degrees, 47 minutes, 45 seconds and run in a westerly direction along the north line of said Lot 158 for a distance of 165.13 feet to a point; thence turn an angle to the left of 09 degrees, 33 minutes, 25 seconds and run in a southwesterly direction along the northwest line of said Lot 158 for a distance of 131.03 feet to a point; thence turn an angle to the left of 90 degrees, 00 minutes, 00 seconds and run in a southeasterly direction crossing said Lots 158 and 157 for a distance of 60.00 feet to a point; thence turn an angle to the left of 81 degrees, 16 minutes, 30 seconds and run in an easterly direction along the south line of said Lot 157 for a distance of 109.59 feet to a point; thence turn an angle to the right of 00 degrees, 49 minutes, 55 seconds and run in an easterly direction along the south line of said Lot 157 for a distance of 94.80 feet to a point; thence turn an angle to the right of 36 degrees, 19 minutes, 22 seconds and run in a southeasterly direction along the southwest line of said Lot 157 for a distance of 111.65 feet to a point on a curve to the right having a central angle of 04 degrees, 38 minutes, 32 seconds and a radius of 1,800.00 feet; thence turn an angle to the left to the tangent of said curve of 132 degrees, 33 minutes, 24 seconds and run in a northwesterly direction along the arc of said curve for a distance of 145.84 feet to the point of beginning.

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