

This instrument was prepared by:

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STATE OF ALABAMA
COUNTY OF SHELBY

**CORRECTED AND RESTATED
AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS
OF BROOK HIGHLAND, A RESIDENTIAL SUBDIVISION
AS RECORDED IN INSTRUMENT #2001-01342**

Inst # 2001-04260

02/06/2001-04260
02:47 PM CERTIFIED

SHELBY COUNTY JUDGE 05.00
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KNOW ALL MEN BY THESE PRESENTS THAT,

WHEREAS, Eddleman & Associates, an Alabama general partnership, has previously filed a Declaration of Protective Covenants and Agreements in the Probate Office of Shelby County, Alabama, in Real 194, at page 254, (the "Original Declaration") for the benefit of certain real property situated in Shelby County, Alabama, which is part of a residential subdivision known as Brook Highland, A Residential Subdivision, and which is more particularly described in the Plats of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Twentieth, Ninth, Tenth, Twenty-First, the Eleventh Sector (First Phase), the Eleventh Sector (Second Phase), the Eleventh Sector (Phase 111), the Fourteenth Sector, and the Sixteenth Sector (Phase 1), as respectively recorded in Map Book 12 at pages 62 A & B, 63 A & B, and 64 A & B, Map Book 13 at pages 12, 36 A & B, and 99 A & B, Map Book 14 at pages 71 and 83 A & B, Map Book 15 at pages 50 A & B, 105 and 106, Map Book 16 at pages 76 and 96, Map Book 16 at page 148, Map Book 17, at page 63, Map Book 17, at page 108, Map Book 18, at pages 36 A & B, Map Book 18, at pages 52 A & B, Map Book 18, at page 129, Map Book 19, at page 68, Map Book 22, at pages 36 A & B, Map Book 22, at page 129, Map Book 23, at pages 2 A & B, and Map Book 25, at page 150, in the

Probate Office of Shelby County, Alabama, and on Exhibit A to the Supplementary Declaration of Protective Covenants of Brook Highland, A Residential Subdivision (acreage containing 15th and 23d Sectors and Other Undeveloped Property), as recorded in Instrument No. 2000-933 in said office, such realty having been made subject to the original declaration as the same has been amended and supplemented by certain supplementary declarations and amendments filed from time to time in said office (collectively referred to as the "Declaration");

WHEREAS, Eddleman Properties, Inc., an Alabama corporation (hereinafter referred to as the "Developer") is the owner of certain property which is more particularly described as the subdivided lots reflected in the plat of the 23d Sector of Brook Highland, as recorded in Map Book 26, page 127 in the Probate Office of Shelby County, Alabama (the "Subject Property");

WHEREAS, the Developer is the successor to Eddleman & Associates as the "Developer" as defined under the Declaration, and the Developer desires to amend the Declaration to grant certain easements and to provide for certain special assessments with respect to the Subject Property in accordance with Section 3.03, Section 4.04 and Section 10.01 of the Declaration;

WHEREAS, the Association (as defined herein and in the Declaration) desires to evidence its consent to the easements and special assessments to be provided for on the Subject Property in accordance with amendments to the Declaration as herein provided;

NOW, THEREFORE, the Developer, together with Brook Highland Homeowners Association, Inc. (the "Association"), do, by these presents and upon the recording hereof, amend the Declaration with respect to the Subject Property as follows in accordance with the authority vested in the Developer and the Association under Section 3.03, Section 4.04, and Section 10.01 of the Declaration:

1. The Declaration is hereby amended in the following respects with respect to the Subject Property only to declare an easement for ingress and egress and for the installation of utilities for the benefit of certain Lots (as defined in the Declaration) within the Subject Property in accordance with the authority vested in the Developer and the Association under Section 3.03 and Section 10.01 of the Declaration by adding the following as Section 3.06 of the Declaration:

3.06 Driveway Easement. Developer and the Association hereby reserve and declare an easement over, across, and under the property described on the corrected Exhibit A attached hereto and made a part hereof (the "Driveway Easement Premises") for the benefit of Lots numbered 2301, 2302, 2303 and 2304 as reflected in the Plat of the 23d Sector of Brook Highland recorded in Map Book 26, page 127 in the Probate Office of Shelby County, Alabama (the "Benefitted Property"). Said Driveway Easement Premises shall be held, transferred, sold, conveyed and occupied subject to the following covenants, restrictions and conditions, all of which shall be construed as, and deemed to be covenants running with the land for the benefit of the Benefitted Property:

(a) The Driveway Easement Premises shall be used as an easement for ingress and egress for motor vehicles, bicycles and pedestrians over and across the Driveway Easement Premises. The term "motor vehicle" means an automobile, motorcycle, truck, trailer, or any other vehicle operated on the roads in the State of Alabama used to transport persons or property and propelled by power other than muscular power, but the term does not include traction engines, road rollers, and such vehicles as run only upon a track.

(b) The Driveway Easement Premises shall also be used for the installation, maintenance, repair and replacement of utilities that benefit all or a portion of the Benefitted Property, including, without limitation, water, sanitary sewer, electric, gas, cable television and telephone; provided that all transmission, distribution and other lines and pipes shall be placed underground.

(c) The Driveway Easement Premises shall be for the benefit of the Benefitted Property for the use and enjoyment of the Owners of all or a portion of the Benefitted Property and their respective mortgagees, assignees, lessees, sublessees, licensees, contractors, subcontractors, agents, employees and other invitees. The Driveway Easement Premises shall be subject to the easements reflected on the plat of the Subject Property for water and sewer lines heretofore granted in favor of the Water Works and Sewer Board of the City of Birmingham.

(d) Developer hereby reserves the right and easement to enter upon the Benefitted Property to construct a paved driveway, gutters, and related

improvements to be located on or about the Driveway Easement Premises, except that with respect to the turn around area located on Lot 2304, such right to construct related improvements shall be limited to the area which is currently paved. The Association shall maintain, repair, and replace all of said improvements. The Owners of the Benefitted Property shall not construct or maintain any gates, fences, walls, curbs, or any other obstructions which will impair ingress and egress of motor vehicles, bicycles or pedestrians or the installation of utilities as herein provided, or otherwise interfere with the easements herein reserved. The Association shall maintain the Driveway Easement Premises in good repair and usable condition which shall include without limitation, the obligation to maintain all pavement in the Driveway Easement Premises in a level, smooth and even covered condition and to keep in repair any and all curbs, gutters and drainage facilities along the Driveway Easement Premises. The Owners of the Benefitted Property shall maintain all landscaped areas located on or about the Driveway Easement Premises in a clean and orderly condition, which shall include without limitation, mowing the grass, trimming the shrubbery and removing and replacing plants, and shall remove all papers, debris, filth and refuse from and among and along the Driveway Easement Premises to the extent reasonably necessary to keep the Driveway Easement Premises in a clean and orderly condition.

(e) The Driveway Easement Premises shall be deemed to be a Common Area as defined under the Declaration for the common use and enjoyment of the Owners of the Benefitted Property, and the Owners of the Benefitted Property shall be subject to Special Assessments in such amounts as are necessary for the Association to maintain and repair the Driveway Easement Premises as herein provided.

2. The Declaration is hereby further amended with respect to the Subject Property only to provide for a special assessment for the maintenance and repair of the Driveway Easement Premises in accordance with Section 4.04 and Section 10.01 of the Declaration by deleting Section 4.04 in its entirety from the Declaration and substituting the following in lieu thereof:

4.04 Special Assessments. In addition to the annual Assessment specified in Section 4.03,

(a) The Association shall levy a special Assessment against the Owners of Lots numbered 2301, 2302, 2303 and 2304, in equal shares, for the purpose of defraying the cost to the Association for the maintenance, repair or replacement of the Driveway Easement Premises in accordance with the provisions of the Declaration.

(b) The Association may, at any time, levy one or more special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or expected or unexpected repair to or replacement of any of the Common Areas, including any fixtures and personal property related thereto.

3. Developer hereby reaffirms and restates the terms and provisions of the Declaration as heretofore amended and as amended hereby and declares that the Declaration as so amended shall run with the land and be binding upon and shall inure to the benefit of the Property (as defined in the Declaration).

4. The Association is joined in the execution of this Amendment to the Declaration for the purpose of evidencing its written approval to the amendments to the Declaration as herein provided and does hereby authorize the filing of this Amendment to the Declaration with the Office of the Judge of Probate of Shelby County, Alabama.

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be executed on this 31 day of January, 2001.

EDDLEMAN PROPERTIES, INC.

an Alabama corporation

By: 

Its: PRESIDENT

BROOK HIGHLAND HOMEOWNERS ASSOCIATION, INC.,

an Alabama non-profit corporation

By: 

Its: PRESIDENT

STATE OF ALABAMA)
COUNTY OF Jefferson)

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., an Alabama corporation, is signed to the foregoing Corrected and Restated Amendment to Declaration of Protective Covenants, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Amendment, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal of office this 31st day of January, 2001.


Notary Public

My Commission Expires: 6-5-2003

STATE OF ALABAMA)
COUNTY OF Jefferson)

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 Brook Highland Homeowners Association, Inc., an Alabama nonprofit corporation, is signed to the foregoing Corrected and Restated Amendment to Declaration of Protective Covenants, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Amendment, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal of office this 31st day of January, 2001.


Notary Public

My Commission Expires: 6-5-2003

An easement for ingress and egress situated in Brook Highland 23rd Sector, an Eddleman Community, as recorded in Map Book 26 on Page 127 in the Office of the Judge of Probate, Shelby County, Alabama lying either side of a line being more particularly described as follows:

Commence at the Southeast corner of Lot 2303 in said Brook Highland 23rd Sector, said corner being on the Northeast right-of-way line of Ridge Circle in said Brook Highland 23rd Sector and also on a curve to the left having a central angle of 02 degrees, 06 minutes, 28 seconds and a radius of 55.00 feet; thence run in a Northwesterly direction along the arc of said curve and also along said Northeast right-of-way line for a distance of 2.02 feet to the point of beginning; thence turn an angle from the chord of last stated curve to the right of 88 degrees, 56 minutes, 15 seconds and run in a Northeasterly direction along the center line of said ingress and egress easement being 15.00 feet either side for a distance of 16.26 feet to a point on a curve to the left having a central angle of 58 degrees, 32 minutes, 00 seconds and a radius of 79.87 feet; thence run in a Northeasterly direction along the arc of said curve and also along the center line of said ingress and egress easement being 15.00 feet either side for a distance of 81.59 feet to a point; thence run tangent to last stated curve in a Northeasterly direction along the center line of said ingress and egress easement being 15.00 feet either side for a distance of 27.68 feet to a point on a curve to the right having a central angle of 54 degrees, 44 minutes, 59 seconds and a radius of 188.92 feet; thence run in a Northeasterly direction along the arc of said curve and also along the center line of said ingress and egress easement being 15.00 feet either side for a distance of 180.53 feet to a point on a compound curve to the right having a central angle of 68 degrees, 46 minutes, 27 seconds and a radius of 230.58 feet; thence run in a Northeasterly direction along the arc of said curve and also along the center line of said ingress and egress easement being 15.00 feet either side for a distance of 276.78 feet to a point; thence run tangent to last stated curve in a Northeasterly direction along the center line of said ingress and egress easement being 15.00 feet either side for a distance of 78.29 feet to a point; thence turn an angle to the left of 11 degrees, 47 minutes, 10 seconds and run in a Northeasterly direction along the centerline of said ingress and egress easement being 20.00 feet either side for a distance of 203.00 feet to the end of said easement.

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