

STATE OF ALABAMA     )

SHELBY COUNTY         )

**DECLARATION OF EASEMENT**

**THIS DECLARATION OF EASEMENT** is made and entered into as of the 25 day of May, 2001 by CHESSER PLANTATION, LLC, an Alabama limited partnership (Declarant”).

**RECITALS:**

**WHEREAS**, Declarant is the owner of approximately 4.08 acres, more or less, or real property situated in Shelby County, Alabama which is legally described on Exhibit A attached hereto and made a part hereof (the “Commercial Property”); and

**WHEREAS**, Declarant is also the owner of approximately 102.56 acres, more or less, of real property situated in Shelby County, Alabama which is immediately adjacent to and contiguous with the Commercial Property and is legally described in Exhibit B attached hereto and made a part hereof (the “Residential Property”); and

**WHEREAS**, under the terms and provisions hereof, Declarant desires to reserve, for the benefit of Declarant and Declarant’s successors in title to the Commercial Property and Residential Property, a permanent and perpetual easement over, across, through, under and upon a sixty-foot (60’) right-of-way (the “Right-of-Way”) through the Commercial Property and Residential Property for the purpose of constructing a roadway, sewer lines, utilities and related facilities (collectively, the “Roadway”) as described herein below.

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby states as follows:

1.     RESERVATION OF COMMERCIAL PROPERTY EASEMENT BY DECLARANT. Declarant does hereby reserve for itself, and its successors, assigns, invitees, guests, licensees, employees, and agents, forever, the permanent and perpetual sixty foot (60’) wide

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Right-of -Way and easement over, across, through, upon and under the Commercial Property for purposes of construction and maintenance of the Roadway for pedestrian and vehicular ingress to and egress from the Residential Property, for purposes of providing access, travel, and traffic to and from the Residential Property, and for construction and maintenance of sewer lines or other utility lines, if any, under such easement (the "Commercial Property Easement"). The Commercial Property Easement reserved hereby is to be used and enjoyed in common with Declarant, and its successors, assigns, invitees, guests, licensees, employees, and any other parties having any rights or interest in the Commercial Property or Residential Property and for construction and maintenance of the Roadway within such Commercial Property Easement.

2. RESERVATION OF RESIDENTIAL PROPERTY EASEMENT BY DECLARANT. Declarant does hereby reserve for itself, and its successors, assigns, invitees, guests, licensees, employees, and agents, forever, the permanent and perpetual sixty foot (60') wide Right-of-Way and easement over, across, through, upon and under the Residential Property for purposes of construction and maintenance of the Roadway for pedestrian and vehicular ingress to and egress from the Commercial Property, for purposes of providing access, travel and traffic to and from the Commercial Property, and for construction and maintenance of sewer lines or other utility lines, if any, under such easement (the "Residential Property Easement"). The Residential Property Easement reserved hereby is to be used and enjoyed in common with Declarant, and its successors, assigns, invitees, guests, licensees, employees, and any other parties having any rights or interest in the Commercial Property and Residential Property and for construction and maintenance of the Roadway within such Residential Property Easement.

3. NATURE OF EASEMENTS. The Commercial Property Easement and the Residential Property Easement (collectively, the "Easements") reserved hereby are (i) for the mutual and common use and enjoyment of Declarant, its successors, assigns, tenants, invitees, guests, employees, agents and any other parties having any rights or interest in the Commercial Property or the Residential Property, (ii) appurtenant to and shall be deemed to be covenants running with the land and (iii) binding upon and inure to the benefit of the Declarant and its successors and assigns. Declarant hereby covenants and agrees with its successors and assigns that no fences or other obstructions shall be erected, maintained or permitted on, across or upon the Easements which would obstruct, interfere with, limit or otherwise deny the pedestrian or vehicular access to either

the Commercial Property or Residential Property over, across, through or upon such Easements.

4. LOCATION OF EASEMENTS. The location and layout of the Roadway within the Easements reserved hereby is not specifically known at this time but is a blanket easement within the Commercial Property and Residential Property. Upon construction and completion of the Roadway within the Easements, the center line of the Roadway shall be the center line of the 60' wide Easements and the description of the Roadway and Easements shall be deemed as-built and the Easements shall no longer be blanket easements.

5. CONSTRUCTION AND MAINTENANCE OF THE ROADWAY. Declarant is responsible for the construction and maintenance of the Roadway until such time as the Roadway has been dedicated as a public road or the obligation of maintenance has been assigned to and assumed by the owners associations for the respective Commercial and Residential Property. All construction and maintenance of the Roadway shall be in a good and workmanlike manner comparable to the quality and standards of construction of other new roadways within Shelby County, Alabama. In the event construction occurs on within the Commercial Property or Residential Property which affects the condition of the Roadway, or any portion thereof, the owner of the property undergoing such construction shall be obligated to repair the Roadway so that access to any other part of the Commercial Property or Residential Property is not adversely impacted or obstructed and, immediately upon substantial completion of such construction, shall be obligated to repair and restore the Roadway to the quality and standard of the original construction of the Roadway.

6. POWER OF ATTORNEY. Notwithstanding anything provided herein to the contrary, Declarant (i) hereby establishes and reserves the right, in its sole and absolute discretion, at any time and from time to time, to dedicate the Roadway, or any portion thereof, as a public roadway to any Governmental Authority designated by Declarant without requirement that the approval or consent of any owner, occupant or mortgagee, other than the mortgagee of Declarant, of the Commercial Property or Residential Property be obtained and (ii) shall be and hereby is authorized and entitled to execute any and all agreements, documents, instruments and subdivision plats pursuant to which the Roadway within the Commercial Property and Residential Property are submitted for dedication as public roadway. Each owner, by acceptance of any deed to any portion of the Commercial Property or Residential Property, and each mortgagee, by the acceptance of any



mortgage on any portion of the Commercial Property or Residential Property, shall be deemed to, and each does hereby, irrevocably appoint the Declarant as its respective agent and attorney-in-fact for the purpose of executing, signing, acknowledging, swearing to and recording any and all instruments, certificates, documents, agreements and subdivision plats relating to the dedication of the Roadway, or any portion thereof, to any Governmental Authority as public roadway for and in the name of any such owner and mortgagee in their name, place and stead. The power and authority granted herein is hereby declared to be irrevocable and a power coupled with an interest which shall survive the death or dissolution of any owner or mortgagee and be binding on all owners and mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

5. MISCELLANEOUS PROVISIONS.

(a) Waiver and Extensions. Any party may extend the time for or waive the performance of any of the obligations of the other parties or waive compliance by the others with any of the covenants or conditions contained in this Agreement. Any such extension or waiver shall be in writing and signed by all parties hereto.

(b) Amendment. This Agreement may be amended or modified at any time and in all respects by an instrument in writing executed by Declarant and any other party having an interest therein.

(c) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

(d) Benefits. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and assigns.

(e) Governing Law. It is the intention of the parties that the laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties.

(f) Construction. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

(g) Attorney's Fees. In the event of any litigation arising out of this


Agreement, the court may award to the prevailing party all reasonable costs and expenses, including attorneys fees.

(h) Entire Agreement. This Agreement evidences the entire agreement between the parties and no representation, understanding or agreement had between the parties, except as set forth herein, shall be binding on the parties hereto.

**IN WITNESS WHEREOF**, Declarant has executed this Reciprocal Easement Agreement as of the day and year first above written.

**CHESSER PLANTATION, LLC**, an Alabama limited liability company

By: The Crest at Greystone, Inc., Its Manager

By:   
William L. Thornton, III  
Its President

**STATE OF ALABAMA     )**

**JEFFERSON COUNTY     )**

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that William L. Thornton, III, whose name as President of The Crest at Greystone, Inc., an Alabama corporation, as Manager of CHESSER PLANTATION, LLC, 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, in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as Manager as aforesaid.

Given under my hand and seal, this 25 day of May, 2001.

  
Notary Public

[SEAL]

My commission expires:

7/26/2001

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## **EXHIBIT A TO DECLARATION OF EASEMENT**

A parcel of land situated in the East one-half of Section 27 Township 19 South Range 1 West, Shelby County, Alabama. Being more particularly described as follows:

Commence at the Northeast corner of said section 27; thence run in a Southerly direction along the East boundary thereof for a distance of 1569.31 feet; thence turn a deflection angle of 44 degrees 00 minutes 07 seconds to the right and run in a Southwesterly direction for a distance of 584.29 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the left and run in a Southeasterly direction for a distance of 125.50 feet; thence turn a deflection angle of 88 degrees 53 minutes 02 seconds to the right and run in a Southwesterly direction for a distance of 362.17 feet; thence turn a deflection angle of 136 degrees 31 minutes 00 seconds to the right and run in a Northerly direction for a distance of 14.25 feet; thence turn a deflection angle of 140 degrees 37 minutes 34 seconds to the left and run in a Southwesterly direction for a distance of 452.61 feet to a point on the South boundary of the Southeast one-quarter of the Northeast one-quarter; thence turn a deflection angle of 49 degrees 40 minutes 32 seconds to the right and run in a Westerly direction along the said South boundary for a distance of 524.06 feet; thence turn a deflection angle of 50 degrees 16 minutes 31 seconds to the left and run in a Southwesterly direction for a distance of 89.99 feet to the point of beginning of a curve to the right, said curve having a radius of 87.96 feet, a central angle of 65 degrees 11 minutes 17 seconds, a chord distance of 94.77 feet and a deflection right of 32 degrees 35 minutes 39 seconds to the chord; thence run in a Southwesterly direction along the arc of said curve for a distance of 100.08 feet; thence turn a deflection angle of 32 degrees 23 minutes 05 seconds to the right and run in a Northwesterly direction for a distance of 49.33 feet to the point of beginning and the beginning of a curve to the left; said curve having a radius of 222.32, a central angle of 54 degrees 56 minutes 29 seconds, a chord distance of 205.11 feet and a deflection left of 27 degrees 22 minutes 00 seconds to the chord; thence run in a southwesterly direction along the arc of said curve for a distance of 213.18 feet; thence turn a deflection angle of 63 degrees 30 minutes 44 seconds to the left and run in a Southwesterly direction for a distance of 200.15 feet to a point on the northernmost right of way line of Old U.S. Highway 280; thence turn a deflection angle of 90 degrees 00 minutes 52 seconds to the right and run in a Northwesterly direction along said right of way line for a distance of 273.65 feet; thence turn a deflection angle of 95 degrees 28 minutes 55 seconds to the right and run in a Northeasterly direction for a distance of 504.54 feet; thence turn a deflection angle of 73 degrees 28 minutes 44 seconds to the right and run in an Easterly direction for a distance of 364.28 feet; thence turn a deflection angle of 90 degrees 38 minutes 39 seconds to the right and run in a Southerly direction for a distance of 284.98 feet to the point of beginning. Said parcel contains 177,740 square feet or 4.08 acres more or less.



## **EXHIBIT B**

### **TO DECLARATION OF EASEMENT**

#### **PARCEL 1**

A parcel of land situated in the Southeast one-quarter of Section 22 Township 19 South Range 1 West, Shelby County, Alabama. Being more particularly described as follows:

Begin at the Northeast corner of Section 27; thence run in a Westerly direction along said North boundary line of said Section 27 for a distance of 2167.84 feet; thence turn a deflection angle of 141 degrees 07 minutes 21 seconds to the right and run in a Northeasterly direction for a distance of 518.94 feet; thence turn a deflection angle of 21 degrees 02 minutes 38 seconds to the left and run in a Northeasterly direction for a distance of 205.00 feet to the point of beginning of a tangent curve to the right, said curve having a radius of 430.00 feet, a central angle of 36 degrees 41 minutes 10 seconds and a chord distance of 270.65 feet; thence run in a Northeasterly direction along the arc of said curve for a distance of 275.33 feet; thence Northeasterly along a straight line tangent to said curve for a distance of 200.91 feet; thence turn a deflection angle of 30 degrees 29 minutes 24 seconds to the left and run in a Northeasterly direction for a distance of 703.45 feet to a point on the North boundary of the Southeast one-quarter of the Southeast one-quarter of said Section 22; thence turn a deflection angle of 53 degrees 15 minutes 26 seconds to the right and run in a Easterly direction along said quarter-quarter for a distance of 909.50 feet to the Northeast corner of Southeast one-quarter of the Southeast one-quarter of said Section 22; thence turn a deflection angle of 92 degrees 40 minutes 51 seconds to the right and run in a Southerly direction along the East boundary of the said quarter-quarter for a distance of 1337.53 feet to the POINT OF BEGINNING. Said parcel contains 1,978,546 square feet or 45.42 acres more or less.

#### **PARCEL 2**

A parcel of land situated in the East one-half of Section 27 Township 19 South Range 1 West, Shelby County, Alabama. Being more particularly described as follows:

Begin at the Northeast corner of said section 27; thence run in a Southerly direction along the East boundary thereof for a distance of 1569.31 feet; thence turn a deflection angle of 44 degrees 00 minutes 07 seconds to the right and run in a Southwesterly direction for a distance of 584.29 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the left and run in a Southeasterly direction for a distance of 125.50 feet; thence turn a deflection angle of 88 degrees 53 minutes 02 seconds to the right and run in a Southwesterly direction for a distance of 362.17 feet; thence turn a deflection angle of 136 degrees 31 minutes 00 seconds to the right and run in a Northerly direction for a distance of 14.25 feet; thence turn a deflection angle of 140 degrees 37 minutes 34 seconds to the left and run in a Southwesterly direction for a distance of 452.61 feet to a point on the South boundary of the Southeast one-quarter of the Northeast one-quarter; thence turn a deflection angle of 49 degrees 40 minutes 32 seconds to the right and run in a Westerly direction along the said South boundary for a distance of 524.06 feet; thence turn a deflection angle of 50 degrees 16 minutes 31 seconds to the left and run in a Southwesterly

direction for a distance of 89.99 feet to the point of beginning of a curve to the right, said curve having a radius of 87.96 feet, a central angle of 65 degrees 11 minutes 17 seconds, a chord distance of 94.77 feet and a deflection right of 32 degrees 35 minutes 39 seconds to the chord; thence run in a Southwesterly direction along the arc of said curve for a distance of 100.08 feet; thence turn a deflection angle of 32 degrees 23 minutes 05 seconds to the right and run in a Northwesterly direction for a distance of 49.33 feet; thence turn a deflection angle of 78 degrees 44 minutes 25 seconds to the right and run in a Northerly direction for a distance of 284.98 feet; thence turn a deflection angle of 27 degrees 20 minutes 04 seconds to the right and run in a Northeasterly direction for a distance of 940.10 feet; thence turn a deflection angle of 84 degrees 57 minutes 44 seconds to the left and run in a Northwesterly direction for a distance of 87.03 feet; thence turn a deflection angle of 56 degrees 28 minutes 05 seconds to the right and run in a Northerly direction for a distance of 109.64 feet; thence turn a deflection angle of 21 degrees 46 minutes 52 seconds to the right and run in a Northeasterly direction for a distance of 100.08 feet; thence turn a deflection angle of 40 degrees 13 minutes 22 seconds to the right and run in a Northeasterly direction for a distance of 183.43 feet; thence turn a deflection angle of 11 degrees 09 minutes 41 seconds to the left and run in a Northeasterly direction for a distance of 79.34 feet; thence turn a deflection angle of 20 degrees 23 minutes 33 seconds to the left and run in a Northeasterly direction for a distance of 78.31 feet; thence turn a deflection angle of 01 degrees 37 minutes 38 seconds to the left and run in a Northeasterly direction for a distance of 93.82 feet; thence turn a deflection angle of 05 degrees 00 minutes 51 seconds to the right and run in a Northeasterly direction for a distance of 114.56 feet; thence turn a deflection angle of 35 degrees 24 minutes 32 seconds to the right and run in a Northeasterly direction for a distance of 204.48 feet; thence turn a deflection angle of 85 degrees 49 minutes 06 seconds to the left and run in a Northwesterly direction for a distance of 395.00 feet; thence turn a deflection angle of 126 degrees 08 minutes 18 seconds to the left and run in a Southwesterly direction for a distance of 146.41 feet; thence turn a deflection angle of 25 degrees 39 minutes 28 seconds to the right and run in a Southwesterly direction for a distance of 103.55 feet; thence turn a deflection angle of 46 degrees 17 minutes 05 seconds to the right and run in a Northwesterly direction for a distance of 117.97 feet; thence turn a deflection angle of 44 degrees 11 minutes 49 seconds to the right and run in a Northwesterly direction for a distance of 231.66 feet; thence turn a deflection angle of 94 degrees 33 minutes 08 seconds to the left and run in a Southwesterly direction for a distance of 80.01 feet; thence turn a deflection angle of 89 degrees 05 minutes 29 seconds to the right and run in a Northwesterly direction for a distance of 101.15 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the left and run in a Southwesterly direction for a distance of 30.00 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the right and run in a Northwesterly direction for a distance of 60.00 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the right and run in a Northeasterly direction for a distance of 46.99 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the left and run in a Northwesterly direction for a distance of 100.00 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the right and run in a Northeasterly direction for a distance of 398.58 feet to the point of beginning of a tangent curve to the right, said curve having a radius of 630.00 feet, a central angle of 05 degrees 27 minutes 38 seconds and a chord distance of 60.02 feet; thence run in a Northeasterly direction along the arc of the curve for a distance of 60.04 feet, thence Northeasterly along a straight line that is tangent to said curve for a distance of 55.97 feet; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the left and run in a Northwesterly direction for a distance of 42.14 feet to a point on the North line of said Section 27; thence turn a deflection angle of 114 degrees 01 minutes 55 seconds to the right and run



in an Easterly direction along said North boundary for a distance of 825.10 feet to the point of beginning. Said parcel contains 2,488,729 square feet or 57.13 acres more or less.

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