

## **DECLARATION OF EASEMENT FOR STORM WATER DRAINAGE SYSTEM**

THIS DECLARATION OF EASEMENT FOR STORM WATER DRAINAGE SYSTEM is made this 30th day of October, 2001, by and between BAZAAR 280, LLC, an Alabama limited liability company ("BAZAAR 280") and T. OWEN VICKERS ("VICKERS") and pursuant to the terms and conditions contained herein.

### **W I T N E S S E T H:**

**WHEREAS**, BAZAAR 280 is the owner of the real property located in Shelby County, Alabama, more particularly described as Lot 1 as follows ("Lot 1");

Lot 1, according to the survey of Aultman's Addition to 280, as recorded in Map Book 29, Page 1, in the Office of the Judge of probate of Shelby County, Alabama

and

**WHEREAS**, Vickers is the owner of the real property located in Shelby County, Alabama, more particularly described as Lot 2 as follows ("Lot 2"). Lot 2 is adjacent to Lot 1;

Lot 2, according to the survey of Aultman's Addition to 280, as recorded in Map Book 29, Page 1, in the Office of the Judge of probate of Shelby County, Alabama

and

**WHEREAS**, BAZAAR 280 and Vickers desires to direct and discharge surface water and subsurface storm water from their respective lots to the drainage inlet on each other's lot pursuant to the terms contained herein.

**WHEREAS**, BAZAAR 280 and Vickers desire to grant each other an easement for the system to provide drainage of surface water and subsurface storm water across Lot 1 and Lot 2, pursuant to the terms contained herein.

**NOW THEREFORE**, for and in consideration of Ten and No/100 Dollars (\$10.00), the execution of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BAZAAR 280 and Vickers covenant and agrees as follows:

1. **GRANT OF EASEMENT FOR STORM WATER DRAINAGE ACROSS LOT 1 AND LOT 2.**

BAZAAR 280, as the owner of Lot 1, and Vickers, as the owner of Lot 2, hereby grants, sells and conveys unto each other and future owners of Lot 1 and Lot 2 and the current and future tenants of Lot 1 and Lot 2, their successors and assigns ("Grantees"), subject to the limitations, terms, and conditions herein, a perpetual, non-exclusive easement for a storm water drainage system across Lot 1 and Lot 2, together with all rights and privileges necessary or convenient for the reasonable enjoyment or use thereof, to allow surface and storm water to be discharged through a storm water drainage system from the storm water inlets on Lot 1 and Lot 2, shown on Exhibit "C" (the "Easement Premises"). The use of the Easement across Lot 1 and Lot 2 shall be uninterrupted and in common with BAZAAR 280's and Vickers's successors and assigns.

2. **PROHIBITION OF IMPROVEMENTS ON EASEMENT:** BAZAAR 280 and Vickers hereby

agrees that they shall not build or maintain, or permit to build or maintained, any structure on the Easement Premises which would prevent the Grantee from using and utilizing the Easement rights granted herein. This restriction shall not apply to paving, asphalt and other materials related to the installation, construction and maintenance of an entranceway, or appurtenant electrical equipment or other utilities. BAZAAR 280 and Vickers, however, reserves the right to relocate said Easement Premises on each of their respective lots to another location on said property, provided, such relocated Easement Premises shall not diminished the ability

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3. **CONSTRUCTION AND MAINTENANCE:** BAZAAR 280 is constructing, at its sole cost, a drainage system (the "Drainage System") across the Easement Premises in accordance with the plans and specifications done by Gonzalez, Webb, Strength, Inc. dated July 6, 2001 and as installed. Drainage System shall be sufficient to accommodate the easements rights granted herein and to handle the surface and storm water from Lot 1 and Lot 2. Drainage System shall be completed by June 1, 2002. If such Drainage System is not completed as provided herein, Vickers is hereby granted an easement to enter onto Lot 1 as may be necessary to complete construction of such Drainage System and BAZAAR 280 shall reimburse Vickers for all costs and expenses incurred within twenty (20) days of receipt of the invoices evidencing such costs. The actual day-to-day maintenance of the Easement Premises and Drainage System across lot 1 and Lot 2 shall be performed by BAZAAR 280, its successors, agents or assigns; provided, Vickers shall not cause or do anything which would impede or increase the capacity of storm water drainage into Drainage System. Grantee agrees to maintain the Drainage System in a reasonable condition. Any future maintenance of said easement shall be by agreement between the owners of Lot 1 and Lot 2.

4. **COVENANT RUNNING WITH THE LAND:** The Easement hereby granted, the restrictions hereby imposed, and the agreements herein contained shall be easements, restrictions, and covenants running with the land and shall inure to the benefit of and be binding upon, the parties reference herein, their respective successors and assigns.

5. **PRIVATE EASEMENT:** The Easement, rights, and privileges established, created and declared in this instrument shall not be construed as creating any rights in the public, or other entities, other than the parties and the properties provided for herein.

6. **TERMINATION AND AMENDMENT:** This Easement may only be amended by a written agreement signed by BAZAAR 280 and Vickers.

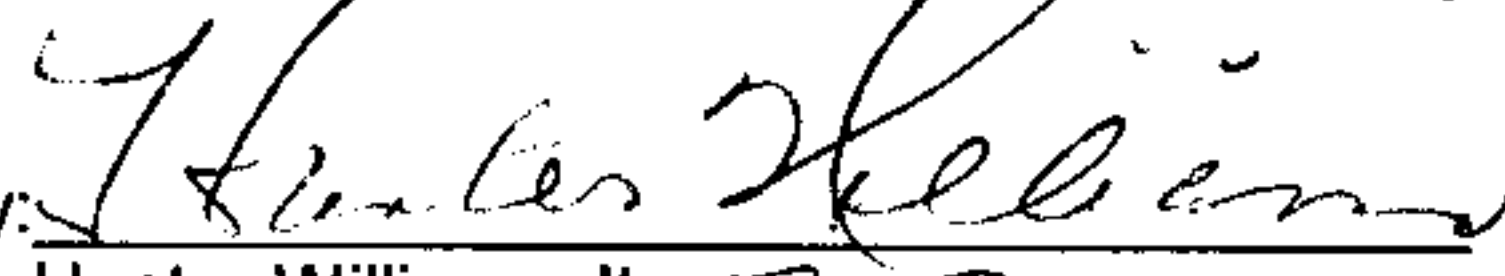
7. **CONSENT AND SUBORDINATION:** Compass Bank, BAZAAR 280's lender, currently holds a mortgage lien on Lot 1, pursuant to a loan issued to BAZAAR 280. Compass Bank hereby consents to the Easement and terms provided for herein and further agrees to subordinate any rights which it now has, or acquires in the future pursuant to such loan to BAZAAR 280, to the rights of Vickers provided for herein.

8. **COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute but one and the same instrument and shall be binding upon, and shall inure to the benefit of, each of the undersigned as though all had signed one instrument.

[SIGNATURES ON FOLLOWING PAGES]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the day and year first set forth above.

**BAZAAR 280, LLC**, an Alabama limited liability company

By:   
Hunter Williams, Its Manager

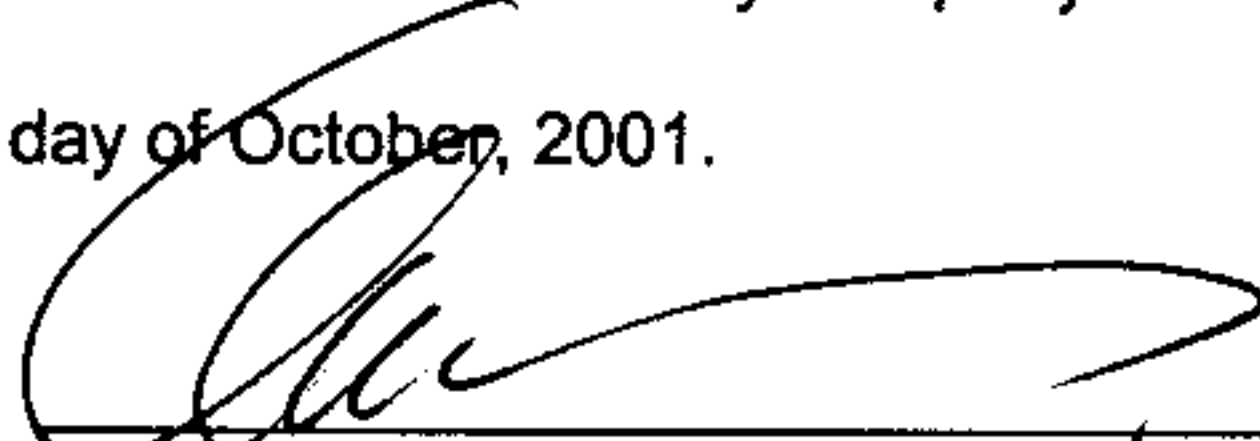
STATE OF ALABAMA )

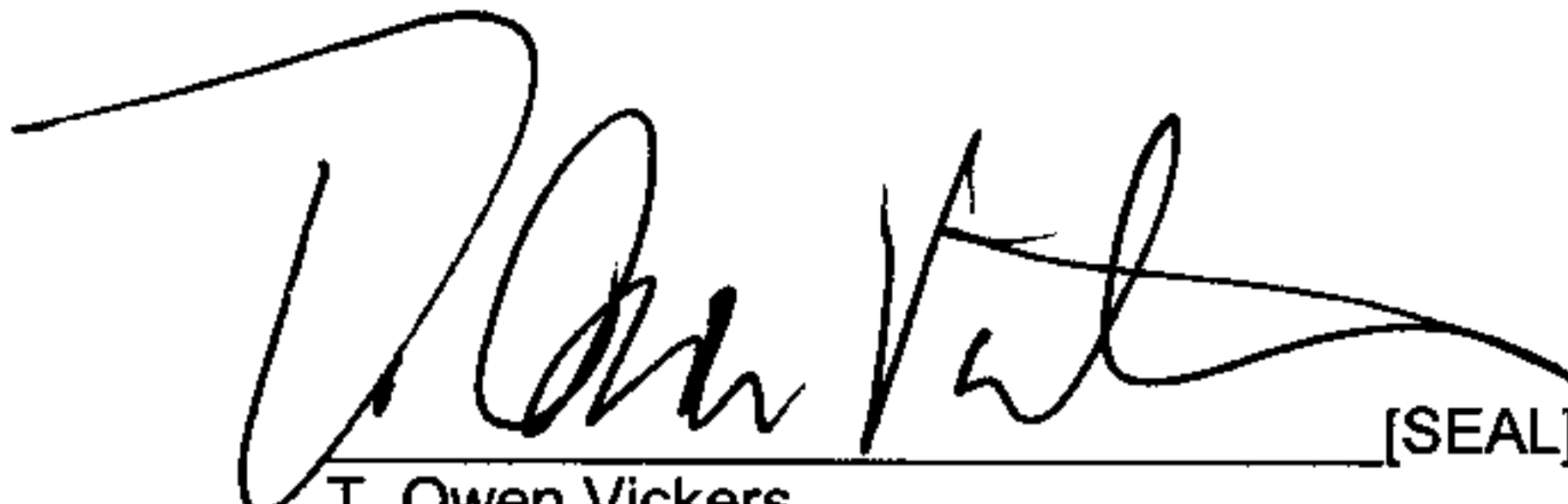
JEFFERSON COUNTY )

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that Hunter Williams, whose name as Manager of BAZAAR 280, LLC, an Alabama Limited Liability Company, is signed to the foregoing Declaration of Easement for Ingress and Egress, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, 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 \_\_\_\_ day of October, 2001.

[NOTARY SEAL]

  
Notary Public  
My Commission Expires: 12/28/2003

  
T. Owen Vickers [SEAL]

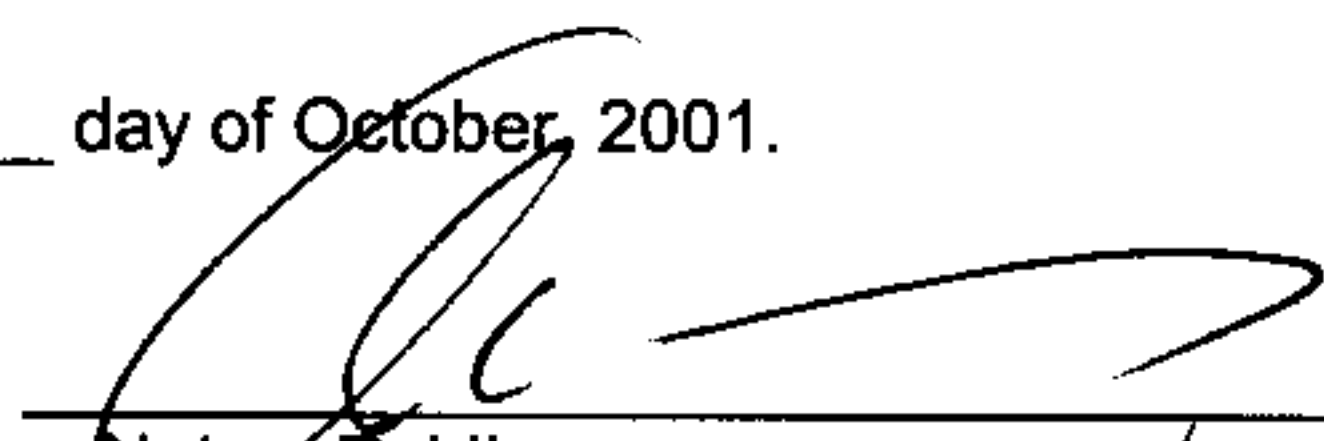
STATE OF ALABAMA )

\_\_\_\_\_ COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **T. Owen Vickers**, whose name 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 foregoing instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of October, 2001.

[NOTARY SEAL]

  
Notary Public  
My Commission Expires: 12/28/2003

LENDER:

COMPASS BANK, a State Bank

By [Signature]  
Its: SVP

STATE OF ALABAMA )

Jefferson  
Shelby COUNTY )

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that Scott Fullinwider SVP of Compass Bank, a state bank, is signed to the foregoing Declaration of Easement for Easement for Ingress and Egress, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he/she, as such office and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 2<sup>nd</sup> day of November, 2001.

[NOTARY SEAL]

Camanda McMath Sherman  
Notary Public MY COMMISSION EXPIRES JULY 28, 2005  
My Commission Expires: \_\_\_\_\_

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12/04/2001-52499  
10:32 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
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