


This instrument was prepared by:
 Gail Livingston Mills, Esq.
 Burr & Forman LLP
 3100 SouthTrust Tower
 Birmingham, AL 35203


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 Shelby Cnty Judge of Probate, AL
 11/08/2002 09:51:00 FILED/CERTIFIED

STATE OF ALABAMA)
 COUNTY OF SHELBY)

TEMPORARY CONSTRUCTION AND SLOPE EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION AND SLOPE EASEMENT AGREEMENT (this "Agreement") is made as of the 6th day of November, 2002, by **ASBURY UNITED METHODIST CHURCH**, an Alabama nonprofit corporation (the "Grantor"), in favor of **AIG BAKER BROOKSTONE, L.L.C.**, a Delaware limited liability company, its successors and/or assigns (the "Grantee").

WITNESSETH

WHEREAS, Grantor is the owner of certain real estate situated between U.S. Highway 119 and U.S. Highway 280 in Shelby County, Alabama more particularly described on Exhibit A attached hereto (the "Church Land");

WHEREAS, Grantee is the owner of that certain parcel of real estate (the "AIG Baker Land") which is contiguous to the Church Land and located in Shelby County, Alabama as more particularly described on Exhibit B attached hereto and incorporated herein by reference.

WHEREAS, Grantee has requested that Grantor allow Grantee to enter those certain areas within the Church Land (the "Slope Easement Areas"), which Slope Easement Areas are more particularly described on Exhibit C attached hereto and incorporated herein by reference, and also those areas identified on Exhibit D attached hereto as "Slope Easement Areas" for the purposes of constructing the Connector Road (as hereinafter defined) and constructing a slope as set forth hereafter.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid to Grantor, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, and convey, to Grantee, its successors and assigns, upon the conditions and subject to the limitations hereinafter set forth, the easements hereinafter set forth.

TO HAVE AND TO HOLD said easements unto Grantee, its successors and assigns.

Grantor covenants with Grantee that it owns in fee the real property upon which the easements herein are conveyed, and that it has a good right to execute this Agreement and to grant the easements hereinafter described.

1. **Temporary Construction Easements.** Subject to the terms and provisions of this Paragraph 1 and the terms and provisions of Paragraph 3 below, Grantor does hereby declare, establish, grant, and convey, for the benefit of the AIG Baker Land, a temporary construction easement appurtenant (the "Construction Easement") to the AIG Baker Land over those portions of the Church Land lying within 50 feet of the Slope Easement Area for the purpose of permitting Grantee to clear and grade the Slope Easement Area to form self-supporting slopes (the "Slopes") the Southwesterly side of proposed new roadway (the "Connector Road"), all as shown on that certain plan more particularly set forth on Exhibit D attached hereto and incorporated herein by reference (the "Slope Plan"). Grantee covenants and agrees that any construction activities on the Church Land shall be undertaken in strict accordance with the Slope Plan. Any entry onto the Church Land by Grantee, its agents, employees or contractors shall be limited to the Slope Easement Area and the area designated herein as the Construction Easement and shall not interfere with the use of the remainder of the Church Land by Grantor. All construction work, once commenced, shall be processed expeditiously to conclusion. This Construction Easement shall cease without further action of the parties after the earlier of: (i) thirty (30) days after completion of construction of the Slopes within the Slope Easement Area; or (ii) two (2) years from the date hereof. Upon the termination of the Construction Easement, Grantee covenants and agrees to (1) promptly remove any construction equipment from the Church Property and the Connector Road and all construction materials, trash, rubbish or debris which may have been deposited on any portion of the Church Land or the Connector Road in connection with the exercise of the Construction Easement and (2) subject to the terms and provisions of Paragraph 2 below which require that the Slope Easement Area be landscaped, restore all portions of the Church Land which have been utilized by Grantee in the exercise of the Construction Easement to its original condition as existed immediately prior to the execution of this Agreement.

2. **Slope Easement.** Grantor does hereby declare, establish, grant, and convey, for the benefit of the AIG Baker Land, a perpetual, non-exclusive easement appurtenant (the "Slope Easement") to the AIG Baker Land for the purposes of permitting Grantee, after construction of the Slopes, to enter upon said Slope Easement Area, from time to time as necessary, to maintain and repair, as the case may require, any damage or weathering on the Slope which may interfere with traffic on the Connector Road or which may damage the Church Land, and Grantee and its successors and/or assigns hereby covenant and agree to perform such work and keep the Slopes in good order and repair. Without limitation upon the foregoing, Grantee, on behalf of itself and its successors and/or assigns, agrees to (a) hydro-seed all disturbed areas of the Slope Easement Area upon the completion of construction of the Slopes, and (b) at all times following completion of construction, maintain all portions of the Slope Easement Area in good condition and repair, including, without limitation, (i) promptly replacing (by re-hydro-seeding), upon Grantor's request, any diseased, dying, or dead grass located within the Slope Easement Area, and (ii) maintaining at times permanent erosion control for all of the Slope Easement Area. The foregoing shall not impose on Grantee any obligation to mow the grass within the Slope Easement Area. Grantee's use of the Slope Easement Area shall be in common with the Grantor, it being expressly agreed that Grantor reserves to itself, its successors, assigns, invitees, and others claiming under or through Grantor, as the case may be, the unrestricted use of the Slope Easement Area, subject only to the rights of Grantee as herein set forth.

3. **Requirements for Exercise of Easements.** Notwithstanding anything provided in this Agreement to the contrary, Grantee acknowledges and agrees that, in the exercise of the Construction Easement and the Slope Easement, the following terms, conditions and requirements shall at all times be satisfied by Grantee:

(a) The exercise of the Construction Easement and the Slope Easement by Grantee shall be undertaken in strict accordance with all applicable governmental statutes, ordinances, code provisions, rules and regulations, including, without limitation, the satisfaction of all stormwater drainage and erosion control measures and requirements of any applicable governmental agency or authority. In connection therewith, Grantee shall utilize best management practices in connection with any construction work undertaken upon any portion of the Church Land and the Slope Easement Area.

(b) Grantee, for itself and its successors and assigns (including any subsequent owner of any portion of the AIG Baker Land), does hereby agree to indemnify, defend and hold Grantor harmless from and against any and all claims, demands, actions, losses, liabilities, damages and expenses, including reasonable attorneys' fees and expenses, suffered, paid or incurred by Grantor arising out of or by virtue of (i) any injury or damage to person (including death) or property caused by any act or omission of Grantee or any of its agents, employees, representatives or contractors in the use or exercise of the Construction Easement or Slope Easement granted herein or in the failure to timely and properly maintain the same as required by the terms and provisions of this Agreement, (ii) any damages to the Church Land arising out of the exercise of the Construction Easement or the Slope Easement, and (iii) the failure to pay all bills, invoices, costs and other charges relating to the construction of any improvements to the Slope Easement Area.

4. **Agreements Run With Land.** Both the benefits and the burdens of all easements, restrictions, benefits and obligations established by this Agreement shall run with and bind the lands described herein, and shall be binding upon and inure to the benefit of any and all owners thereof and their respective tenants, licensees, invitees, employees, personal representatives, heirs, successors and assigns, and, except as herein expressly provided to the contrary, shall be perpetual. This Agreement and all rights for its use and maintenance are assignable and may be transferred and/or assigned by Grantee to any governmental authority to whom the Connector Road is dedicated by Grantee. Grantor agrees to cooperate in the dedication of such Connector Road, provided any expenses incurred in connection with such dedication shall be borne by Grantee.

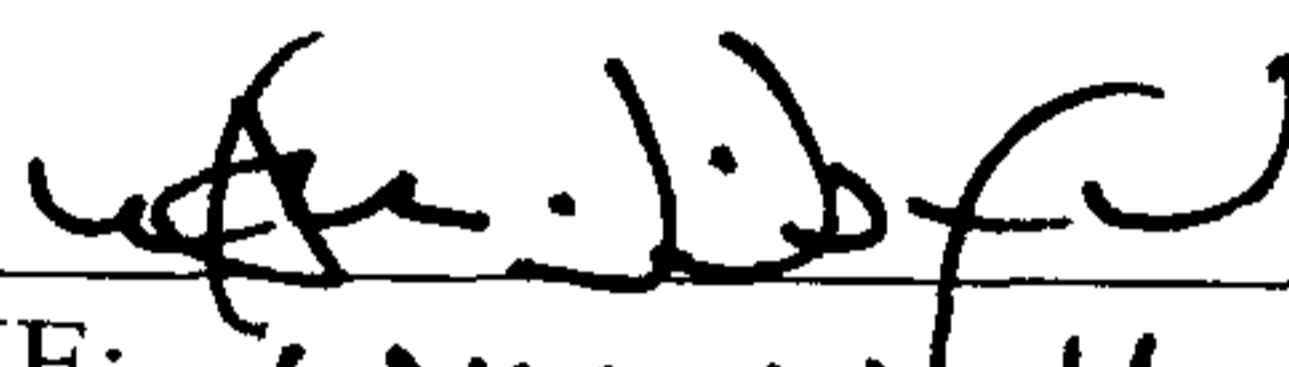
5. **Interpretation.** The easements, restrictions, benefits and obligations set forth herein shall be interpreted so as to allow the owners of all lands affected hereby to enjoy the commercially reasonable use and benefit of the same while fulfilling the essential purposes of such easements, covenants and restrictions.

IN WITNESS WHEREOF, Grantor has executed this Grant of Easement as of the day and year first above written.

GRANTOR:

ASBURY UNITED METHODIST CHURCH,
an Alabama nonprofit corporation

BY: 
NAME: Jim Brothereton, Jr.
as Trustee of the Board of Trustees
of the Asbury United Methodist Church, Inc.


BY: 
NAME: William H. Dawson
as Trustee of the Board of Trustees
of the Asbury United Methodist Church, Inc.

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Jim Brothereton Jr and William H. Dawson, as Trustees of the Board of Trustees of the Asbury United Methodist Church, an Alabama nonprofit corporation, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, as such trustees and with full authority, executed the same voluntarily in their representative capacities for and as the act of said church.

Given under my hand and seal, this 14 day of November, 2002.

(SEAL)

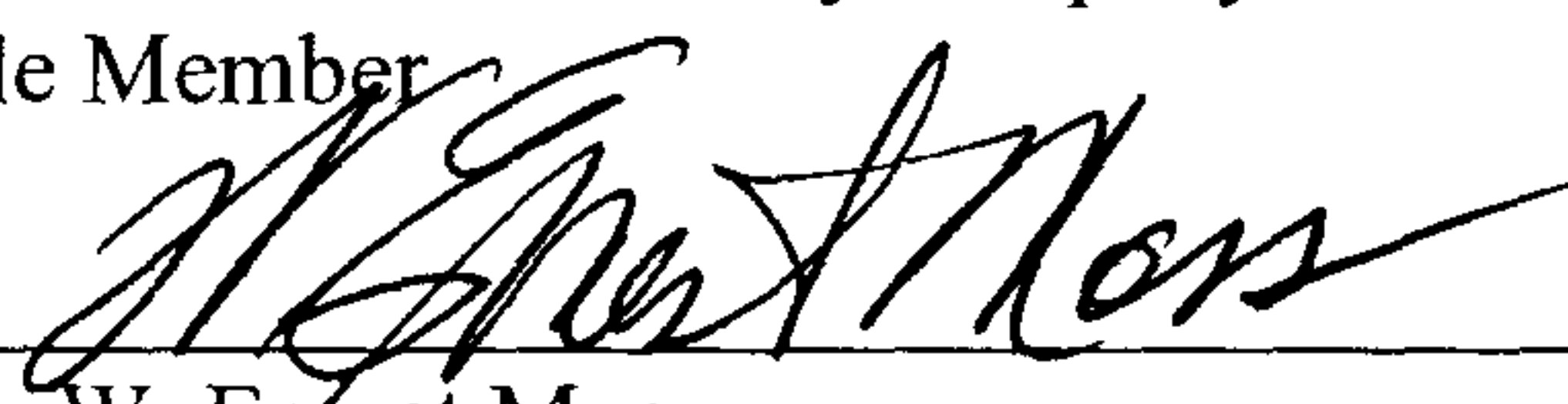

NOTARY PUBLIC
My Commission Expires: 7-2-03

IN WITNESS WHEREOF, Grantee has executed this Grant of Easement as of the day and year first above written.

GRANTEE:

AIG BAKER BROOKSTONE, L.L.C.
a Delaware limited liability company

BY: AIG BAKER SHOPPING CENTER
PROPERTIES, L.L.C.
a Delaware limited liability company
Its Sole Member


BY: 
W. Ernest Moss
Its: Executive Vice President

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that W. Ernest Moss as Executive Vice President of AIG Baker Shopping Center Properties, L.L.C., a Delaware limited liability company, as sole member of AIG Baker Brookstone, L.L.C., a Delaware limited liability company, whose name is signed to the foregoing Statutory Warranty Deed, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Statutory Warranty Deed, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company, acting in its capacity as aforesaid.

Given under my hand and seal, this 5th day of November, 2002.

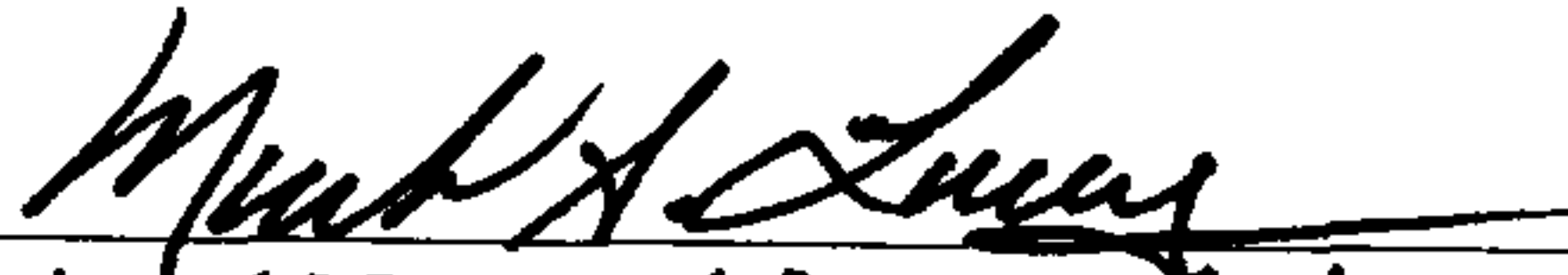
(SEAL)


NOTARY PUBLIC
My Commission Expires: 7-2-03

CONSENT

The undersigned, Mark S. Lacey, as pastor of Asbury United Methodist Church, an Alabama nonprofit corporation, and William B. Morgan, Jr., the District Superintendent of the United Methodist Church, Birmingham-East District, North Alabama Conference, do hereby consent to the execution and delivery of the foregoing Temporary Construction and Slope Easement Agreement by Asbury United Methodist Church, an Alabama nonprofit corporation.

Dated as of the 6th day of November, 2002.


Printed Name: MARK S. LACEY
Pastor of Asbury United Methodist Church

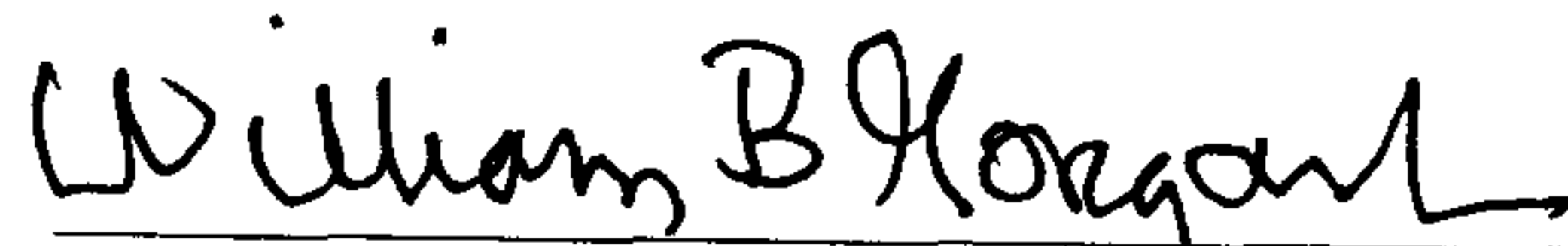

William B. Morgan, Jr., District
Superintendent of the United Methodist
Church, Birmingham-East District, North
Alabama Conference

EXHIBIT A

Church Land

As described in Deed recorded in: Deed book 142, Page 609, Real Book 289, Page 061, and Real Book 318, Page 672 in Office of the Judge of Probate of Shelby County, Alabama.

EXHIBIT B

AIG Baker Land

Parcel I:

A parcel of land situated in the Northeast quarter of Southwest quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 2" capped pipe purported to be the N.W. corner of the N.E. 1/4 of the S.W. 1/4 of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, said point being the POINT OF BEGINNING of herein described parcel; thence proceed N 88°49'06" E along the North line of said N.E. 1/4 of S.W. 1/4 for a distance of 1334.50 feet to a point; thence proceed S 00°25'08" E along the East line of said N.E. 1/4 of S.W. 1/4 for a distance of 688.70 feet to a point; thence proceed S 88°52'06" W for a distance of 30.00 feet to a point; thence proceed S 00°25'08" E for a distance of 628.67 feet to a point lying on the South line of said N.E. 1/4 of S.W. 1/4; thence proceed S 88°55'06" W along the South line of said N.E. 1/4 of S.W. 1/4 for a distance of 1303.54 feet to a 2" pipe purported to be the Southwest corner of said N.E. 1/4 of S.W. 1/4; thence proceed N 00°27'35" W along the West line of said N.E. 1/4 of S.W. 1/4 for a distance of 1315.07 feet to the POINT OF BEGINNING.

Containing 39.874 acres more or less or approximately 1736887.85 Square feet.

Parcel II:

All of the North half (N1/2) of the North half (N1/2) of the Southwest quarter (SW1/4) of the Northwest quarter (NW1/4) of Section 5, Township 19 South, Range 1 West. Also a part of the North half (N1/2) of the North half (N1/2) of the Southeast quarter (SE1/4) of the Northeast quarter (NE1/4) of Section 6, Township 19 South, Range 1 West that lies East of Alabama Highway #119 (Cahaba Valley Highway) right of way; being more particularly described as follows:

BEGIN at a point commonly purported to be the Northwest corner of the Southwest quarter of the Northwest quarter of Section 5, Township 19 South, Range 1 West; thence proceed N88°38'50"E along the North line of said S.W.1/4 of the N.W.1/4 for a distance of 1334.18 feet to a point purported to be the Northeast corner of said quarter section; thence proceed S00°29'13"E along the East line of said quarter section for a distance of 331.15 feet to a point; thence leaving the East line of said quarter section proceed S88°45'44"W for a distance of 1333.86 feet to a point on the West line of said Section 5; thence proceed S88°54'17"W for a distance of 715.74 feet to a point; thence proceed N24°11'22"W for a distance of 52.13 feet to a point; thence proceed N58°49'55"W for a distance of 73.62 feet to a point on the Southeasterly right of way margin of Alabama Highway #119 (Cahaba Valley Highway), said point lying on a curve to the right, said curve having a radius of 2824.79 feet, a central angle of 03°18'07" and a chord which bears N43°30'40"E for a distance of 162.77 feet; thence proceed along the arc of said curve 162.79 feet and along said Southeasterly right of way margin of Alabama Highway #119 (Cahaba Valley Highway) to a point of tangency; thence continuing along said Southeasterly right of way margin of Alabama Highway #119 (Cahaba Valley Highway) proceed N45°09'43"E for a distance of 181.26 feet to a point on the North line of the Southeast quarter of the Northeast quarter of said Section 6; thence proceed N88°54'18"E along the North line of said Southeast quarter of the Northeast quarter of Section 6 for a distance of 556.39 feet to the POINT OF BEGINNING.

Said parcel contains 668978.02 square feet or 15.358 acres more or less.

Parcel III:

A parcel of land situated in the S.E. 1/4 of the N.W. 1/4 and the S.W. 1/4 of the N.E. 1/4 of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at iron pin set at the S.E. corner of the S.E. 1/4 of the N.W. 1/4 of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, said point being the POINT OF BEGINNING; thence proceed S 88°49'06" W along said South line of said S.E. 1/4 of N.W. 1/4 for a distance of 1334.50 feet to a 2" capped pipe purported to be the S.W. corner of the S.E. 1/4 of the N.W. 1/4 of said Section 5; thence proceed N 00°30'04" W along the West line of said S.E. 1/4 of N.W. 1/4 for a distance of 987.15 feet to a rebar found; thence proceed N 88°41'32" E for a distance of 1335.96 feet to a 2" open top pipe on the East line of said S.E. 1/4 of N.W. 1/4; thence proceed S 00°25'08" E along said East line of said S.E. 1/4 of N.W. 1/4 for a distance of 520.11 feet to an iron pin set; thence proceed N 88°49'06" E for a distance of 165.30 feet to an iron pin set on the West right of way of U.S. Highway 280; thence proceed S 03°59'20" W along said West right of way of U.S. Highway 280 for a distance of 89.76 feet to a concrete right of way monument; thence proceed S 07°19'16" E along said West right of way of U.S. Highway 280 for a distance of 382.76 feet to a to an iron pin set on the South line of said S.W. 1/4 of N.E. 1/4; thence proceed S 88°49'06" W along said South line of said S.W. 1/4 of N.E. 1/4 for a distance of 204.40 feet to POINT OF BEGINNING.

Containing 32.218 acres more or less or approximately 1403423.99 square feet.

EXHIBIT C

SLOPE EASEMENT AREAS

Slope Easement Area No. 1:

A parcel of land situated in the S.W. 1/4 of the N.W. 1/4 of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at a 2" diameter open top pipe found at the N.E. corner of the S.W. 1/4 of the N.W. 1/4 of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama; thence proceed S 00°29'13" E along the East line of said S.W. 1/4 of N.W. 1/4 for 331.15 feet to a rebar found; thence proceed S 00°30'04" E and continuing along the East line of said S.W. 1/4 of N.W. 1/4 for 668.48 feet to the **POINT OF BEGINNING**; thence continue S 00°30'04" E along the East line of said S.W. 1/4 of N.W. 1/4 for 104.18 feet; thence proceed for the following courses:

thence S 80°50'03" W for 37.12 feet;
thence N 86°46'07" W for 52.36 feet;
thence N 56°32'11" W for 69.02 feet;
thence N 10°09'41" W for 127.05;
thence N 23°05'22" W for 53.19 feet;
thence N 47°34'40" W for 38.89 feet;
thence N 03°25'40" E for 102.04 feet;
thence N 02°49'34" W for 76.22 feet;
thence N 11°07'18" W for 69.59 feet;
thence N 22°20'02" W for 88.58 feet;
thence N 32°43'22" W for 72.60 feet;
thence N 39°10'52" W for 79.77 feet;
thence N 67°23'16" W for 18.33 feet;

Thence N 13°04'41" E for 23.86 feet to the beginning of a curve to the right, said curve being non-tangent to the last described course and having central angle of 56°58'21", a radius of 550.00 feet, and a chord which bears S 38°35'36" E, for 524.64 feet; thence proceed Southeasterly along the arc of said curve for 546.90 feet to the end of said curve; thence proceed S 10°06'25" E and tangent to the last described curve for 194.85 feet to the beginning of a curve to the left, said curve being tangent to the last described course and having a central angle of 01°11'04", a radius of 525.00 feet and a chord which bears S 10°41'58" E for 10.85 feet; thence proceed Southeasterly along the arc of said curve for 10.85 feet to the **POINT OF BEGINNING**.

Containing 2.251 acres more or less.

Slope Easement No. 2: As shown on Exhibit D attached hereto.

Slope Easement No. 3: As shown on Exhibit D attached hereto.

EXHIBIT D

Slope Plan

**Slope Easement
Area No. 3**

AIG Brookstone, L.L.C Property

**Exhibit D
The Slope Plan**

**Slope Easement
Area No. 2**

**Construction Easement
Area**

**Slope Easement
Area No. 1**

**Construction Easement
Area**

50'

Asbury United Methodist Church

**Slope Easement
Area**

**Construction Easement
Area**

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- Notes:**
1. No Metes and Bounds for Slope Easement Areas No. 2 and No. 3.
 2. Metes and Bounds for Slope Easement Area No. 1 is Approximate.

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