

STATE OF ALABAMA     )  
                                  :  
COUNTY OF SHELBY     )

**DECLARATION OF NON-EXCLUSIVE ACCESS  
AND UTILITY EASEMENTS**

KNOW ALL MEN BY THESE PRESENTS; that

WHEREAS, Alabaster Retail Property, L.L.C., an Alabama limited liability company (hereinafter referred to as "Declarant"), owns certain property known as proposed Lot 8A, White Stone Center Subdivision, more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (hereinafter referred to as "the Benefited Parcel"); and

WHEREAS, Declarant owns certain property known as proposed Lot 8B, White Stone Center Subdivision, more particularly described on Exhibit "B" attached hereto and incorporated herein by reference (hereinafter referred to as the "Burdened Parcel"); and

WHEREAS, Declarant desires to establish for the benefit of Declarant, and its successors and assigns in ownership of the Benefited Parcel, a non-exclusive, perpetual easement for access and utilities over, along, across and under that portion of the Burdened Property described on Exhibit "C" attached hereto and incorporated herein by reference (hereinafter referred to as "Easement Area").

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Declarant hereby declares as follows:

1. Declarant hereby declares, creates, establishes and reserves unto and in favor of Declarant, and its successors and assigns in ownership of the Benefited Parcel, and their respective mortgagees, agents, customers, invitees, licensees, tenants and employees, the following non-exclusive, perpetual easements:

- (a) Access Easement. A non-exclusive, perpetual easement for ingress and egress, over, along and across the Easement Area in order to provide access to and from the Benefited Parcel and Kent Dairy Road, for use by the Declarant and its successors and assigns in ownership of the Benefited Parcel, and their respective mortgagees and tenants, and all of their agents, customers, employees, invitees and licensees. Declarant, and its successors and assigns in ownership of the Benefited Parcel, shall have the right, but not the obligation, to install and construct or to cause to be installed and constructed a paved or other surfaced roadway and other related improvements over, along and across the Easement Area, and to alter any improvements located within the Easement Area as may be deemed reasonably necessary by Declarant, or its successors and assigns in ownership of the Benefited Parcel, in order to further the use of the Easement Area for such access. Declarant and its successors and assigns in ownership of the Benefited

*Land Title*

Parcel shall have the right, but not the obligation, to maintain, repair, replace and remove, from time to time, any improvements so installed within the Easement Area and the right to enter upon the surface or any portion of the Easement Area to implement the foregoing rights.

- (b) Utility Easement. A non-exclusive, perpetual easement for installation, construction, maintenance, use, repair, replacement and removal of utilities over, under and through the Easement Area in order to serve the Benefited Parcel. The utility easement shall be for the purpose of allowing Declarant, and its successors and assigns in ownership of the Benefited Parcel, and others authorized by such parties, the right, but not the obligation, to construct, install, erect, maintain, use repair, replace and connect to utilities, wires, cables, conduits, lines and equipment under, through, along and across the Easement Area and will include the right to enter upon the surface or any portion of the Easement Area to implement the foregoing rights.

2. Miscellaneous.

- (a) Declaration. The Easement Area shall be held, sold and conveyed subject to, and the Benefited Parcel shall be held, sold and conveyed together with, the easements which are created upon the Easement Area as set forth above.
- (b) Constructive Notice and Acceptance. Every person or legal entity who or which will hereafter own or acquire any right, title, interest or estate in or to any portion of the Easement Area, whether or not such interest is reflected upon the public records of Shelby County, Alabama, will be conclusively deemed to have consented and agreed to the easements contained herein, whether or not any reference to this Declaration is contained in the document or instrument pursuant to which such person or legal entity will have acquired such right, title, interest or estate in the Easement Area or any portion thereof.
- (c) Effect of Invalidation. If any particular provision of this Declaration is held to be invalid by any court, the validity of such provision will not affect the validity of the remaining provisions hereof.
- (d) Negation of Partnership. None of the terms or provisions of this Declaration shall be deemed to create a partnership between or among Declarant, and its successors and assigns in ownership of the Benefited Parcel, and any person or legal entity who or which will hereafter own or acquire any right, title, interest or estate in or to any portion of the Easement Area, in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise.
- (e) Damage. Any injury to person or damage to property of another that occurs during any construction activity permitted herein shall be the responsibility of the person or entity that causes such injury or damage.

TO HAVE AND TO HOLD unto Declarant, and its successors and assigns in ownership of the Benefited Parcel, forever.

IN WITNESS WHEREOF, Alabaster Retail Property, L.L.C., an Alabama limited liability company, has caused this instrument to be executed by its duly authorized Manager, with full authority, on this 10<sup>th</sup> day of March, 2004.

ALABASTER RETAIL PROPERTY, L.L.C.,  
an Alabama limited liability company

By: SC Management, Inc.,  
an Alabama corporation  
Its Manager

By: Seke F. Aronov  
Its President

STATE OF ALABAMA                    )  
                                                  :  
COUNTY OF MONTGOMERY        )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Seke F. Aronov whose name as President of SC Management, Inc., an Alabama corporation, acting as Manager of Alabaster Retail Property, L.L.C., 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation acting as Manager of said limited liability company.

Given under my hand an official seal this 10<sup>th</sup> day of March, 2004.

(SEAL)

Aaron J. Hawes  
Notary Public  
My Commission Expires: 10/24/05

This instrument was prepared by:  
Jeffrey W. Blitz, Esq.  
Rushton, Stakely, Johnston & Garrett, P.A.  
Post Office Box 270  
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(334) 206-3100

Aronov\Alabaster\Dollar General\Non-Exclusive Access and Utility Easement\Non-Exclusive Access and Utility Easement (3-8-04)(2)  
2940-289  
031020040927

## **Exhibit "A"**

(Benefited Parcel)

A parcel of land situated in the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 2343.49 feet; thence, run South 25°30'31" West a distance of 582.37 feet to the POINT OF BEGINNING; thence, continue South 25°30'31" West a distance of 182.00 feet; thence, run North 64°29'29" West a distance of 95.65 feet; thence, run North 42°35'05" West a distance of 48.50 feet; thence, run North 25°30'31" East a distance of 56.90 feet; thence, run North 64°29'29" West a distance of 20.00 feet; thence, run North 25°30'31" East a distance of 91.50 feet; thence, run North 19°29'29" West a distance of 21.92 feet; thence, run South 64°29'29" East a distance of 176.16 feet to the POINT OF BEGINNING.

Said parcel contains 0.630 acres, more or less.

## **Exhibit "B"**

### **(Burdened Parcel)**

A parcel of land situated in the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South  $89^{\circ}03'42''$  East along the north boundary of said Section 14 a distance of 2343.49 feet; thence, run South  $25^{\circ}30'31''$  West a distance of 408.41 feet to the POINT OF BEGINNING, said point lying on the proposed south right-of-way of Kent Dairy Road (60-foot right-of-way proposed); thence, continue South  $25^{\circ}30'31''$  West a distance of 173.96 feet; thence, run North  $64^{\circ}29'29''$  West a distance of 241.65 feet; thence, run North  $19^{\circ}29'29''$  West a distance of 49.50 feet; thence, run North  $25^{\circ}30'31''$  East a distance of 121.10 feet to a point on the proposed right-of-way of said Kent Dairy Road; thence, run South  $80^{\circ}40'52''$  East along said right-of-way a distance of 19.53 feet to the Point of Curvature of a curve concave southwestwardly with a radius of 312.69 feet and a delta angle right of  $16^{\circ}11'06''$ ; thence, run along said proposed right-of-way an arc distance of 88.33 feet to the Point of Tangency of said curve (the chord subtending said arc bearing South  $72^{\circ}35'20''$  East a distance of 88.03 feet); thence, run South  $64^{\circ}29'47''$  East a distance of 170.74 feet to the POINT OF BEGINNING.

Said parcel contains 1.076 acres, more or less.

**Exhibit "C"**

(Easement Area)

A parcel of land situated in the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence proceed S89°03'42"E along the north boundary of said Section 14 a distance of 1538.52 feet to a point on the southeast right-of-way of Alabama Highway No. 119 (variable right-of-way); thence leaving said right-of-way proceed S89°03'42"E for a distance of 804.97 feet to a point; thence proceed S25°30'31"W for a distance of 348.41 feet to a point on the proposed northern right-of-way of Kent Dairy Road; thence proceed S25°30'31"W for a distance of 60.00 feet to a point on the proposed southern right-of-way of Kent Dairy Road and the POINT OF BEGINNING (POB).

From the POINT OF BEGINNING (POB) thence proceed S25°30'31"W for a distance of 173.96 feet to a point; thence proceed N64°29'29"W for a distance of 50.00 feet to a point; N25°30'31"E for a distance of 173.95 feet to a point on the proposed southern right-of-way of Kent Dairy Road; thence proceed along said right-of-way S64°29'47"E for a distance of 50.00 feet to a point and the POINT OF BEGINNING (POB).

Said tract containing 0.20 acres, more or less.