

STATE OF ALABAMA )

COUNTY OF SHELBY )

**DECLARATION OF  
TEMPORARY EASEMENT FOR ACCESS AND UTILITIES**

THIS DECLARATION OF TEMPORARY EASEMENT FOR ACCESS AND UTILITIES (this "Agreement") is executed as of this 17 day of August, 2004 by SHELBY LAND PARTNERS, LLC and MARK E. OSBORN (collectively, with their successors and assigns, the "Grantors").

**RECITALS**

- A. Grantors are the owners of certain real property located in Shelby County, Alabama, more particularly described on Exhibit "A" attached hereto and made a part hereof ("Grantors' Parcel").
- B. Emma Spence and Lillie B. Spence (collectively, with their heirs and assigns, the "Grantees") are the owners of certain real property located in Shelby County, Alabama, more particularly described on Exhibit "B" attached hereto and made a part hereof ("Grantees' Parcel").
- C. In order to provide for ingress and egress to and from the Grantees' Parcel across the Grantors' Parcel, and in order to allow for the installation of certain utilities to the Grantees' Parcel, Grantors have agreed to grant Grantees an easement across the Grantors' Parcel, such easement more particularly described on Exhibit "C", attached hereto and incorporated herein by reference.
- D. Grantors are willing to establish an easement over and through the Grantors' Parcel in accordance with the terms set forth herein.

NOW, THEREFORE, for the purposes set out in the foregoing recitals, and for the benefit of the Grantees, their Successors and the Users (as such terms are defined below), the Grantors do hereby declare and provide as follows:

1. **GRANT OF TEMPORARY EASEMENT FOR INGRESS/EGRESS AND UTILITIES.** Grantors hereby grant, bargain, sell and convey unto Grantees and their Successors (as {01056744.3})

hereinafter defined), a non-exclusive, temporary easement in, over, on, upon, through and across that portion of the Grantors' Parcel more particularly described on Exhibit "C" attached hereto (the "Easement Premises") for the sole benefit of the Grantees' Parcel for the following purposes, and not for any other purposes whatsoever: (i) for ingress and egress for vehicular and pedestrian traffic, and (ii) for the installation and maintenance of water and sewer utilities, with the right to construct, install, maintain, inspect, operate, repair, replace and remove lines, pipes, pipelines and appurtenances, for the transportation of water and sewer utilities. It is expressly agreed that such Easement Premises shall be for the non-exclusive use and benefit of the Grantees and their successors and assigns (collectively, "Successors") and their invitees and guests (collectively, "Users"), at all times during the term hereof, and for the purposes and subject to the limitations described herein. The within granted easement is hereby intended to be an easement appurtenant to the Grantees' Parcel, for the use, benefit and incident to the ownership of said Grantees' Parcel.

2. **PROHIBITION OF IMPROVEMENTS ON EASEMENT:** Neither the Grantors nor any of their Successors or assigns shall build or maintain, or permit to be built or maintained, any structure on the Easement Premises which would prevent the utilization of the Easement Premises by the Grantee, her Successors and Users.

3. **MAINTENANCE OF EASEMENT:** The actual day-to-day maintenance of the Easement Premises shall be performed by Colonial Properties Services, Inc. during the term of the Easement. Grantors shall have no responsibility of any kind or nature to maintain the Easement Premises during the term hereof.

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 hereto their respective heirs, successors and assigns, including, but without limitation, all subsequent owners of the Grantors' Parcel and the Grantees' Parcel.

5. **PRIVATE EASEMENT:** The easement, rights, and privileges established, created and declared in this instrument shall only be construed as creating a private right in such persons and not of creating any rights in the public.

6. **TERMINATION:** This Easement shall be temporary in nature and shall terminate and become null and void upon the earlier of two years from the date of this Easement or the completion of the road currently being constructed by the City of Alabaster, which road shall then provide Grantees access to their property.

7. **REASONABLE USE:** The parties agree that the easement rights created pursuant to this Agreement will be exercised in a reasonable manner which is calculated to minimize any interference with the conduct of business on any of the properties referred to herein.

8. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are for convenience of reference only and shall not be used to limit the applicability or meaning of any provisions of this Agreement.

9. **SEVERABILITY.** If any provision of this Agreement or the application thereof to any person or entity or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

10. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.



IN WITNESS WHEREOF, Grantors have caused this Agreement to be executed by their respective duly authorized representatives as of the date first written above.

**GRANTORS:**

SHELBY LAND PARTNERS, LLC

By:

Its:

*[Signature]*  
Manager

STATE OF ALABAMA )


Jefferson COUNTY )

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that James A Jackson, whose name as Manager of Shelby Land Partners, LLC, a 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 thereof, he, as such \_\_\_\_\_ 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 10<sup>th</sup> day of August, 2004.

*[Signature]*  
Notary Public

My Commission Expires: 1/31/08


  
MARK E. OSBORN

STATE OF ALABAMA )

Shelby COUNTY )

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that Mark E. Osborn, an individual, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he executed the same voluntarily.

Given under my hand and official seal this 12 day of August, 2004

  
Notary Public  
My Commission Expires: 2/17/07

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION**

Property owned by Shelby Land and Osborn located in the SE 1/4 of the NE 1/4 of Section 1, Township 21 South, Range 3 West Less and except the following property: A tract of land in the Southeast of the Northeast of Section 1, Township 21, Range 3 West. Begin 621 feet East of the Southwest corner and run East 260 feet, Northeast 800 feet, West 260 feet, Southwest 800 feet to point of beginning. Also Less and Except property deeded to Colonial Properties Services, Inc. in 20040507000243130; 20040507000243140; 2004050700024150; 20040507000243160; 20040507000243170, and 20040507000243180 Also Less and Except property deeded to City of Alabaster in 2004021100072110.

## **EXHIBIT “B”**

A tract of land in the Southeast of the Northeast of Section 1, Township 21, Range 3 West. Begin 621 feet East of the Southwest corner and run East 260 feet, Northeast 800 feet, West 260 feet, Southwest 800 feet to point of beginning.

# EXHIBIT "C"

## WALTER SCHOEL ENGINEERING COMPANY, INC.

CONSULTING ENGINEERS  
1001 22ND STREET SOUTH  
BIRMINGHAM, ALABAMA 35205

PHONE (205) 323-6166

FAX (205) 328-2252

WWW.SCHOEL.COM

### TEMPORARY ACCESS EASEMENT

A temporary easement for access situated in the Southeast 1/4 of Northeast 1/4 of Section 1, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southeast corner of Section 1, Township 21 South, Range 3 West; thence in a Westerly direction along the South line of said Section 1 a distance of 1965.36 feet to a point; thence  $84^{\circ}15'29''$  to the right in a Northerly direction a distance of 428.78 feet to the P.C. (point of curve) of a curve to the right having a radius of 25.00 feet and a central angle of  $86^{\circ}31'11''$ ; thence in a Northerly, Northeasterly and Easterly direction along the arc of said curve a distance of 37.75 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in an Easterly direction a distance of 491.10 feet to a point; thence  $93^{\circ}42'51''$  to the left in a Northerly direction a distance of 578.42 feet to the P.C. (point of curve) of a curve to the right having a radius of 55.00 feet and a central angle of  $48^{\circ}14'23''$ ; thence in a Northerly and Northeasterly direction along the arc of said curve a distance of 46.31 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northeasterly direction a distance of 20.06 feet to the P.C. (point of curve) of a curve to the left having a radius of 65.00 feet and a central angle of  $43^{\circ}14'23''$ ; thence in a Northeasterly and Northerly direction along the arc of said curve a distance of 49.05 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northerly direction a distance of 320.64 feet to the P.C. (point of curve) of a curve to the right having a radius of 60.00 feet and a central angle of  $50^{\circ}38'01''$ ; thence in a Northerly and Northeasterly direction along the arc of said curve a distance of 53.02 feet to the P.R.C. (point of reverse curve) of a curve to the left having a radius of 70.00 feet and a central angle of  $96^{\circ}14'51''$ ; thence in a Northeasterly, Northerly and Northwesterly direction along the arc of said curve a distance of 117.59 feet to the P.R.C. (point of reverse curve) of a curve to the right having a radius 60.00 feet and a central angle of  $70^{\circ}36'50''$ ; thence in a Northwesterly, Northerly and Northeasterly direction along the arc of said curve a distance of 73.95 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northeasterly direction a distance of 111.29 feet to a point; thence  $95^{\circ}00'$  to the right in a Southeasterly direction a distance of 196.66 feet to a point; thence  $90^{\circ}00'$  to the left in a Northeasterly direction a distance of 60.00 feet to a point; thence  $90^{\circ}00'$  to the left in a northwesterly direction a distance of 840.36 feet to a point; thence  $48^{\circ}39'24''$  to the right in a Northwesterly direction a distance of 34.63 feet to a point; thence  $48^{\circ}39'24''$  to the left in a Northwesterly direction a distance of 79.38 feet to the P.C. (point of curve) of a curve to the right having a radius of 1045.00 feet and a central angle of  $5^{\circ}30'48''$ ; thence in a Northwesterly direction along the arc of said curve a distance of 100.55 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northwesterly direction a distance of 67.30 feet to the P.C. (point of curve) of a curve to the right having a radius of 25.00 feet and a central angle of  $90^{\circ}00'$ ; thence in a Northwesterly, Northerly and Northeasterly direction along the arc of said curve a distance of 39.27 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northeasterly direction a distance of 258.78 feet to a point; thence  $85^{\circ}06'07''$  to the right



in a Southeasterly direction a distance of 112.00 feet to a point; thence  $90^{\circ}36'54''$  to the left in a Northeasterly direction a distance of 89.17 feet to the P.C. (point of curve) of a curve to the right having a radius of 338.50 feet and a central angle of  $22^{\circ}58'43''$ ; thence in a Northeasterly direction along the arc of said curve a distance of 135.76 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northeasterly direction a distance of 165.27 feet to a point; thence  $72^{\circ}32'06''$  to the right in a Southeasterly direction a distance of 14.15 feet to a point; thence  $72^{\circ}32'06''$  to the left in a Northeasterly direction a distance of 222.93 feet to the P.C. (point of curve) of a curve to the left having a radius of 25.00 feet and a central angle of  $94^{\circ}33'00''$ ; thence in a Northeasterly, Northerly and Northwesterly direction along the arc of said curve a distance of 41.26 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northwesterly direction a distance of 159.71 feet to the P.C. (point of curve) of a curve to the left having a radius of 15.00 feet and a central angle of  $85^{\circ}26'59''$ ; thence in a Northwesterly, Westerly and Southwesterly direction along the arc of said curve a distance of 22.37 feet to the P.T. (point of tangent) of said curve; thence  $180^{\circ}00'00''$  to the right (angle measured to tangent) in a Northeasterly direction a distance of 54.19 feet to the P.C. (point of curve) of a curve to the left having a radius of 350.00 feet and a central angle of  $11^{\circ}57'11''$ ; thence in a Northeasterly direction along the arc of said curve a distance of 73.02 feet to a point on said curve, said point lying on a curve to the left having a radius of 15.00 feet and a central angle of  $82^{\circ}35'50''$ ; thence  $180^{\circ}00'00''$  to the right (angle measured to tangent) in a Southwesterly, Southerly and Southeasterly direction along the arc of said curve a distance of 21.62 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Southeasterly direction a distance of 168.92 feet to the P.C. (point of curve) of a curve to the left having a radius of 25.00 feet and a central angle of  $87^{\circ}32'44''$ ; thence in a Southeasterly, Easterly and Northeasterly direction along the arc of said curve a distance of 38.20 feet to the P.C.C. (point of compound curve) of a curve to the left having a radius of 500.00 feet and a central angle of  $11^{\circ}41'08''$ ; thence in a Northeasterly direction along the arc of said curve a distance of 101.98 feet to the P.T. (point of tangent) of said curve; thence tangent to said curve in a Northeasterly direction a distance of 78.08 feet to the P.C. (point of curve) of a curve to the left having a radius of 1000.00 feet and a central angle of  $11^{\circ}25'15''$ ; thence in a Northeasterly direction along the arc of said curve a distance of 199.33 feet to the P.R.C. (point of reverse curve) of a curve to the right having a radius of 2010.00 feet and a central angle of  $6^{\circ}07'06''$ ; thence in a northeasterly direction along the arc of said curve a distance of 214.64 feet to the P.T. (point of tangent) of said curve; thence  $86^{\circ}06'26''$  to the right (angle measured to tangent) in a Southeasterly direction a distance of 585.58 feet to a point; thence  $90^{\circ}$  to the left in a Northeasterly direction a distance of 30.00 feet to the POINT OF BEGINNING of the centerline of the Easement described herein, said easement being 24 feet wide, lying 12 feet on either side of the following described centerline; thence  $92^{\circ}55'40''$  to the right in a Southeasterly direction a distance of 305.86 feet to a point at the end of said centerline.

POINT OF ENDING  
OF TEMPORARY ACCESS EASEMENT

24' WIDE TEMPORARY ACCESS EASEMENT

POINT OF BEGINNING  
OF TEMPORARY ACCESS EASEMENT

SE 1/4 - NE 1/4  
Section 1, Township 21  
South Range 3 West  
Shelby Co., AL

FIELD BOOK NO. 2209  
JOB NO. 03-019

PROPOSED ROAD

INTERSTATE S.E.  
(101TH AVE. DRIVE)

EXHIBIT OF  
**TEMPORARY ACCESS EASEMENT**  
SITUATED IN THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF  
SECTION 1, TOWNSHIP 21 SOUTH, RANGE 3 WEST  
SHELBY COUNTY, ALABAMA

SCALE : 1" = 80'

AUGUST, 2004



WALTER SCHOEL ENGINEERING COMPANY, INC.  
CONSULTING ENGINEERS

301 2ND STREET SOUTH  
BIRMINGHAM, ALABAMA 35205  
205-933-0666

20040817000461250 Pg 10/10 41.00  
Shelby Cnty Judge of Probate, AL  
08/17/2004 10:53:00 FILED/CERTIFIED

10/17/2004 10:53:00