

STATE OF ALABAMA)
COUNTY OF SHELBY)

AGREEMENT AS TO ENCROACHMENT OF FENCE

Eddie J. Williams ("Williams"), Johnny A. Busby ("Busby") and Kenneth Roycroft ("Roycroft") each own tracts of land shown on the record map recorded in Map Book 25, at Page 35B, in the Probate Office of Shelby County, Alabama (the "Record Map"). All three parcels are served by a 50-foot Access Easement that is shown and set out on the Record Map. As the result of an error, the undersigned Williams, in constructing a fence along the Southwest boundary of his parcel, placed a portion of the fence over and into the 50-foot Access Easement.

Busby and Roycroft, as users of the Access Easement, have conditioned their consent for Williams to delay removal of the encroachment upon (1) the acknowledgment of the encroachment by Williams; (2) written acceptance of the condition that consent for the encroachment to remain may be withdrawn for any reason upon 90 days' written notice to Williams from either Busby or Roycroft; and (3) consent from Williams that upon such notice, he will remove the encroachment, at no expense to Busby or Roycroft.

NOW, THEREFORE, in consideration of the premises, Williams covenants with Busby and Roycroft as follows:

- (1) Williams acknowledges the encroachment of his fence into the Access Easement along the Southwest portion of his property.
- (2) Williams acknowledges that consent for the encroachment to remain may be withdrawn upon written notice to Williams by either Busby or Roycroft.
- (3) Williams will remove the fence the earlier of 90 days following written notice from either Busby or Roycroft, or the sale or transfer of title of Williams' property.
- (4) In the event Busby or Roycroft, or assigns, files suit to enforce rights under this instrument, and prevails in such action, Williams will be responsible for the cost of litigation, including the attorneys' fees of Busby or Roycroft.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on this the 9th day of March, 2005.

[Signature]
Witness

[Signature]
Witness

[Signature]
Witness

[Signature]
Eddie J. Williams

[Signature]
Johnny A. Busby

[Signature]
Kenneth Roycroft