

23,50

GRANT OF LAND EASEMENT and
RESTRICTIVE COVENANTS for
Underground Facilities in Subdivision

DOCUMENT TO BE RECORDED

(NOTE: DO NOT RECORD WITHOUT
ATTACHED PLAT OR DRAWING!)

This instrument prepared by:

Larry D. Grant

Alabama Power Company
Corporate Real Estate
P. O. Box 2641
Birmingham, Alabama 35291

STATE OF ALABAMA }
COUNTY OF Shelby }

W.E. No. 61700-08-0060-700
Parcel No. 70197867

KNOW ALL MEN BY THESE PRESENTS, THAT: WHEREAS, the "Grantor", (whether one or more) are owners of record of the following described real estate in Shelby County, Alabama, to wit: Waterford Highlands-Sector 5 (the "Subdivision") as shown on the plat or drawing attached and incorporated herein by reference, which Grantor plans to record in the Office of the Judge of Probate, Shelby County, Alabama (the "Property") (SE $\frac{1}{4}$ of X of Section 27, Township 21S, Range 2W) and,

WHEREAS, the said Grantor desires to grant to Alabama Power Company, (the "Company") an easement for underground electrical facilities and to establish and place the Subdivision under certain restrictive covenants to insure the use of the property for attractive residential purposes and thereby to secure to each lot owner the same advantages insured to other lot owners.

NOW, THEREFORE, The Grantor, for and in consideration of *One and No/100 Dollars (\$1.00)*, and other good and valuable consideration, to Grantor in hand paid by the Company, the receipt of which is hereby acknowledged, does hereby grant to Company, its successors and assigns, the right to construct, install, operate, maintain and replace, along a route to be selected by the Company (generally shown on the attached drawing), its successors or assigns, all conduits, cables, transformers, and other appliances and facilities (above ground and below ground) useful or necessary in connection therewith, for the underground transmission and distribution of electric power upon, under and across the Property.

Together with all the rights and privileges necessary or convenient for the full enjoyment or use thereof, including the right of ingress and egress to and from said facilities and the right to excavate for installation, replacement, repair and removal thereof; and also the right to cut and keep clear any and all obstructions or obstacles of whatever character on, under and above said facilities.

TO HAVE AND TO HOLD such easement to the Company, its successors and assigns, forever.

And, the undersigned Grantor further does hereby adopt the following conditions, restrictions, covenants and limitations which shall apply in their entirety to all lots in the said Subdivision and shall run with the title to said property, and which shall be included in any conveyance of title to any or all of said lots in said subdivision:

1. The owners of lots within the Subdivision will not erect or grant to any person, firm or corporation the right, license or privilege to erect or use or permit the use of overhead wires, poles or overhead facilities of any kind for electrical, telephone, or cable television service on said real estate (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave said subdivision, or existing and/or future overhead transmission or communication facilities on existing or future Alabama Power Company rights of way). Nothing herein shall be construed to prohibit overhead street lighting, or ornamental yard lighting, where serviced by underground wires or cables.

2. In order to beautify said Subdivision for the benefit of all lot owners and permit Alabama Power Company to install underground electric service to each house in said Subdivision for the mutual benefit of all lot owners therein, no owner of any lot within said Subdivision will commence construction of any house on any lot until such owner (1) notifies Alabama Power Company that such construction is proposed, (2) grants in writing to Alabama Power Company such rights and easements as Alabama Power Company deems necessary in connection with its construction, operation, maintenance, replacement and removal of underground service laterals of each lot, and (3) otherwise complies with the Rules and Regulations for Underground Residential Distribution on file with and approved by the Alabama Public Service Commission. Further, no plants, shrubs, fences, walls or other obstructions shall be placed in front of or within three (3) feet of any side of any pad-mounted equipment and Alabama Power Company shall not be liable for any damages to or destruction of any shrubs, trees, flowers, grass or other plants caused by the equipment or employees of the Company or its contractors engaged in the construction, operation, maintenance, replacement or removal of the Company's facilities. Appropriate meter locations must be obtained from Alabama Power Company prior to installing or relocating service entrance facilities and associated internal wiring. Owners must install meter sockets and service risers in accordance with the Company's specifications.

3. Alabama Power Company, its successors and assigns, will retain title to all underground facilities installed by the Company or its contractors, including but not limited to the service lateral serving each said house, and said service entrance facilities provided by Alabama Power Company will not in any way be considered a fixture or fixtures and thereby a part of said real estate, but will remain personal property belonging to Alabama Power Company, its successors and assigns, and will be subject to removal by Alabama Power Company, its successors and assigns, in accordance with applicable Rules and Regulations filed with and approved by the Alabama Public Service Commission.

4. These covenants and restrictions touch and concern and benefit the land and shall run with the land and shall be binding on Alabama Power Company, the undersigned, their respective heirs, successors and assigns. Invalidity of any one of the foregoing covenants and restrictions shall in no way affect any other provision contained herein.

All facilities on Grantor: _____

Station to Station: _____

IN WITNESS WHEREOF, this instrument has been executed this the 22 day of August, 2007.

WITNESS/ATTEST

GRANTOR:

Waterford, L.L.C.

Name of Individual/Company/Partnership/LLC

[Signature]

Signature of Individual/Officer/Partner

=====

CORPORATE/PARTNERSHIP ACKNOWLEDGMENT

STATE OF ALABAMA }

County of Shelby }



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I, Kim M. Foster, a Notary Public, in and for said County in said State, hereby certify that, Keith Johnson whose name as _____ of _____, a corporation/partnership, 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/she, as such officer/partner and with full authority, executed the same voluntarily for and as the act of said corporation/partnership.

Given under my hand and official seal, this the 22nd day of August, 2007.

Kim M. Foster
Notary Public

My commission expires: 12-28-2010

=====

INDIVIDUAL ACKNOWLEDGMENT

STATE OF ALABAMA }

County of _____ }

I, _____, a Notary Public in and for said County, in said State, hereby certify that _____, whose name(s) (is/are) signed to the foregoing instrument, and who (is/are) known to me, acknowledged before me on this date that, being informed of the contents of the agreement, (has/have) executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the _____ day of _____, 20____.

Shelby County, AL 11/14/2007
State of Alabama

Deed Tax: \$.50

Notary Public

My commission expires: _____

Agreement For Underground Residential Distribution in Subdivisions

STATE OF ALABAMA)

Shelby COUNTY)

70197867

THIS AGREEMENT made and entered into as of this the day of August, 2007, by and between Alabama Power Company, a corporation (hereinafter referred to as "Company"), and Waterford, L.L.C. (hereinafter referred to as "Developer"), the developer of Waterford Highlands-Sector 5 Subdivision, consisting of 96 lots.

Developer is the owner of the subdivision described below and wants to obtain electric utility service by means of Company's underground distribution facilities for homes to be constructed on all lots to be developed within this subdivision; and

The underground distribution system required to serve homes on all lots within this subdivision will include underground cables, surface transformers, underground service laterals and outdoor metering troughs; and

Company is willing to provide electric service by means of an underground distribution system provided Developer complies with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the premises and the mutual obligations contained in this Agreement, the Developer and the Company agree as follows:

1. Description of Subdivision: Company has received and accepted: {Check (A) or (B), whichever is applicable}
 - ☐ A. Two copies of a plat approved by appropriate governmental authority subdividing Developer's real estate into lots and designating street names and a number for each lot, dedicated easement with layouts for all utilities, sewers and drainage, minimum building set-back dimensions, and proposed building lines, which said plat is recorded in Map Book , Page , in the office of the Judge of Probate of Shelby County, Alabama, a copy of which, as recorded, is attached as an exhibit to this Agreement;
 - ☐ B. {To be utilized only when governmental requirements preclude the use of option A.} Two copies of a plat for which preliminary approval has been received from appropriate governmental authority for the subdivision of Developer's real estate into lots and designating block numbers, street names and a number for each lot, dedicated easements with layouts for all utilities, sewers and drainage, minimum building set-back dimensions, and proposed building lines, a copy of which is attached as an exhibit to this Agreement. The Developer and the Company agree that, following the execution of this Agreement, Developer shall record the plat for this subdivision that is finally approved by the appropriate governmental authority in the office of the Judge of Probate of Shelby County, Alabama and that the recorded plat will be substituted for the preliminary plat as an exhibit to this Agreement. In the event the finally approved and recorded subdivision plat contains changes from the preliminary plat originally attached to this Agreement that require changes in the electric system, the Developer shall pay for any increases in the cost of the required installation, as provided in Section 2.
2. Cost of Installation: For the installation of underground distribution facilities provided in this Agreement, Developer agrees to pay

\$ 42,720, which represents the Company's estimated cost of the underground distribution system in excess of the estimated cost of an overhead distribution system, with both of said cost calculations including individual lot service (the "Installation Cost"). The underground distribution system will include any conduit required for primary, secondary, and service cables, as determined by the Company.

The Installation Cost is based on: (i) the description of the plat attached as an exhibit to this Agreement; (ii) the anticipated estimated excess cost to remove rocks during trenching and to obtain required backfill from off-site; and (iii) Developer's compliance with the site preparation requirements of Section 9 below. The Developer shall be billed as a separate item for any other costs incurred by the Company over and above the anticipated costs, including without limitation, costs resulting from: (x) changes from the preliminary plat originally attached to this Agreement that require changes in the electric system; (y) debris removal requirements, trench depth requirements different from that generally employed by the Company, seeding and/or reseeding, sodding and/or resodding, or requirements for the use of boring or additional equipment not generally employed by the Company for underground residential trenching; and (z) Developer's failure to comply with Section 9 of this Agreement. If Developer has not paid the Installation Cost at the time the Company incurs any additional cost, then the additional cost shall be included in the Company's invoice for payment of the Installation Cost. If Developer already has paid the Installation Cost at the time the Company incurs any additional cost, then the additional cost shall be due and payable within ten (10) days after Company invoices Developer.

3. Payment of Installation Cost: {Check applicable box}
 - ☐ Developer has paid Company the total amount of the Installation Cost.
 - ☐ Developer agrees to pay Company (at the address shown on its invoice) the total amount of the Installation Cost within thirty (30) days from the date of Company's written invoice to Developer that payment is due, or by the time Company completes installation of its facilities, whichever occurs first. If Developer has not paid Company by the time Company completes installation of its facilities, Developer understands and agrees that Company will not energize any of its facilities until Company receives payment for the total amount of the Installation Cost.
4. Cancellation of Agreement: The Company may cancel this agreement if:
 - (a) Upon the expiration of 180 days from the date of this Agreement, Developer: (i) has not met the site preparation requirements of Section 9, (ii) has not begun construction of any house within the subdivision, (iii) has not requested the Company to begin the construction of its facilities; and (iv) has failed to pay the Company's invoice for the total amount of the Installation Cost.
 - (b) Upon the expiration of 360 days from the date of this Agreement, Developer: (i) has not met the site preparation requirements of Section 9, (ii) has not begun construction of any house within the subdivision, and (iii) has not requested the Company to begin the construction of its facilities.

If the Developer has paid part or all of the Installation Cost, the Company shall refund to the Developer any monies collected. Any delay by the Company to cancel this Agreement at the end of 360 days shall not be considered a waiver of the Company's right to cancel at a later time.
5. Installation of System: Company will install and maintain a single phase, underground electric distribution system, including surface mounted transformers, surface mounted enclosures which may contain electrical equipment such as sectionalizing devices, capacitors, regulators, etc., and underground cables and the 120/240-volt single phase service lateral to the meter socket or service entrance for each residence in the said subdivision.
6. Company's Ownership of System: Company, its successors and assigns, will retain title to the underground distribution system, including the underground service lateral and outdoor metering trough serving each residence in the subdivision, and this underground distribution system provided by Company will not in any way be considered a fixture or fixtures and shall not become a part of any real estate, but will remain personal property belonging to Company, its successors and assigns, and will be subject to maintenance and removal by Company, its successors and assigns, in accordance with the applicable Rules and Regulations approved by the Alabama Public Service Commission.

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7. Right-of-Way: Developer hereby grants Company right-of-way for the construction, operation, maintenance and removal of its facilities together with the right to ingress and egress to and from such facilities and the right to keep clear any obstruction that might injure or endanger said facilities.

8. Developer's Obligations With Respect to Lot Owners: Developer has filed and recorded restrictive covenants requiring all lot owners to install electric service in accordance with the Underground Residential Distribution Program. Developer agrees to notify the purchaser of each lot in the subdivision that:

(a) No plants, shrubs, fences, walls, or other obstructions may be located in front of or within three (3) feet of the sides or rear of any pad-mounted equipment that would obstruct the operation or replacement of the Company's equipment, and that the Company shall not be liable for any damages or destruction of any shrubs, trees, flowers, grass or other plants caused by the equipment or employees of the Company or any contractor or subcontractor of the Company in the construction, operation, maintenance or removal of the Company facilities;

(b) The lot owner must obtain the proper meter location from the Company prior to the beginning of the installation of the service entrance facilities and associated internal wiring; and

(c) The lot owner must install the Company-provided meter socket to Company specifications and must provide and install appropriate schedule 40 PVC or equivalent galvanized conduit from the meter socket to two (2) feet below finished grade (2" for 200 amp or 3" for 400 amp).

9. Developer's Site Preparation Obligations: Developer shall give the appropriate Company Engineering Supervisor a minimum of sixty (60) days written notice prior to the commencement of any paving for streets, curbs, sidewalks, etc. After the expiration of 30 days from the date of this Agreement, this prior notice is reduced from sixty (60) to thirty (30) days. The Developer, prior to the Company's construction of the underground distribution system, shall make the easement in which the underground equipment or conductors are to be located accessible to the Company's equipment, remove all obstructions, and grade to within four (4) inches of the final grade elevation. Developer must clearly mark all streets, lot lines, and easements, and any underground facilities installed by developer (water, sewer, irrigation, etc.) before Company will begin installation of underground facilities. All costs incurred by the Company due to improper or inadequate site preparation as stated above shall be billed to the Developer as a separate item.

10. Modification Costs: Modification to the underground system after initial installation shall be at the expense of the one requesting or causing the modification.

11. Covenants Run With Land: The covenants set forth in Sections 6 and 7 above touch and concern and benefit the land and shall run with the land and shall be binding on Company and Developer, their respective heirs, executors, administrators, successors, and assigns

12. Notices: Any written notice to the Company, except as noted in Sections 3 and 9 above, shall be sent to

Alabama Power Company, Regional Sales Manager _____ Alabama _____

Any written notice to Developer provided for herein shall be sent to _____

IN WITNESS WHEREOF, Developer and the Company have executed this Agreement, either personally or through a duly authorized agent, as of the day and year first above written,

WITNESS:

ALABAMA POWER COMPANY

[Signature]

ALABAMA POWER COMPANY

BY

[Signature]
ITS: _____

WITNESS:

[Signature]

DEVELOPER: Waterford, L.L.C.

BY

[Signature]
ITS: Closing Agent

This instrument was prepared by

Name: Larry D. Gravitt

Address: P.O. Box 1238

Columbiana, Alabama 35051



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