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Return to: above

STATE OF ALABAMA
ELMORE COUNTY

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
REGARDING RIVER OAKS SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by T.J. Johnson Builders, Inc., an Alabama corporation, and J.C. Associates, Ltd., an Alabama limited partnership, hereinafter referred to collectively as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Wetumpka, County of Elmore, State of Alabama, which is more particularly described as:

Parcel One: River Oaks Subdivision (Plat No. 1)

Commence at the Southeast Corner of Section 24, T-18-N, R-18-E, Elmore County, Alabama; thence West 900.00' to a point; thence N 01°02'W 340.00' to a point; thence N 19°09' E 1019.03' to a point located on the West Rights-of-Way of U.S. Highway 231 (tie taken from survey by William M. Rotten, Registration No. 10929, dated October 1, 1979); thence along said West Rights-of-Way N 31°46'00" E 111.04' to the intersection of said West Rights-of-Way and the North side of proposed River Oaks Boulevard; thence along said North side N 59°56'00" W 645.99' to the point of beginning for the herein described parcel of land (said point being on the centerline of proposed River Oaks Drive); thence continue along said centerline S 31°46'00" W 458.89' to a point; thence leaving said centerline S 58°14'00" E 284.08' to a point; thence S 64°11'00" W 47.49' to a point; thence S 54°50'00" W 220.00' to a point; thence N 40°50'54" W 159.49' to a point; thence N 52°22'09" W 50.00' to a point located in a curve; thence northeasterly along said curve (Chord Bearing N

35°52'35" E, Chord Distance 52.89', Radius 863.68') to a point and end of curve; thence N 59°56'00" W 138.87' to a point; thence N 30°04'00" E 39.96' to an iron pin; thence N 59°56'00" W 575.00' to a point; thence N 30°04'00" E 180.00' to a point; thence S 59°56'00" E 70.00' to an iron pin; thence N 30°04'00" E 130.00' to an iron pin; then S 59°56'00" E 505.00' to a point; thence S 30°04'00" W 50.04' to a point; thence S 59°56'00" E 148.50' to an iron pin; thence N 31°46'00" E 295.06' to a point; thence S 59°56'00" E 25.01' to the point of beginning. Containing 6.40 acres, more or less, and lying in and being a part of the SW¼ of the SE¼ of Section 24, T-18-N, R-18-E, Elmore County, Alabama.

Declarant, its successors and assigns, reserve the right to add other plats and parcels of real property to this declaration in the future, it being contemplated that River Oaks Subdivision shall be developed in progressive stages.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restriction, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. This declaration is not exclusive, and other covenants, conditions and restrictions have also been imposed or will be imposed upon the Properties by separate instrument.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to River Oaks Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, present or future, including contract sellers, but excluding those having such interest merely as security

for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, or which may be made subject to this declaration by Declarant in the future.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Parcel Two: Common Area - Park

Commence at the Southeast Corner of Section 24, T-18-N, R-18-E, Elmore County, Alabama; thence West 900.00' to a point; thence N 01°02' W 340.00' to a point; thence N 19°09' E 1019.03' to a point located on the West Rights-of-Way of U.S. Highway 231 (tie taken from survey by William M. Rotten, Registration No. 10929, dated October 1, 1979); thence along said West Rights-of-Way N 31°46'00" E 111.04' to the intersection of said West Rights-of-Way and the North side of proposed River Oaks Boulevard; thence along said North side N 59°56'00" W 671.00' to a point (said point also located on the West side of proposed River Oaks Drive); thence along said West side S 31°46'00" W 295.06' to a point; thence leaving said west side, N 59°56'00" W 148.50' to a point; thence N 30°04'00" E 50.04' to a point; thence N 59°56'00" W 425.29' to a point; thence N 32°07'47" E 202.54' to a point; thence N 38°14'00" W 150.00' to the point of beginning for the herein described parcel of land; thence S 39°20'10" W 89.42' to a point on a cul-de-sac; thence southwesterly along said cul-de-sac (Chord Bearing S 83°03'05" W, Chord Distance 72.28') Radius 50.00') to a point; thence leaving said cul-de-sac N 28°14'00" W 110.00' to a point; thence N 33°46'00" E 110.00' to a point; thence N 49°46'00" E 54.06' to a point; thence S 28°14'00" E 165.00' to the point of beginning. Containing 0.53 acres, more or less, and lying in and being a part of the SW¼ of the SE¼ of Section 24, T-18-N, R-18-E, Elmore County, Alabama.

Parcel Three: Common Area - Entrance Sign

Commence at the Southeast Corner of Section 24, T-18-N, R-18-E, Elmore County, Alabama; thence West 900.00' to a point; thence N 01°02' W 340.00' to a point; thence N 19°09' E 1019.03' to a point located on the West Rights-of-Way of U.S. Highway 231 (tie taken from survey by William M. Rotten, Registration No. 10929, dated October 1, 1979); thence along said West Rights-

of-Way N 31°46'00" E 111.04' to the intersection of said West Rights-of-Way and the North side of proposed River Oaks Boulevard; thence along said North side N 59°56'00" W 671.00' to a point on the North side of proposed River Oaks Drive; thence along said North side S 31°46'00" W 22.52' to the point of beginning for the herein described parcel of land; thence continue along said North side S 31°46'00" W 35.00' to a point; thence leaving said North side N 58°14'00" W 20.00' to a point; thence N 31°46'00" E 35.00' to a point; thence S 58°14'00" E 20.00' to the point of beginning. Containing 0.02 acres, more or less, and lying in and being a part of the SW¼ of the SE¼ of Section 24, T-18-N, R-18-E, Elmore County, Alabama.

Section 5. "Lot" shall mean and refer to any residential lot shown upon any recorded subdivision map of the Properties, present or future, with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer collectively to T.J. Johnson Builders, Inc., and J.C. Associates, Ltd., its successors and assigns, if such successors or assigns should acquire the majority of the remaining undeveloped Lots from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to regulate the use of the Common Area and to charge reasonable admission and other fees for the use of any recreation facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreations facilities by an owner for any period during which any assessment against his Lot

remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners, with the exception of the Declarant (or either of them), and shall be entitled to one vote for each Lot owned. When more than one person hold an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: Class B member(s) shall be the Declarant (or either of them) and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) as to each recorded subdivision, when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on January 1, 2016.

In determining voting rights only, each separate recorded subdivision shall be considered an independent entity.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly

assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

The assessments may also be used to maintain and beautify the following described non-dedicated access easement and entrance way median island which is not a Common Area. It is contemplated that this access easement and median shall be dedicated to the public and the city. The Association, subsequent to dedication, shall have the right, but not the duty, to beautify and maintain in its discretion, the access easement and median:

Median Island - River Oaks Blvd. - Entrance Way

Commence at the Southeast Corner of Section 24, T-18-N, R-18-E, Elmore County, Alabama; thence West 900.00' to a point; thence N 01°02' W 340.00' to a point; thence N 19°09' E 1019.03' to a point located on the West Rights-of-Way of U.S. Highway 231 (tie taken from survey by William M. Rotten, Registration No. 10929, dated October 1, 1979); thence along said West Rights-of-Way N 31°46'00" E 31.00' to the intersection of said West Rights-of-Way and the East side of proposed River Oaks Boulevard; thence leaving said intersection N 35°48'16" W 97.86' to the point of beginning for the herein described parcel of land; thence N 59°56'02" W 79.50' to a point; thence N 73°25'46" W 51.42' to a point; thence N 59°56'02" W 385.33' to the beginning of a curve; thence northeasterly along said curve (Chord Bearing N 30°03'58" E, chord Distance 12.00', Radius 6.00') to the end of said curve; thence S 59°56'02" E 59.34' to a point; thence S 66°46'36" E 100.72' to a point; thence S 59°56'02" E 326.06' to a point; thence S 59°53'46" E 29.42' to the beginning a curve; thence southwesterly along said curve (Chord Bearing S 30°03'58" W, Chord Distance 12.00', Radius 6.00') to the end of curve and point of beginning. Containing 0.23 acres, more or less, and lying in and being a part of the SW¼ of the SE¼ of Section 24, T-18-N, R-18-E, Elmore County, Alabama.

Also, the undedicated portions of River Oaks Boulevard and River Oaks Drive as shown on the plat of River Oaks Subdivision.

The private ingress and egress easement, with the right to maintain the same, is set forth in documents recorded in the Office of the Judge of Probate of Elmore County, Alabama, on Roll 111, Frame 1578 and Roll 111, Frame 535.

Section 3. Maximum Annual Assessment. Until January 1 immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Dollars (\$100.00) per Lot.

(a) From and after January 1 immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At such meeting called, the presence of members or of proxies entitled to cast one-third (1/3) of all the votes of each class of membership shall constitute a quorum.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, present or future, and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recordation of each subdivision plat. The first annual assessment shall be pro-rated so as to maintain a calendar year basis. Declarant may require the payment of past and/or future assessments as a condition to the sale of a Lot. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of the assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the

same manner that real estate mortgages are foreclosed. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer unless the foreclosure bid price exceeds the debt owned to the mortgagee or mortgagees. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, color, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an architectural control committee composed of three (3) members appointed by the Board for a term of five (5) years. In the event said Architectural Control Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The first Architectural Control Committee shall consist of Jack Johnson, Terri Johnson, and Bill Paxson.

ARTICLE VI
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Servability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years for the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Declarant, or either of them, shall have the right to subdivide and plat additional properties, and to grant to the owners thereof the right and privilege to use the same Common Area subject to the same terms and conditions as apply to Lot Owners, including membership and voting rights in the Association.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veteran's

Administration: Annexation of additional properties, dedication of new Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

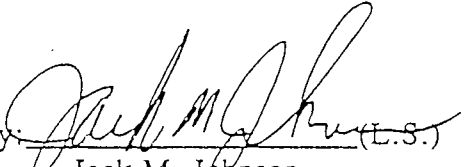
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto set its hands and seals this 14th day of October, 1993.

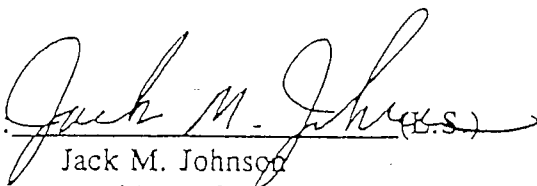
T.J. Johnson Builders, Inc.

J.C. Associates, Ltd.

By: T.J. Johnson Builders, Inc.

Its: General Partner

By:  (L.S.)
Jack M. Johnson
Its: President

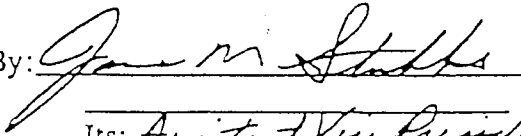
By:  (L.S.)
Jack M. Johnson
President of T.J. Johnson Builders, Inc.


The undersigned Elmore County National Bank, as mortgagee of the Properties, joins in this declaration and consents thereto in all respects.

Dated this 14th day of October, 1993.

Attest:

Elmore County National Bank

By: 
Its: Assistant Vice President

By: 
Watt Jones, Jr.
Its: President

STATE OF ALABAMA
ELMORE COUNTY

I, the undersigned, a Notary Public in and for said State at Large, hereby certify that Watt Jones, Jr., whose name as President of Elmore County National Bank is signed to the foregoing document, and who is known to me, acknowledged before me on this day, that, being informed of the contents of this document he, as such officer, executed the same voluntarily for and on behalf of Elmore County National Bank on the day the same bears date with full authority.

Given under my hand and seal this 14th day of October, 1993.

Carolyn Collier
Notary Public

STATE OF ALABAMA
ELMORE COUNTY

I, the undersigned, a Notary Public in and for said State at Large, hereby certify that Jack M. Johnson, whose name as President of T.J. Johnson Builders, Inc. is signed to the foregoing document, and who is known to me, acknowledged before me on this day, that, being informed of the contents of this document he, as such officer, executed the same voluntarily for and on behalf of T.J. Johnson Builders, Inc. on the day the same bears date with full authority.

Given under my hand and seal this 14th day of October 1993.

Carolyn Collier
Notary Public

STATE OF ALABAMA
ELMORE COUNTY

I, the undersigned, a Notary Public in and for said State at Large, hereby certify that Jack M. Johnson, whose name as President of T.J. Johnson Builders, Inc. acting as General Partner of J.C. Associates, Ltd., an Alabama limited partnership, is signed to the foregoing document, and who is known to me, acknowledged before me on this day, that, being informed of the contents of this document he, as such officer, executed the same voluntarily for and on behalf of T.J. Johnson Builders, Inc. on the day the same bears date with full authority.

Given under my hand and seal this 14th day of October 1993.

Carolyn Collier
Notary Public