

DECLARATION OF EASEMENTS

THIS DECLARATION OF EASEMENTS (the “Declaration”), made and entered into as of the ____ day of September, 2009, by **FOUR CORNERS REALTY, LLC**, a Georgia limited liability company (“Declarant”).

W I T N E S S E T H:

WHEREAS, Declarant is the fee simple owner of three contiguous tracts or parcels of land consisting of a total of 9.39 acres, and lying and being in Land Lot 1, 11th District, Henry County, Georgia, as described on that certain plat of survey prepared by Louie D. Patrick of Patrick & Associates, Inc., GRLS No. 1757, dated August 13, 2009, entitled “Final Plat for Four Corners Realty, LLC, attached hereto as Exhibit “A” and incorporated herein, and hereinafter referred to as the “Plat”;

WHEREAS, in order to promote the economic viability of the three said tracts, Declarant desires to grant, create and establish free and convenient means of ingress and egress for the three tracts.

NOW THEREFORE, in order to implement the foregoing, Declarant hereby declares and establishes the following easements with respect to the three tracts.

1. Definitions. For the purposes of this Declaration, the following capitalized terms shall have the meanings ascribed to them below:

(a) “Driveway” shall mean the asphalt driveway as shown on the Plat which includes an entrance way from U.S. Highway 23 (Ga. Hwy 42) onto “Tract Three” (as defined herein) and then courses over the southern boundary line of “Tract Two” (as defined herein) with Tract Three and terminates at the southeastern corner of Tract Two at the eastern boundary line of Tract Two with Tract Three. For the purposes of this Declaration, the “Easement Area” (as defined herein) shall be as shown on the Plat and the foregoing description shall not be applied or construed to modify the Easement Area.

(b) “Easement Area” shall mean the combined areas of “Easement Area A” (as defined herein) and “Easement Area B” (as defined herein).

(c) “Easement Area A” shall mean the thirty (30) feet wide area designated as the ingress and egress easement “A” on the Plat, noted by diagonal lines running to the left from bottom to top.

(d) “Easement Area B” shall mean the thirty (30) feet wide area designated as the ingress and egress easement “B” on the Plat, noted by diagonal lines running to the right from bottom to top.

(e) "Owner" shall mean the record owner from time to time, whether one or more Persons (as defined herein), of an interest in any "Tract" (as defined herein) consisting of a fee simple, reversion, or remainder interest, or a leasehold interest in such Tract of ninety-nine (99) years or more.

(f) "Person" shall mean individuals, partnerships, firms, associations, corporations or any other form of business entity.

(g) "Plat" shall have the meaning set forth in the Preamble.

(h) "Tract" or "Tracts" shall mean any one or more of "Tract One," "Tract Two" and "Tract Three" (as defined herein).

(i) "Tract One" means that certain improved tract or parcel of land designated as "Tract One" on the Plat.

(j) "Tract Two" means that certain improved tract or parcel of land designated as "Tract Two" on the Plat.

(k) "Tract Three" means that certain tract or parcel of land designated as "Tract Three" on the Plat.

(l) "Tract One Owner" shall mean the Owner of Tract One and each successor and assign thereof as a subsequent Owner of Tract One.

(m) "Tract Two Owner" shall mean the Owner of Tract Two and each successor and assign of thereof as a subsequent Owner of Tract Two.

(n) "Tract Three Owner" shall mean the Owner of Tract Three and each successor and assign thereof as a subsequent Owner of Tract Three.

2. *Driveway Easements.*

(a) Declarant hereby grants and conveys for the benefit of the Owner from time to time of Tract One, and its successors and assigns, tenants, agents, guests, invitees and licensees, a perpetual, non-exclusive easement for pedestrian and vehicular ingress and egress, over and across Easement Area A on Tract Three (hereinafter referred to as "Driveway Easement A").

(b) Declarant hereby further hereby grants and conveys for the benefit of the Owner from time to time of Tract Two, and its successors and assigns, tenants, agents, guests, invitees and licensees, a perpetual, non-exclusive easement for pedestrian and vehicular ingress and egress, over and across that portion of Easement Area B on Tract Three.

(c) Declarant hereby further hereby grants and conveys for the benefit of the Owner from time to time of Tract Three, and its successors and assigns, tenants, agents, guests, invitees and licensees, a perpetual, non-exclusive easement for pedestrian and

vehicular ingress and egress, over and across that portion of Easement Area B on Tract Two.

(d) The easements granted in Paragraphs 2(b) and 2(c) are hereinafter collectively referred to as the "Reciprocal Driveway Easements B." Driveway Easement A and Reciprocal Driveway Easements B are sometimes collectively referred to herein as the "Driveway Easements."

(e) The Driveway Easements herein granted shall be used for access to and from the Tracts and shall be used in common with the Owners of each Tract, and their respective successors and assigns, and its tenants, agents, guests, invitees and licensees. The right of common use, as well as the use of the Driveway Easements for any other purpose not inconsistent with the Driveway Easements herein granted, is hereby expressly reserved to the respective Owners of Tract Two and Tract Three and their respective successors and assigns. In addition, the Owners of Tract Two and Tract Three, for themselves and their respective successors and assigns, hereby reserve with respect to the Driveway Easements the right to barricade any area of the Easement Area for purposes of repairing or maintaining the Driveway or for installing, maintaining and repairing any utilities thereon.

(f) Each Owner shall use reasonable efforts to use the Easement Area in a manner so as not to: (i) unreasonably interfere with the construction, repair, replacement, and maintenance (including related activities) of improvements to or on any Tract; of (ii) unreasonably interfere with the operation of businesses on the Tracts.

3. *Maintenance and Repair of Driveway.*

(a) Declarant initially shall be responsible for the ongoing repair and maintenance of said Driveway and all costs incurred in connection with such repair and maintenance. Upon such time as Declarant conveys fee simple title to any Tract to any Person, the responsibility for the maintenance and repair of the Driveway shall be apportioned among the Owners of the Tracts as follows:

(i) In the event one Person owns both Tract Two and Tract Three, such Owner shall be responsible for the maintenance, repair, or replacement of the Driveway, and the Owner of Tract One shall be responsible to pay one-half (1/2) of the costs attributable to the maintenance, repair, or replacement of that portion of the Driveway lying in Easement Area A.

(ii) In the event the same Person is not the Owner of Tract Two and Tract Three, then the Owner of Tract Two shall be responsible for the maintenance, repair, or replacement of the Driveway. In such case, the Owner of Tract One shall be responsible to pay one-third (1/3) of the costs attributable to the maintenance, repair and replacement of that portion of the Driveway lying in Easement Area A, and the Owners of Tract Two and Tract Three shall each be responsible to pay one-half (1/2) of the other costs incurred.

(b) In each instance, the Owner of Tract Two shall notify the other Owner(s) of the intended work and the expense of such work. Upon completion of such work, the Owner of Tract Two shall submit invoices to the other Owners(s) for their proportion of such expenses, with copies of the bills for such expenses. The Owners shall reasonably cooperate to apportion such costs correctly with the advice of the contractor for such maintenance, repair, or replacement work.

(c) Any Owner may notify the Owner of Tract Two of the need for maintenance, repair or replacement work. If the Owners of any two Tracts agree that such repairs are necessary, they shall notify the other Owner in writing and the work shall be performed by the Owner of Tract Two with reasonable dispatch, but such work shall in all cases begin within sixty (60) days.

(d) If the Driveway is damaged or destroyed by a casualty, then the Driveway shall be repaired or rebuilt at the expense of the Owner on whose Tract the forces or causes of such damage or destruction originated. If the cause or origin of the damage or destruction was an act or omission of an Owner, such Owner shall pay the cost of such repairs and restoration. If the cause or origin of the damage or destruction cannot be ascertained or if the cause or origin of the damage or destruction shall not have originated on any Tract, then the Driveway shall be repaired and restored with the cost of such repairs being paid by Owners in accordance with Subparagraph 3(a)(ii) above. In all cases, the Owner of Tract Two shall conduct such work and issue invoices with back-up documentation for the amount to be paid by the other Owner(s).

(e) The other Owners shall pay such invoices to the Owner of Tract Two within thirty (30) days of the date of the invoice. Any payment not paid within thirty (30) days of the date of the invoice shall bear interest at the lower of eighteen percent (18%) per annum or the highest rate then allowable under Georgia law.

(f) In order to exercise the rights and comply with the obligations contained herein, including but not limited to such repairs or replacement of the Driveway, the Declarant hereby grants to the Owner of Tract Two an easement in, to, on, over, under, across and through those portions of Tract One and Tract Three adjacent to such areas of the Driveway as is reasonably necessary for the maintenance, repair, or replacement of the Driveway.

(g) Further, for the purpose of maintaining, repairing, or replacing the Driveway as contemplated herein, upon reasonable notice and at reasonable times, the Owner of Tract Two is licensed by the other Owners to make perform such work on the other Owner's Tract as is reasonably required for the exercise of the rights and obligations provided hereunder.

(h) Any repair, maintenance or rebuilding of the Driveway responsible to, shall be undertaken in a manner which will not unreasonably interfere with the business or operations of the other Owners.

(i) Any maintenance, repair, or replacement of the Driveway, and any agreed to extension or addition to the Driveway in accordance with the terms contained herein, shall be built in a good, substantial and workman-like manner in strict conformity with all applicable federal, state and local laws, ordinances, regulations and codes regulating the construction of buildings as are then in effect. Any maintenance, repair, or replacement of the Driveway shall be of the same material or similar material of the same quality as that used in the original Driveway, unless otherwise agreed to by the Owners.

(j) Each Owner shall be solely responsible to acquire and maintain in full force general public liability and casualty insurance, if applicable, with respect to the portion of the Easement Area on a Tract it owns and that Owner's use of the Driveway.

4. ***Reciprocal Indemnities.*** Each Owner of a Tract hereby agrees to indemnify and hold harmless the Owner(s) of the other Tract(s) from any loss, cost, damage or expense (including, without limitation, court costs and attorneys' fees) arising from, out of, or in any manner connected with the negligence or intentional misconduct of such Owner in exercising the rights and obligations granted and set forth herein, or for a breach by such Owner of any term, covenant, or condition of this Declaration.

5. ***Liability for Damages; Specific Performance.***

(a) Each Owner shall have the right to restrain by injunction any violation or threatened violation of any term, covenants or conditions of this Declaration and that each of the terms, covenants and conditions shall be subject to an action for specific performance (except where the payment of money is required by this Declaration), as an action for damages would not be an adequate remedy for a breach of this Declaration.

(b) No breach of this Declaration will entitle any Owner subject to this Declaration to cancel, rescind, or otherwise terminate this Declaration, but this limitation will not affect in any manner, any other rights or remedies which such Owner may have by reason of any breach of this Declaration.

6. ***Force Majeure.*** If the performance of any act or obligation of any Owner is prevented or delayed by an act of God, labor disputes, or other cause or causes beyond the reasonable control of such Owner, the time for the performance of the act or obligation will be extended for the period that such act or performance is delayed or prevented by any such cause.

7. ***Time of the Essence.*** Time is of the essence of this Declaration.

8. ***Ownership.*** Each Owner shall defend the right and title to the above-described Driveway Easements unto the other Owners against the lawful claims of all Persons claiming by, through or under, the Owner.

9. ***Amendment.*** Declarant shall have the right to amend this Declaration as long as Declarant owns all three Tracts. After Declarant has conveyed title to any Tract to any Person, this Declaration may be amended, or any of the Easement Area relocated, changed,

altered, diminished, or expanded, only upon the written agreement of the Owners of all the Tracts at that time.

10. **Waiver.** Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by an Owner shall not release or discharge it from its obligations hereunder. No delay or omission by any Owner to exercise its rights accruing upon any noncompliance or failure of performance by another Owner shall impair any such right or be construed to be a waiver thereof. A waiver by any Owner of any of the covenants, conditions or agreements to be performed by another Owner shall not be construed to be a waiver of any succeeding breach or of any other covenants, conditions or agreements contained herein.

11. **Severability.** All rights, powers, and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any then-applicable law and shall be limited to the extent necessary to render the covenants herein valid and enforceable. If any term, provision, covenant, or agreement contained herein or the application thereof to any person, entity, or circumstance shall be held to be invalid, illegal, or unenforceable, the validity of the remainder of the terms, provisions, covenants, or agreements or the application of such term, provision, covenant, or agreement to persons, entities, or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

12. **Covenants Running with the Land.** This Declaration and the rights and liabilities conferred or undertaken hereby shall be easements, restrictions, and covenants running with Tract One, Tract Two and Tract Three and the and shall be binding upon, and shall inure to the benefit of, the parties hereto, and their respective successors and assigns. Upon the sale, transfer, or conveyance of any Tract, or any portion thereof or interest therein, the Person or acquiring such Tract or interest shall automatically assume the obligations of, and receive the benefits to, its predecessor in title under this Declaration, and from and after the date of such transfer or conveyance the other Owners shall look to such succeeding Owner of the Tract for the performance of any obligations hereunder.

13. **No Dedication or Public Right.** Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Easement Area, or the Driveway or of the Tracts to the general public or for the use of the general public or for any public purpose whatsoever, it being the intention of **FOUR CORNERS REALTY, LLC** that this Declaration be strictly limited to and for the purposes expressed herein. Further, no Owner of any Tract shall take any action which will create any rights in the public with respect to the Easement Area or allow the dedication of any easement areas for public purpose by Henry County, Georgia or by any other governmental authority having jurisdiction over the Easement Areas.

14. **Certification.** Upon the written request of any Owner, the other Owner(s) shall execute and deliver within ten (10) days after receipt of such request, a certificate stating that there are no known defaults on the part of any Owner under this Declaration and further certify that there are no set offs or defenses to the enforcement of the terms of this Declaration.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Easement Agreement to be duly executed under seal and delivered by its authorized representatives on the day and year first above written.

FOUR CORNERS REALTY, LLC
a Georgia Limited Liability Company

Signed, sealed and delivered in the presence of:

By: _____

H. Randolph Mahaffey
Its Manager
(Company Seal)

Witness

Notary Public

(NOTARY SEAL)

Signed, sealed and delivered in the presence of:

By: _____

Joel R. Mahaffey
Its Manager
(Company Seal)

Witness

Notary Public

(NOTARY SEAL)