

Upon recording return to:
W. Burtell Ellis, Jr.
Epstein Becker & Green P.C.
Resurgens Plaza
945 East Paces Ferry Road, Suite 2700
Atlanta, Georgia 30326

Cross Reference: Declaration of Covenants, Conditions, and
Restrictions for Grove Park, recorded in Misc. Book 184, Page
488, *et seq.*, in the Public Records for Houston County, Alabama

MISC 256 597
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Luka Cooley
Judge of Probate
Houston County, Alabama

**AMENDMENT AND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR GROVE PARK
(Annexation of Commercial Property)**

THIS AMENDMENT AND SUPPLEMENTAL DECLARATION is made this 25th day
of Sept., 2007, by 84 West, Inc., an Alabama corporation (the "Declarant").

WITNESSETH:

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Grove Park was
filed and recorded on January 28, 1998 in Misc. Book 184, Page 488, *et seq.* in the Office of the
Probate Judge of Houston County, Alabama (as amended and supplemented, such instrument is
hereinafter referred to as the "Declaration"); and

WHEREAS, pursuant to the terms of Section 7.1 of the Declaration, the Declarant may
submit certain additional property described on Exhibit "B" of the Declaration to the terms of the
Declaration with the consent of the owners of the property being annexed (the "Owners"); and

WHEREAS, attached hereto as Exhibit "A" is the description of the real property (the
"Additional Property") to be submitted to the Declaration; and

WHEREAS, the Additional Property is a portion of that property described on Exhibit "B" to
the Declaration; and

WHEREAS, the Declarant desires to submit the Additional Property to the terms of the
Declaration; and

WHEREAS, the owners of any portion of the Additional Property not owned by the
Declarant have consented to this Supplemental Declaration as set forth on the consent forms attached
hereto; and

WHEREAS, pursuant to the terms of Section 14.2 of the Declaration, the Declarant may
unilaterally amend the Declaration for any purpose for so long as the Declarant owns property which
is subject to the Declaration or which Declarant may unilaterally subject to the Declaration, provided
the amendment has no material adverse effect upon any right of any Owner; and

WHEREAS, the Declarant (1) owns portions of the Additional Property which Declarant may unilaterally subject to the Declaration, and (2) desires to amend the Declaration as set forth herein; and

WHEREAS, said amendment has no material adverse affect upon any right of any Owner;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby (1) amends the Declaration as set forth herein, and (2) subjects the real property described on Exhibit "A" hereof to the provisions of the Declaration and this Amendment and Supplemental Declaration, which shall apply to such Additional Property in addition to the provisions of the Declaration. Such Additional Property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of the Declaration and this Amendment and Supplemental Declaration, both of which shall run with the title to such Additional Property and shall be binding upon all persons having any right, title, or any interest in such Additional Property, their respective heirs, legal representatives, successors, successors-in-title and assigns. The provisions of this Amendment and Supplemental Declaration shall be binding upon Grove Park Community Association, Inc. in accordance with the terms of the Declaration.

ARTICLE 1

Definitions

The definitions set forth in Article 1 of the Declaration are incorporated herein by reference.

ARTICLE 2

Amendment to Supplemental Declaration

This Amendment and Supplemental Declaration may be amended in accordance with Section 14.2(a) of the Declaration.

ARTICLE 3

Amendments to Declaration

Pursuant to Section 14.2(a) of the Declaration, the Declarant hereby amends the Declaration as follows:

1. Section 1.22 is hereby amended by adding thereto the following:

If a Commercial Unit is owned by more than one (1) Person, all such Persons shall be jointly and severally obligated to perform the duties of such Owner. An Owner (including the Declarant) who has

transferred or otherwise conveyed a leasehold interest in and to any Unit to a Leasehold Owner may, in its sole discretion, assign in such lease all of such Owner's rights and obligations as an owner herein; provided, however, that any such assignment shall not relieve such Owner from its duties and obligations hereunder except as expressly provided herein. From and after receipt of such assignment, Declarant, the Association and the ARB shall recognize the Leasehold Owner as the Owner of such Unit.

2. Section 1.29 is deleted in its entirety and the following is substituted therefor:

1.29. "Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed. Each separately platted Unit shall be deemed to be a separate Unit, regardless of the number of uses or businesses operated on such Unit, unless otherwise specified by the applicable Supplemental Declaration. The term shall refer to the land, if any, which is part of the Unit as well as any Improvements thereon. In the case of a portion of the Properties intended and suitable for subdivision, but as to which no final lot subdivision plat has been filed, such property shall be deemed to be a single Unit until such time as a final lot subdivision plat is filed of record with respect to all or a portion of the property. This term shall not include Common Area. If any Unit is subdivided, each resulting parcel of land shall be considered a Unit.

3. Article 1 is hereby further amended by adding the following Sections thereto:

1.30. "Additional Property": All of that certain real property which is more particularly described on Exhibit "B", which is attached hereto and incorporated herein by this reference, and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.31. "Adjacent Property": Certain residential, nonresidential or recreational areas, the real property and any Improvements and facilities thereon, including without limitation the adjacent residential community and the recreational facilities located therein, which are not subject to this Declaration and which are neither Units nor Common Area as defined in this Declaration. Adjacent Property may include all or any portion of the property described on Exhibit "B" that is not subject to this Declaration and may be designated as such by the Declarant in its sole discretion.

1.32. "Commercial Units": Those Units designated as Commercial Units by the Declarant as may be shown on the Master Plan.

1.33. "Declarant-Related Entity": Any Person or entity which is a parent, subsidiary or affiliate of the Declarant, and/or in which the Declarant or any parent, subsidiary or affiliate of the Declarant or any officer, director, shareholder, partner, member, manager, or trustee of any of the foregoing owns, directly or indirectly, not less than fifty percent (50%) of such entity.

1.34. "Development Period": The period of time during which the Declarant owns any property which is subject to this Declaration or any Additional Property or has the unilateral right to subject Additional Property to the Declaration pursuant to Section 7.1. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument in the Public Records.

1.35. "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, all Design Guidelines, the Zoning Ordinance, the rules and regulations of the Association, all Cost Sharing Agreements, and all additional covenants governing any portion of the Properties or any of the above, as each may be supplemented and amended from time to time.

1.36. "Leasehold Owner": The lessee under any lease of a Unit with an initial term of not less than twenty (20) years, and which lessee has been assigned all of the Owner's rights and obligations under this Declaration with respect to the leased premises.

1.37. "Occupant": The Owner or Leasehold Owner of any Unit and their respective employees, agents, tenants, independent contractors, invitees, and licensees or any other Person who either lawfully or unlawfully occupies or comes upon such Unit. All actions or omissions of any Occupant shall be deemed the actions or omissions of the Owner or Leasehold Owner of such Unit.

1.38. "Residential Units": All Units other than Commercial Units.

1.39. "Zoning Ordinance": The City of Dothan, Alabama Code or the zoning conditions of the jurisdiction applicable to the Properties.

4. Section 10.1 is deleted in its entirety and the following is substituted therefor:

10.1. Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Properties as a master planned mixed-use development in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions.

needs, and desires within the master planned mixed-use development and to regulate and control the Area of Common Responsibility. The Properties are subject to the Master Plan, the Design Guidelines, the land development, architectural, and design provisions described in Article 9, the other provisions of this Declaration governing individual conduct and uses of and actions upon the Properties, any applicable Supplemental Declaration, and the rules promulgated pursuant to this Declaration, all of which establish affirmative and negative covenants, easements, and restrictions on the Properties, and which are enforceable by the Association as set forth in this Declaration.

The Properties shall be used only for such purposes permitted by the Zoning Ordinance and specifically approved by the Declarant or its designee, consistent with this Declaration and any Supplemental Declaration. As set forth in Section 13.7, Declarant retains the right, in its discretion, during the Development Period, to specifically determine, limit and otherwise review and designate the uses permitted for any Unit or group of Units to one or more of the uses permitted by the Zoning Ordinance. Such specific permitted use designations may be amended only as provided in Section 13.7. The Declarant's rights with respect to approval, limitation and designation of specific uses for any of the Properties shall be fully assignable or delegable by Declarant at any time and from time to time. During the Development Period, Declarant may further, in its discretion, establish such rules, regulations and procedures for initial and continuing review and approval of the use or uses for all Units on a case by case basis.

All provisions of this Declaration and any rules shall apply to all Owners, Occupants, lessees, clients, customers, guests, and invitees of any Unit. Any lease on any portion of the Properties shall provide that the lessee and all Occupants shall be bound by the terms of this Declaration, the By-Laws and the rules of the Association.

5. Section 10.2 is deleted in its entirety and the following is substituted therefor:

10.2. Procedures for Review and Enforcement of Unit Specific Uses. In order to carry out the general plan of development, create enhancements to the Properties and maintain the values thereof, Declarant has been given and retains in its discretion, as provided above in Section 10.1 and in Article 13 and throughout this Declaration, the specific right and authority to limit the specific use or uses of any portion of the Properties, including any one (1) Unit or portions thereof or group of Units, or negatively restrict any Unit or portions thereof or group of Units from being used for a certain use or

uses. Accordingly, no activities within the scope of Section 9.1 shall commence on any portion of the Properties until an application for approval of the proposed use or uses for the specific Unit or Units or other portion of the Properties in question, has been submitted to and approved in writing by Declarant or its designee. Thereafter, the use for all or any portion of a specific Unit or group of Units shall not be changed from that last approved by Declarant in accordance with Article 13 unless and until an application for such change in use has been submitted to and approved in writing by Declarant or its designee. Declarant or its designee may require the submission of application forms and such information as it deems necessary to consider any application for approval of an initial use and/or for the approval of a change in use from one previously approved. Notwithstanding the foregoing, in the event the Declarant fails to approve or to disapprove in writing an application for initial use or for a change of use within forty-five (45) Days after submission of all requested information and materials, the application and the specific use for which approval is being sought shall be deemed approved unless an extension of such time period is agreed to by Declarant and the applicant. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Governing Documents or the Zoning Ordinance unless a variance has been granted in writing by the Declarant and/or the appropriate jurisdictional authority, as applicable. All such review and approval of the use or uses for any portion of the Properties shall be done and made in Declarant's sole and absolute discretion and an approval of a specific use for a Unit or portion thereof, or a group of Units shall not be deemed an approval for any other Units nor shall it constitute a waiver of the right to withhold approval as to any similar proposals for use of a specific Unit or of other Units within the general area. Neither the Declarant or a Declarant-Related Entity, the Association, the Board, the ARB, nor any committee or any member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the approved use of any Unit. In all matters, the Declarant or Declarant-Related Entity, the Board, the ARB, and their members shall be defended and indemnified by the Association as provided in Section 4.7. The failure of an Owner to submit and obtain approval for the specific use to be carried out on or within its Unit (whether initial uses or change in use), or to comply with such use after approval thereof, shall be deemed a violation of this Declaration and shall be subject to enforcement by Declarant and/or the Association as provided in this Declaration and in the By-Laws. Declarant may, without limitation, designate all or certain of its rights and authority under this Section to the ARB.

All Owners and Occupants of Units and purchasers are given notice that the specific operational use or uses of each Unit is limited by the

use review and approval rights of Declarant. Each Owner, by acceptance of a deed or entering into a contract for the purchase of a Unit, acknowledges the rights of Declarant with respect to review and approval of the specific uses of the Properties, agrees to abide thereby, and further acknowledges and agrees that the specific use and enjoyment and marketability of its Unit can be affected.

6. Section 10.3 is deleted in its entirety.
7. Section 10.4 is deleted in its entirety and the following is substituted therefor:

10.4. Occupants Bound. All provisions of the Declaration, By-Laws and of any rules and regulations, use restrictions or Design Guidelines governing the conduct of Owners and establishing sanctions against the Owners shall also apply to all occupants even though occupants are not specifically mentioned.

8. Section 10.5 is deleted in its entirety and the following is substituted therefor:

10.5. Parking and Vehicles.

(a) The Board, in its sole discretion, may adopt rules and regulations regarding the parking areas, including, but not limited to, times for parking and points of entry for construction and commercial vehicles.

(b) Operation of motorized vehicles on pedestrian ways and sidewalks maintained by the Association is prohibited unless specifically permitted in the discretion of the Board. Any use of pedestrian ways and sidewalks maintained by the Association for motorized vehicles shall be subject to local laws and ordinances, and any restrictions established by the Board in permitting such use.

(c) Nothing herein contained shall interfere with any provision under the Americans with Disabilities Act or any similar applicable federal, state or local law, ordinance or regulation.

9. Article 10 is hereby further amended by adding the following Sections thereto:

10.17. Environmental Protection. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties, if any, or adjoining buffer zones or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution are prohibited. Restricted and prohibited activities include, without limitation, the following:

- (a) Dumping of grass clippings, leaves or other debris, chemicals, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any buffer zone, drainage or irrigation ditch, swale, stream, pond, wetlands, creek, or elsewhere within the Properties or adjoining areas, if any, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff.
- (b) Obstruction, rechanneling or any other interference with drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that the Declarant or a Declarant-Related Entity and the Association shall have such right; provided that, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.
- (c) Installing of sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties, if any, are prohibited, except that Declarant or a Declarant-Related Entity and the Association shall have the right to draw water from such sources.
- (d) Living trees shall be removed from the Properties only in conformance with the Design Guidelines and plans approved in accordance with Article 9.
- (e) Portions of the Properties may be designated on the recorded plats as "non-disturbance areas." Planting or other use of this area, any improvement of this area and removal of trees, landscaping, or other plants in this area shall be prohibited except with the prior written consent of the Declarant. In no event shall any Owner use such non-disturbance areas for storage of materials or equipment.

10.18. Construction Activities. No construction, erection, or placement of any structure, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved is permitted, except in strict compliance with the provisions of Article 9 of the Declaration. The following restrictions shall also apply:

- (a) After commencement of construction of any Improvements in the Properties, the Owner shall diligently prosecute the work thereon, such that the Improvements shall not remain in a partly finished condition any longer than reasonably and normally necessary for completion thereof.

- (b) The Owner of the Unit on which Improvements are being constructed shall at all times keep streets and parking contiguous to the Unit free from excess dirt, mud, garbage, trash, or other debris as may be occasioned by construction of the Improvements.
- (c) Rock and trees removed during construction of Improvements shall be disposed of in strict conformance with the Design Guidelines and plans approved in accordance with Article 9.
- (d) Storage of construction materials and equipment shall strictly conform to the Design Guidelines and plans approved in accordance with Article 9. The foregoing materials and equipment shall not be permitted within any natural barriers established prior to construction.
- (e) No overhead Utility lines, including lines for cable, digital, satellite, or similar television services, shall be permitted within the Properties, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

10.19. Signs. No Signs, advertisements, billboards, solicitation or advertising structures or any kind shall be erected, modified or maintained on a Unit or within the Properties unless in conformance within the Design Guidelines and unless prior written approval of the ARB is obtained. The Design Guidelines may restrict the size, materials, color, lettering, illumination, and placement of all signs. The restrictions of this Section shall not apply to the Declarant or a Declarant-Related Entity.

10.20. Fences or Walls. No fences or walls shall be erected except in conformance with the Design Guidelines, and with prior written ARB approval.

10.21. Lighting. Exterior lighting must be approved by the ARB and installed pursuant to the Design Guidelines. Seasonal decorative lights may be used only pursuant to rules and regulations established by the Board from time to time.

10.22. Air-Conditioning Equipment. No air conditioning equipment which is visible on the exterior of any Improvement shall be permitted in the Properties unless constructed in accordance with the Design Guidelines and approved by the ARB. Approval shall be based on adequacy of screening and/or landscaping of the equipment.

10.23. Temporary Structures. Except as specifically approved in writing in advance by the ARB, no temporary buildings (including construction trailers) shall be erected or placed on the Properties.

10.24. Antennas. Antennas, satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind shall be constructed or erected in accordance with the Design Guidelines. Notwithstanding the foregoing, the ARB shall regulate antennas, satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind only in strict compliance with all federal laws and regulations.

10.25. Rules and Regulations. In addition to the use restrictions set forth in this Article, the Board may, from time to time, without consent of the Members, promulgate, modify or delete rules and regulations applicable to the Properties. Such rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified in a regular or special meeting by a Majority of the Members holding a Majority of the total Class "A" votes in the Association, and, during the Development Period, the written consent of the Declarant.

~~10. Section 11.3 is deleted in its entirety and the following is substituted therefor:~~

~~11.3. Easement for Slope Control, Drainage and Waterway Maintenance. Declarant reserves, creates, establishes, promulgates, and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself, the owner of any Adjacent Property and the Association, and their respective representatives, successors and assigns, contractors and agents, over, across, under, through and upon each Unit for the purposes of:~~

- ~~(a) controlling soil erosion, including grading and planting with vegetation any areas of any Unit which are or may be subject to soil erosion;~~
- ~~(b) drainage of natural or man-made water flow and water areas from any portion of the Properties or any Adjacent Property;~~
- ~~(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Unit or Common Area; and~~
- ~~(d) installing such pipes, lines, conduits, or other equipment as may be necessary for slope control, drainage and waterway.~~

maintenance of any portion of the Properties or any Adjacent Property.

11. Section 11.5 is deleted in its entirety and the following is substituted therefor:

11.5. Maintenance, Construction, Utility and Drainage Easements.

The Owners of all Units recognize and agree that temporary construction and permanent and perpetual maintenance easements and all rights of access reasonably necessary to permit construction and maintenance of the Common Area, including reasonable permanent easements to permit installation and maintenance of Utilities, roads, walkways, and storm water drainage on the Properties are hereby granted to and retained by Declarant for the benefit of Declarant, the Association, the Residential Association in accordance with any Cost Sharing Agreement, and their respective Mortgagees, independent contractors, agents and assigns of each. Such easements must be granted and conveyed hereafter by each Owner to Declarant and the Association for the benefit of Declarant and of the Association and their respective Mortgagees, employees, independent contractors, agents, and assigns. Each Owner, by taking title to its respective Unit, hereby grants and conveys and shall be deemed to have consented and agreed to hereafter designate, grant and convey such easements when requested to do so by Declarant or the Association. Each Owner, by taking title to its respective Unit, shall also be deemed to have agreed to obtain from all appropriate parties, including its Mortgagees and trustees under deeds to secure debt, the written subordination of any and all Mortgages, deeds to secure debt, security interests, and all other liens that encumber or in any way affect its respective Unit to such easements and to all other easements, rights-of-way and rights of ingress, egress, access, and passage now set forth in or otherwise provided for in or contemplated by this Article. Such written subordination instruments shall be provided promptly and without delay to Declarant and the Association when requested by Declarant or the Association. Each Mortgagee, noteholder under a deed to secure debt, trustee under a deed to secure debt, and other holders of any security interest in any Unit by accepting a security interest in or legal or equitable title to a Unit, shall be deemed to have consented to and agreed that its security interest or legal or equitable title is subject to said easements and agrees to execute any instrument reasonably required to subordinate its debt and security instruments to such easements, rights-of-way and rights of ingress, egress, access, and passage subject to the same not materially adversely affecting the Unit serving as the security for the obligations owed to such Mortgagee or noteholder. Such easements will contain terms and conditions reasonably requested by Declarant or the Association, as the case may be, but such easements will not

unreasonably interfere with the development, use and occupancy of any Unit or unreasonably affect access to, or operation of, any such Unit. All temporary construction easements, and temporary access rights in connection therewith, of Declarant shall terminate automatically when construction of the Common Area for which such easement is granted or retained is completed, but the permanent and perpetual maintenance easements, and access rights in connection therewith, of Declarant and the Association shall continue in full force and effect except as hereinafter provided. Prior to the Declarant's or the Association's exercise of any easement rights created by this Section, a written instrument defining the location of the respective easement shall be approved by the appropriate governmental entity.

12. Section 11.6 is deleted in its entirety and the following is substituted therefor:

11.6. Easement for Entry. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for the Association to enter upon any Unit for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Association's officers, committee members, agents, employees and managers of the Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Unit shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Unit to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any building without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

13. Article 11 is hereby further amended by adding the following Sections thereto:

11.12. Maintenance, Construction, Utility and Drainage Easements. The Owners of all Units recognize and agree that temporary construction and permanent and perpetual maintenance easements and all rights of access reasonably necessary to permit construction and maintenance of the Common Area, including reasonable permanent easements to permit installation and maintenance of Utilities, roads, walkways, and storm water drainage on the Properties are hereby granted to and retained by Declarant for the benefit of Declarant, the Association, the Residential Association in accordance

with any Cost Sharing Agreement, and their respective Mortgagees, independent contractors, agents and assigns of each. Such easements must be granted and conveyed hereafter by each Owner to Declarant and the Association for the benefit of Declarant and of the Association and their respective Mortgagees, employees, independent contractors, agents, and assigns. Each Owner, by taking title to its respective Unit, hereby grants and conveys and shall be deemed to have consented and agreed to hereafter designate, grant and convey such easements when requested to do so by Declarant or the Association. Each Owner, by taking title to its respective Unit, shall also be deemed to have agreed to obtain from all appropriate parties, including its Mortgagees and trustees under deeds to secure debt, the written subordination of any and all Mortgages, deeds to secure debt, security interests, and all other liens that encumber or in any way affect its respective Unit to such easements and to all other easements, rights-of-way and rights of ingress, egress, access, and passage now set forth in or otherwise provided for in or contemplated by this Article. Such written subordination instruments shall be provided promptly and without delay to Declarant and the Association when requested by Declarant or the Association. Each Mortgagee, noteholder under a deed to secure debt, trustee under a deed to secure debt, and other holders of any security interest in any Unit by accepting a security interest in or legal or equitable title to a Unit, shall be deemed to have consented to and agreed that its security interest or legal or equitable title is subject to said easements and agrees to execute any instrument reasonably required to subordinate its debt and security instruments to such easements, rights-of-way and rights of ingress, egress, access, and passage subject to the same not materially adversely affecting the Unit serving as the security for the obligations owed to such Mortgagee or noteholder. Such easements will contain terms and conditions reasonably requested by Declarant or the Association, as the case may be, but such easements will not unreasonably interfere with the development, use and occupancy of any Unit or unreasonably affect access to, or operation of, any such Unit. All temporary construction easements, and temporary access rights in connection therewith, of Declarant shall terminate automatically when construction of the Common Area for which such easement is granted or retained is completed, but the permanent and perpetual maintenance easements, and access rights in connection therewith, of Declarant and the Association shall continue in full force and effect except as hereinafter provided. Prior to the Declarant's or the Association's exercise of any easement rights created by this Section, a written instrument defining the location of the respective easement shall be approved by the appropriate governmental entity.

11.13. Roadside Access Easements. Declarant, reserves, creates, establishes, promulgates and declares a non-exclusive perpetual, appurtenant easement for itself and its designees during the Development Period, the Association and the general public an easement for access, adjacent and parallel to all public road rights-of-way within the Properties, extending from the curb to the far side of any sidewalk or jogging or bicycle path running more or less parallel to the curb, for the purpose of using such sidewalk or path. There is also hereby reserved to Declarant, the Association, and the designees of each, a right to go upon, over and across all property adjacent to public road rights-of-way within the Properties to maintain, repair and replace sidewalks, paths, and traffic and directional signs.

11.14. Landscape Easements and Tree Preservation. Declarant reserves, creates, establishes, promulgates and declares a non-exclusive, perpetual, appurtenant easement for itself and its designees during the Development Period, the Association and the designees of each, for access, installation, pruning, and other maintenance, removal and replacement of street trees and landscaping over those portions of the Properties lying adjacent to all roadways ("Landscape Easement") and over such other portions of the Properties as are designated "Landscape Easement" on the recorded plats of the Properties or on the plans submitted to the ARB. Such easement shall include the right to disturb existing landscaping within the Landscape Easement, to dig holes and to temporarily pile dirt and plant material upon the Landscape Easement, provided the area is restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of the activities authorized hereunder. Nothing herein shall obligate the Declarant or the Association to undertake any of the activities which such easement authorizes. Except as may otherwise be provided in any written agreement executed by the Declarant, the Declarant may, but shall not be obligated to, install street trees and landscaping within such public rights-of-way and/or these Landscape Easements at its option, at such times and in such numbers and locations as it may deem appropriate in its sole discretion. These Landscape Easement areas shall not be disturbed by any Owner without prior approval in accordance with Article 9.

14. Section 13.1 is deleted in its entirety and the following is substituted therefor:

13.1. Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Association, to a Declarant-Related Entity, or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that

which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

15. Section 13.2 is deleted in its entirety and the following is substituted therefor:

13.2. Development and Sales. The Declarant or a Declarant-Related Entity and others authorized by Declarant may maintain and carry on the Properties such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Units, such as sales activities and promotional events, and restrict Members from using the Common Area during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Area. In the event that any such activity necessitates exclusion of Owners from Common Areas such activities shall not exceed seven (7) consecutive Days. The Declarant and others authorized by the Declarant shall have easements over the Properties for access, ingress and conducting such activities.

In addition, the Declarant and others authorized by Declarant may establish within the Properties, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient or incidental to the development of the Properties and/or the construction or sale of Units, including, but not limited to, business offices, signs, model units, tents, sales offices, sales centers, and related parking facilities. During the Development Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and others authorized by the Declarant shall have easements over the Properties for access, ingress and egress and use of such facilities.

Declarant may permit the use of any facilities situated on the Common Area by Persons other than the Owners without the payment of any use fees.

16. Section 13.3 is deleted in its entirety and the following is substituted therefor:

13.3. Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such Improvements to the Common Area

as it deems appropriate in its sole discretion. The Declarant and its employees, agents and designees shall also have a right and easement over and upon each and every Unit, the boundary line or lines of which form a portion of the perimeter of the Properties for the purpose of constructing and installing a fence or wall along all or a portion of the perimeter of the Properties, if deemed appropriate by the Declarant, in its sole discretion.

17. Section 13.4 is deleted in its entirety and the following is substituted therefor:

13.4. Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than the Declarant pursuant to Section 7.4, may conflict with the Declaration, By-Laws or Articles.

18. Article 13 is hereby further amended by adding the following Sections thereto:

13.7. Limitations in Use. During the Development Period, the Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, to limit the use of any portion of the Properties, including any one Unit or group of Units, to one or more, but less than all, of the permitted uses under the Zoning Ordinance. By way of example only, the Declarant may limit the use of certain Units to use as a medical office. In the alternative, the use of a Unit may be limited to a nonresidential use permitted under the Master Plan such as, by way of example only, a specific non-food service retail use, or the use of certain Units may be restricted against a use already being conducted by an Owner of a Unit within the Properties.

The limitations on use imposed by the Declarant may not be changed without the written consent of the Declarant during the Development Period. Thereafter, or at such time as the Declarant assigns its rights in this regard to the Association, any change in the limitations on use shall require the consent of the Board and the Owner(s) of the affected Unit or Units and shall be set forth in a written instrument recorded in the Public Records. Declarant shall have the further right to establish such rules, regulations and procedures for initial and continuing review, approval and enforcement of the use or uses of and for all Units as provided in Article 10.

13.8. Right of Declarant to Disapprove Actions. During the Development Period, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant or a Declarant-Related Entity under the Governing Documents, or interfere with development of, construction on, or marketing of any portion of the Properties, the Additional Property or the Adjacent Property, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board, or any committee as may be granted to the Declarant in the Governing Documents.

- (a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Declarant has registered with the secretary of the Association, which notice complies with the notice requirements set forth in the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Declarant may waive its right to receive notice in the same manner as provided in the By-Laws.
- (b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the Members of the subject committee.
- (c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.
- (d) The Declarant acting through any authorized representative, may exercise its right to disapprove at any time within ten (10) Days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) Days

following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Declarant exercises its right to disapprove. This right to disapprove may be used to block proposed actions, but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

ARTICLE 4

Declaration

Except as specifically amended hereby, the Declaration and all terms thereof shall remain in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Amendment and Supplemental Declaration the day and year first above written.

DECLARANT:

84 WEST, INC., an Alabama corporation

By: Quin E. Flowers, Jr.
Name: Quin E. Flowers, Jr.
Title: President

[CORPORATE SEAL]

STATE OF ALABAMA)

COUNTY OF HOUSTON)

I, Linda P. Baker, a Notary Public in and for said County, in said State, hereby certify that Quin E. Flowers, Jr., whose name as President of 84 West, Inc., an Alabama corporation, signed the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date.

Give under my hand and official seal, this 25 day of September, 2007.

Linda P. Baker
Notary Public

My Commission Expires:

Notary Public
Alabama State at Large
Linda P. Baker
My Commission Expires 12-18-2010

[NOTARY SEAL]

EXHIBIT "A"

Additional Property

STATE OF ALABAMA
COUNTY OF HOUSTON

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 3 NORTH, RANGE 26 EAST, HOUSTON COUNTY, ALABAMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SE 1/4 OF THE SW 1/4 SECTION 17, TOWNSHIP 3 NORTH, RANGE 26 EAST, HOUSTON COUNTY, ALABAMA, AND PROCEED ON A BEARING OF N00°12'23"W, ALONG THE EAST BOUNDARY, A DISTANCE OF 2530.43 FEET, TO THE SOUTH RIGHT-OF-WAY OF U.S. HIGHWAY 84; THENCE PROCEED ON A BEARING OF N68°09'56"W, ALONG THE SOUTH RIGHT-OF-WAY OF U.S. HIGHWAY 84, A DISTANCE OF 1345.38 FEET; THENCE PROCEED ON A BEARING OF N68°07'54"W, ALONG THE SOUTH RIGHT-OF-WAY OF U.S. HIGHWAY 84, A DISTANCE OF 153.05 FEET; THENCE PROCEED ON A BEARING OF N67°58'57"W, ALONG THE SOUTH RIGHT-OF-WAY OF U.S. HIGHWAY 84, A DISTANCE OF 462.64 FEET; THENCE PROCEED ON A BEARING OF S00°39'00"E, A DISTANCE OF 365.38 FEET, TO THE POINT OF BEGINNING OF THIS PARCEL; THENCE CONTINUE ON A BEARING OF S00°39'00"E, A DISTANCE OF 683.47 FEET, THENCE PROCEED ON A BEARING OF N89°20'47"E, A DISTANCE OF 450.55 FEET, TO THE WEST RIGHT-OF-WAY OF GROVE PARK LANE; THENCE PROCEED ON A BEARING OF N00°39'14"W, ALONG THE WEST RIGHT-OF-WAY OF GROVE PARK LANE, A DISTANCE OF 471.43 FEET; THENCE PROCEED ON A BEARING OF N04°32'38"W, A DISTANCE OF 212.51 FEET, THENCE PROCEED ON A BEARING OF S89°21'00"W, A DISTANCE OF 436.09 FEET, TO THE POINT OF BEGINNING OF THIS PARCEL. THIS PARCEL CONTAINS 7.03 ACRES, MORE OR LESS.

Upon recording, please return to:
 W. Burrell Ellis, Jr., Esq.
 Epstein Becker & Green, P.C.
 Suite 2700, Resurgens Plaza
 945 East Paces Ferry Road
 Atlanta, Georgia 30326

Cross-Reference:
 Misc. Book 184, Page 488,
 Houston County, Alabama Records

OWNER CONSENT TO AMENDMENT AND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GROVE PARK

THIS CONSENT is made this 18 day of September, 2007.

WITNESSETH:

WHEREAS, 84 West, Inc., an Alabama corporation (the "Declarant"), filed for record that certain Declaration of Covenants, Conditions and Restrictions for Grove Park, recorded on January 28, 1998 in Misc. Book 184, Page 488, *et seq.*, in the Office of the Probate Judge of Houston County, Alabama (as amended and supplemented, such instrument is herein referred to as the "Declaration"); and

WHEREAS, pursuant to the terms of Section 7.1 of the Declaration, the Declarant may submit certain additional property described on Exhibit "B" of the Declaration to the terms of the Declaration with the consent of owners of the property being annexed (the "Owner"); and

WHEREAS, Grove Park LLC ("Owner") is the record owner of title in fee simple to ~~xxx addendum~~ (the "Lots"), which are more particularly described on that certain plat recorded in the Houston County, Alabama records in Plat Book 11, Page 49; and

WHEREAS, Owner deems it appropriate to consent to the Amendment and Supplemental Declaration of Covenants, Conditions and Restrictions for Grove Park and to acknowledge that the Lots are subject to the provisions of the Declaration; and

NOW, THEREFORE, Owner does hereby declare and agree, on behalf of itself, its successors, assigns, and successors-in-title, that the Lots shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration. The terms, provisions, covenants, and restrictions contained in Declaration shall run with the title to the Lots and shall be binding upon all persons having any right, title or interest in the Lot, their respective heirs, legal representatives, successors, successors-in-title, and assigns.

IN WITNESS WHEREOF, this Consent has been executed under seal as of the day and year first above written.

OWNER:

Grove Park LLC

By: Quin Flowers Jr., mgr

Name: Quin Flowers Jr.

Title: mgr

[CORPORATE SEAL]

STATE OF ALABAMA)

COUNTY OF HOUSTON)

I, Linda P. Baker, a Notary Public in and for said County, in said State, hereby certify that Quin Flowers, Jr., Mgr., signed the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date.

Give under my hand and official seal, this 18 day of September, 2007.

Linda P. Baker
Notary Public

My Commission Expires:

Notary Public
Alabama State at Large
Linda P. Baker
My Commission Expires 12-18-2010

[NOTARY SEAL]

ADDENDUM

Lot 1

Lot 2

Lot 6

Lot 7

Lot 8

Lot 9

Lot 10

Lot 11

Lot 12

Lot 13

Lot 14

Lot 15

Lot 16

Lot 17

Lot 18

Lot 19

Upon recording, please return to:
 W. Burrell Ellis, Jr., Esq.
 Epstein, Becker & Green, P.C.
 Suite 2700, Resurgens Plaza
 945 East Paces Ferry Road
 Atlanta, Georgia 30326

Cross-Reference:
 Misc. Book 184, Page 488,
 Houston County, Alabama Records

OWNER CONSENT TO AMENDMENT AND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GROVE PARK

THIS CONSENT is made this 11 day of Sept, 2007.

WITNESSETH:

WHEREAS, 84 West, Inc., an Alabama corporation (the "Declarant"), filed for record that certain Declaration of Covenants, Conditions and Restrictions for Grove Park, recorded on January 28, 1998 in Misc. Book 184, Page 488, *et seq.*, in the Office of the Probate Judge of Houston County, Alabama (as amended and supplemented, such instrument is herein referred to as the "Declaration"); and

WHEREAS, pursuant to the terms of Section 7.1 of the Declaration, the Declarant may submit certain additional property described on Exhibit "B" of the Declaration to the terms of the Declaration with the consent of owners of the property being annexed (the "Owner"); and

WHEREAS, M. Shannon Daugherty, DMD ("Owner") is the record owner of title in fee simple to Lot 5 (the "Lots"), which are more particularly described on that certain plat recorded in the Houston County, Alabama records in Plat Book 11, Page 49; and

WHEREAS, Owner deems it appropriate to consent to the Amendment and Supplemental Declaration of Covenants, Conditions and Restrictions for Grove Park and to acknowledge that the Lots are subject to the provisions of the Declaration; and

NOW, THEREFORE, Owner does hereby declare and agree, on behalf of itself, its successors, assigns, and successors-in-title, that the Lots shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration. The terms, provisions, covenants, and restrictions contained in Declaration shall run with the title to the Lots and shall be binding upon all persons having any right, title or interest in the Lot, their respective heirs, legal representatives, successors, successors-in-title, and assigns.

IN WITNESS WHEREOF, this Consent has been executed under seal as of the day and year first above written.

OWNER:

M. Shannon Daugherty

By: _____

Name: _____

Title: _____

[CORPORATE SEAL]

STATE OF ALABAMA)

COUNTY OF HOUSTON)

I, Linda P. Baker, a Notary Public in and for said County, in said State, hereby certify that M. Shannon Daugherty, signed the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date.

Give under my hand and official seal, this 11 day of September, 2007.

Linda P. Baker
Notary Public

My Commission Expires:

Notary Public
Alabama State at Large
Linda P. Baker

My Commission Expires 12-18-2010

[NOTARY SEAL]

Upon recording, please return to:
 W. Burrell Ellis, Jr., Esq.
 Epstein Becker & Green, P.C.
 Suite 2700, Resurgens Plaza
 945 East Paces Ferry Road
 Atlanta, Georgia 30326

Cross-Reference:
 Misc. Book 184, Page 488,
 Houston County, Alabama Records

OWNER CONSENT TO AMENDMENT AND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GROVE PARK

THIS CONSENT is made this 10th day of Sept, 2007.

WITNESSETH:

WHEREAS, 84 West, Inc., an Alabama corporation (the "Declarant"), filed for record that certain Declaration of Covenants, Conditions and Restrictions for Grove Park, recorded on January 28, 1998 in Misc. Book 184, Page 488, *et seq.*, in the Office of the Probate Judge of Houston County, Alabama (as amended and supplemented, such instrument is herein referred to as the "Declaration"); and

WHEREAS, pursuant to the terms of Section 7.1 of the Declaration, the Declarant may submit certain additional property described on Exhibit "B" of the Declaration to the terms of the Declaration with the consent of owners of the property being annexed (the "Owner"); and

WHEREAS, Believing Properties LLC ("Owner") is the record owner of title in fee simple to Lot 20 (the "Lots"), which are more particularly described on that certain plat recorded in the Houston County, Alabama records in Plat Book 11, Page 49; and

WHEREAS, Owner deems it appropriate to consent to the Amendment and Supplemental Declaration of Covenants, Conditions and Restrictions for Grove Park and to acknowledge that the Lots are subject to the provisions of the Declaration; and

NOW, THEREFORE, Owner does hereby declare and agree, on behalf of itself, its successors, assigns, and successors-in-title, that the Lots shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration. The terms, provisions, covenants, and restrictions contained in Declaration shall run with the title to the Lots and shall be binding upon all persons having any right, title or interest in the Lot, their respective heirs, legal representatives, successors, successors-in-title, and assigns.

IN WITNESS WHEREOF, this Consent has been executed under seal as of the day and year first above written.

OWNER:

[Signature]

By: _____

Name: _____

Title: _____

[CORPORATE SEAL]

STATE OF ALABAMA)

COUNTY OF HOUSTON)

I, Linda P. Baker, a Notary Public in and for said County, in said State, hereby certify that Angley F. Whatley signed the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date.

Give under my hand and official seal, this 10 day of September, 2007.

[Signature]
Notary Public

My Commission Expires:

Notary Public
Alabama State at Large
Linda P. Baker
My Commission Expires 12-18-2010

My Commission Expires 12-18-2010
Linda P. Baker
Alabama State at Large
Notary Public
[NOTARY SEAL]

Re: Epstein Becker & Green
945 E. Paces Ferry Rd NE # 2700
Atlanta GA 30326-1380

Recording Fee
TOTAL \$5.00