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James H. Rollins, Esquire
HOLLAND & KNIGHT
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1201 West Peachtree Street, N.E.
Atlanta, Georgia 30309-3400

STATE OF GEORGIA

COUNTY OF FULTON

**DEED OF GIFT AND AGREEMENT FOR AN
ARCHITECTURAL, FACADE AND
PRESERVATION EASEMENT**

THIS DEED OF GIFT AND AGREEMENT FOR AN ARCHITECTURAL
FACADE AND PRESERVATION EASEMENT (hereinafter referred to as this
"Agreement" or this "Deed and Agreement"), made as of the 21st day of December
2000, by and between AUBURN AVENUE WAREHOUSE, L.P., a Georgia limited
partnership, the address of which is 522 Auburn Avenue, N.E., Atlanta, Georgia
30312-1900 ("Grantor") and EASEMENTS ATLANTA, INC., a Georgia nonprofit
corporation, the address of which is: c/o Atlanta Preservation Center, The Desoto,
Suite 3, 156 7th Street, N.E., Atlanta, Georgia 30308-1315 ("Grantee").

WITNESSETH:

WHEREAS, the Grantee is a not for profit corporation chartered by the State of Georgia (the "State") in order to facilitate public participation in the preservation of sites, buildings and objects significant in American and State history and culture;

WHEREAS, the Grantee is authorized to accept easements in order to protect property significant in American and State history and culture;

WHEREAS, the Grantor is the legal and equitable owner in fee simple of certain improved real property in Fulton County, Georgia, and more particularly described on Exhibit A attached hereto and made a part hereof by this reference (the "Premises");

WHEREAS, the Premises includes that building commonly known as AUBURN AVENUE WAREHOUSE, 659 Auburn Avenue, N.E., Atlanta, Georgia 30312 (the "Improvements"), which was listed in the National Register of Historic Places on December 19, 1999;

WHEREAS, the Premises are historically and architecturally significant, and Grantee has determined that the grant of an architectural and preservation easement by Grantor to Grantee with respect to the Premises will assist in preserving and maintaining the Premises, their historical and architectural significance and the architectural ensemble of the State by protecting, enhancing and perpetuating the special historical, cultural and/or aesthetic interest and/or value of the Premises;

WHEREAS, to this end, Grantor desires to grant to Grantee, and Grantee desires to accept, an architectural and preservation easement on the Premises, and Grantor further desires that this gift to Grantee qualify as a "qualified conservation contribution" as defined in section 170(h) of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, Grantor further desires that this gift to Grantee constitute a "conservation easement" as defined in O.C.G.A. § 44-10-2(1).

NOW, THEREFORE, in consideration of the charitable gift made hereby and Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, paid by each party hereto to the other, the receipt and sufficiency of which are hereby acknowledged by Grantor and Grantee, and in further consideration of the mutual promises and representations made herein, Grantor and Grantee hereby agree as follows:

GRANTING CLAUSE

Grantor does hereby grant and convey unto Grantee an easement in perpetuity (which easement is more particularly described below) in and to the Premises and the Facades (as hereafter defined), upon the terms and conditions set forth herein.

TO HAVE AND TO HOLD the easement granted and conveyed by this Deed and Agreement to the use, benefit and behoof of Grantee, its successors and permitted assigns FOREVER.

Grantor agrees to abide by the Standards in performing all restoration, rehabilitation, repair and maintenance work on the Improvements. In the event the Standards are abandoned or materially altered or otherwise become, in the sole judgment of Grantee, inappropriate for the purposes set forth above, Grantee may apply reasonable alternative standards and notify Grantor of the substituted standards.

III. Covenants of Grantor.

In furtherance of the easement granted herein, Grantor covenants on behalf of itself, its successors and assigns, with Grantee, its successors and assigns, such covenants being deemed to run as a binding servitude, in perpetuity, with the land, to do (and refrain from doing) upon the Premises each of the following covenants, each of which contributes to the public good in that each aids significantly in the preservation and protection of the Premises or in the preservation of the historic district in which the Premises are located:

(1) Grantor shall not demolish, remove or raze the Improvements or the Facades or any part thereof.

(2) Without the express prior written permission of the Grantee, signed by a duly authorized representative thereof, Grantor shall not undertake or permit to be undertaken any construction, maintenance, repair, alteration or remodeling or any other activity on or with respect to the Premises which would not comply with the Standards or would cause the Secretary not to certify the Improvements as being consistent with the historic character of the Premises. Grantor shall not, without the express prior written permission of Grantee, materially alter in any way the exterior appearance of the Improvements, and specifically, but without limiting the generality of the foregoing, Grantor shall not:

- (a) increase or decrease the height of the Improvements;
- (b) adversely affect the structural soundness of the Improvements;
- (c) make any changes in the Facades, including the alteration, partial removal, remodeling or other physical or structural change with respect to the appearance or construction thereof, including any change in the color, material or surfacing;
- (d) construct any additions to or extensions of the Improvements;
- (e) erect or place anything on the Premises or on the Improvements which would prohibit the Facades from being visible from street level,

except for temporary structures during any period of approved alteration, restoration, or maintenance of the Improvements; or

(f) erect, construct or move anything on the Premises that would encroach on the open land area surrounding the Improvements and interfere with a view of the Facades or be incompatible with the historic or architectural character of the Improvements or the Facades.

Notwithstanding the foregoing, Grantor may, with the express prior written permission of the Grantee based on plans and specifications provided by Grantor at Grantor's expense, undertake any restoration or rehabilitation of the exterior of the Improvements in accordance with the Standards if such rehabilitation can be reasonably expected by the Grantee to result in the Secretary certifying such rehabilitation as being consistent with the historic character of the Premises or the historic district, if any, in which the Premises are located.

(3) Grantor shall at all times maintain the Premises and the Improvements which are a part of the Premises (including, without limitation, the Facades) in a good and sound state of repair and shall undertake a regular maintenance program to preserve the structural soundness and prevent deterioration of the Improvements. The obligation to maintain the Improvements includes the requirement to replace, rebuild, repair and reconstruct the Facades whenever necessary in accordance with the Standards and to have the exterior surfaces of the Improvements at all times appear to be and actually be the same as the Facades.

(4) The Premises shall be used for such purposes as are permissible under the zoning and other general laws of the City of Atlanta, Georgia, as such purposes may be changed from time to time. The Premises shall not be subdivided, nor shall the Premises ever be demised or conveyed other than as a unit, except that the Premises may be made subject to a declaration of condominium.

(5) No utility transmission lines or devices, including satellite receiving dishes, other than those existing on the date hereof may be installed on the Premises in a manner as to cause them to be visible by the public from the exterior of the Premises.

(6) No dumping of ashes, trash, rubbish or any other unsightly or offensive materials which are visible from public roads or streets shall be permitted on the Premises.

(7) Except for those permitted exceptions shown on Exhibit "C" hereto, Grantor warrants to Grantee that no lien or encumbrance that has priority

over this Deed and Agreement exists on the Premises as of the date hereof. Grantor shall immediately cause to be satisfied or released any lien or claim of lien that may hereafter come to exist against the Premises which would have priority over any of the rights, title or interest of Grantee hereunder.

(8) Any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or its possessory interest in the Premises, or any part thereof (excluding, however, space leases and licenses to tenants in the ordinary course of Grantor's business) shall be made subject to the restrictions and agreements contained in this Deed and Agreement. Such restrictions and agreements need not be included verbatim but may be incorporated by reference to this instrument in that deed or instrument. Grantor shall provide Grantee with written notice of any transfer of title to the Premises; provided, however, that failure to give said notice will not affect the easements or rights hereby created.

(9) Grantor will not display or place on the Premises signs, billboards, awnings or advertisements, except (i) such plaques or other markers as are appropriate for commemorating the historic importance of the Premises; (ii) such signs or markers as are necessary to direct and restrict the passage of persons or the parking of vehicles upon said Premises; (iii) a sign or signs stating the address of the Premises; (iv) such signs or markers as are necessary to advertise conspicuously the commercial or other use of the Premises; and (v) such signs, or markers as are necessary to advertise conspicuously the availability of the Premises for sale or rent, which signs or markers referred to in (i) - (v) of this paragraph shall be in conformity with design approval by the applicable design authority, if any. Grantee may provide and maintain a plaque on each of the street facades of the Premises not to exceed eight by twelve inches in size, mounted flush on the front exterior of the facade, with design approval by any applicable authority pursuant to established procedure, giving notice of the history of the building and the grant of this preservation easement.

(10) The Premises shall be landscaped in a manner compatible with the style and period of the Improvements. No living trees greater than 12 inches in diameter at a point four feet above the ground within 150 feet of the Improvements shall be removed unless immediate removal is necessary for the protection of any persons coming onto the Premises or of the general public, for the prevention or treatment of disease, or for the protection and safety of the Improvements. Any tree of the aforementioned size which must be removed shall be replaced within a reasonable time by a new tree of the same species or, with the express written consent of Grantee, with an alternative species.

(11) No grading, excavation or other disturbance of the ground on the Premises shall be undertaken without the prior written approval of Grantee, which approval may be conditioned upon performance of a qualified archeological investigation if, in the judgment of Grantee, such grading, excavation or disturbance might affect significant archeological resources on the Premises.

IV. Rights of Grantee Generally.

(1) Representatives of Grantee shall be permitted at all reasonable times to inspect the Premises, including the interior of the Improvements on the Premises to the extent required to insure maintenance of the structural soundness of the Improvements and compliance with this Deed and Agreement. Inspection of the interior will not, in the absence of evidence of deterioration, take place more often than annually and will be made at a time mutually agreed upon by Grantor and Grantee and in such a manner as will not interfere with the use and occupancy of the Premises by Grantor's tenants. Grantor covenants not to withhold unreasonably its consent in determining a date and time for such inspection.

(2) In the event of a violation of any covenant or restriction herein, Grantee may, following reasonable notice to Grantor, institute suit to enjoin by *ex parte*, temporary, and/or permanent injunction, such violation and to require restoration of the Premises to their prior condition, or, if necessary, following reasonable notice to Grantor, representatives of the Grantee may enter upon the Premises, correct any such violation, and hold Grantor responsible for the cost thereof. Such cost until repaid shall constitute a lien on the Premises.

(3) Grantee shall have all legal and equitable remedies to enforce Grantor's obligations hereunder, and, in the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any actual and reasonable costs or expenses incurred in connection with the enforcement by Grantee of Grantee's rights hereunder, including court costs and attorney's, architectural, engineering and expert witness fees.

(4) The exercise by Grantee of one remedy, or the failure to exercise any remedy, shall not have the effect of waiving or limiting the use of any other remedy at any other time.

V. Casualty Damage or Destruction.

(1) In the event that the Premises or any part thereof shall be damaged or destroyed by casualty, Grantor shall notify Grantee in writing within one (1)

day of the damage or destruction, such notification to the Grantee if emergency work has already been completed. For purposes of this Deed and Agreement, the term "casualty" is defined as such sudden damage or loss as would qualify for a loss deduction pursuant to Section 165(c)(3) of the Code (construed without regard to the legal status, trade or business of Grantor or any applicable dollar limitation). No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Premises and to protect public safety, shall be undertaken by Grantor without Grantee's prior written approval. Within thirty (30) days of the date of the damage or destruction, Grantor shall submit to Grantee a written report prepared by a qualified restoration architect and, if required, a qualified engineer, acceptable to Grantor and Grantee, which report shall include the following:

- (a) an assessment of the nature and extent of the damage;
- (b) a determination of the feasibility of the restoration of the Facades or reconstruction of the damaged or destroyed portions of the Improvements; and
- (c) a report of such restoration or reconstruction work necessary to return the Premises to the condition existing at the date hereof.

(2) If in the opinion of Grantee, after reviewing such report, the purpose and intent of the easement granted hereby will be served by such restoration or reconstruction, Grantor shall, within such time as Grantee may reasonably direct, complete the restoration or reconstruction of the Premises in accordance with plans and specifications approved by Grantee up to at least the total of the proceeds of the casualty insurance covering the loss. Grantee has the right, but not the obligation, to raise funds toward the cost of restoration or reconstruction of the Premises above and beyond the total of the casualty insurance proceeds for the purpose of restoring the appearance of the Facades, and, if such additional funds are raised and applied to the restoration or reconstruction of the Premises, Grantee shall have a lien on the Premises to the extent of any funds so advanced.

(3) In the event of casualty damage to the Premises which is of such magnitude and extent as to render repairs or reconstruction of the Improvements impossible using all applicable insurance proceeds and other funds that may be raised by Grantee, as determined by Grantee by reference to bona fide cost estimates, or if in the opinion of Grantee, restoration or reconstruction would not serve the purpose and intent of this Deed and Agreement, then:

- (a) Until such time as the easement granted by this Deed is extinguished as provided in Article VI below, Grantor shall continue to comply with the provisions of

this Deed and Agreement and obtain the prior written consent of Grantee in the event Grantor wishes to alter, demolish, remove or raze the Improvements or construct new buildings on the Premises; and

(b) Grantee may elect to choose any salvageable portion of the Facades and remove them from the Premises at Grantee's cost and expense, and Grantor shall deliver to Grantee a good and sufficient bill of sale for such salvaged portions of the Facades.

VI. Extinguishment by Judicial Proceeding.

Notwithstanding any other provision of this Deed and Agreement to the contrary, no restriction contained herein will lapse or be extinguished, whether upon partial or total destruction of the Improvements resulting from a casualty, condemnation or loss of title to all or a portion of the Premises, or otherwise, unless and until each of the following requirements is met in full:

(a) A court of competent jurisdiction in the State enters a final judgment finding that a change in conditions makes the continued use of the Premises or a part thereof for preservation or conservation purposes impossible, that the easement granted by this Deed and Agreement is extinguished and that the proposed use by Grantee of any proceeds received by Grantee as a result of such extinguishment is a use consistent with the conservation purposes of the original contribution; and

(b) Grantee shall have received in full the payment due as a result of the extinguishment of the easement determined in accordance with Article VII below.

VII. Value of Grantee's Interest.

(1) Grantor acknowledges that, upon the execution and recording of this Deed and Agreement, Grantee shall be immediately vested with a real property interest in the Premises with a fair market value equal to the "Current Value" (as defined herein) of this easement at the date of recording of this Deed and Agreement.

(2) In the event this easement is extinguished in whole or in part, whether from destruction of the Improvements resulting from a casualty, condemnation or loss of title, or otherwise, Grantor shall pay Grantee an amount equal to the then-Current Value of this easement multiplied by the percentage of the easement which has been extinguished as determined by Grantor and Grantee or, failing such agreement, by the court ordering

extinguishment of the easement. Such payment shall be due from the first proceeds of any casualty insurance, condemnation award, sale in lieu of condemnation, title insurance, or other awards or proceeds related to the extinguishment of the easement, as the case may be, and, if those proceeds are insufficient, Grantee shall have a lien on the remainder of the Premises to the extent of any such deficiency. The amount remaining due shall be paid from the first proceeds of sale, lease, exchange, refinancing or other disposition of the Improvements or the Premises if, as and when those proceeds (whether in cash or in property) are received by Grantor.

(3) As used herein, "Current Value" shall mean the product of the "Original Percentage" times the then fair market value of the Premises (assuming that the Premises are not encumbered by this easement and are restored to their condition prior to the casualty or condemnation, as the case may be). The "Original Percentage" shall be the percentage obtained by establishing the deduction allowed to the Grantor for federal income tax purposes for the gift of this easement under Section 170 of the Code and dividing that deduction by the appraised value of the Premises, as determined pursuant to Section 170 of the Code, immediately prior to the gift of this easement.

(4) Grantor agrees to obtain and furnish Grantee with copies of the before and after appraisals required under Section 170(h) of the Code, to report the gift of this easement as a gift under Section 170(h) of the Code, and to notify Grantee of the amount of the deduction claimed. For the purposes of the computation of the Original Percentage, the amount of the deduction claimed will be conclusively presumed to be the amount of the deduction allowed unless Grantor can establish that part or all of the deduction claimed was disallowed by the Internal Revenue Service, in which case the Original Percentage shall be determined on the basis of the deduction actually allowed.

VIII. Representations and Warranties of Grantee.

The easement granted herein is being granted, and the promises made by Grantor with respect to such easement are given, in consideration of and reliance upon the following covenants, representations and warranties of Grantee:

(1) Grantee is, at the time of this conveyance, and will remain a "Qualified Organization" (as hereafter defined) and has sufficient resources that will enable Grantee to enforce the restrictions and obligations of Grantor under this Deed and Agreement if such enforcement shall be necessary. As used herein, the term "Qualified Organization" means a unit of federal, state or

(2) Grantee covenants that Grantee will not transfer the easement granted to it pursuant to this Deed and Agreement, whether or not for consideration, except to an organization which is a Qualified Organization and then only if, as a condition of such transfer, the transferee enters into an agreement, enforceable against the transferee, by which the transferee agrees to continue to carry out the conservation purposes set out in this Deed and Agreement.

(3) In the event that Grantee shall at any time in the future become the fee simple owner of the Premises, Grantee covenants and agrees to create a new easement and agreement containing restrictions and provisions substantially similar to those contained herein and either to retain such easement in itself (if permitted by law) or to convey such easement to a Qualified Organization.

(4) Grantee agrees that, in the event that an unexpected change in conditions surrounding the Premises makes impossible the continued uses of this easement for the purposes contemplated herein, then any proceeds or property received by the Grantee on account of such event will be used by Grantee in a manner consistent with the Grantor's conservation purpose in granting, and Grantee's conservation purpose in accepting, this Deed and Agreement.

(5) Grantee acknowledges the receipt from Grantor of the documentation listed below and further acknowledges the sufficiency of that documentation in establishing the condition of the Premises at the date of delivery of this Deed and Agreement. The documentation received by Grantee includes, without limitation, the following:

- (a) A plat of survey of the Premises dated April 10, 1998, prepared by bearing the seal of (G.R.L.S. No. 2136);
- (b) a copy of the title policy issued by Lawyers Title Insurance Corporation, dated effective as of March 18, 1997, insuring the title of Grantor (the "Owner's Title Policy");
- (c) photographs attached as Exhibit B and all other photographs.

(1) Grantor reserves the free right and privilege to use the Premises for all purposes not inconsistent with the grant made herein. Nothing herein shall be construed to grant the right to enter upon the Premises to the general public or to any persons other than Grantee and its representatives for the purposes set forth herein.

(2) Nothing contained in this Agreement shall be interpreted to authorize, require or permit Grantor to violate any ordinance relating to building materials, construction methods or use. In the event of any conflict between any such ordinance and the terms hereof, Grantor shall promptly notify Grantee of such conflict, and Grantor and Grantee reasonably shall agree in good faith upon such modification to the Grantor's obligations which are consistent with sound preservation practices and Grantor's continued ownership and operation of the Premises.

(3) This Agreement is limited to the Facades and does not include the interior of the Improvements.

(4) Grantor and Grantee acknowledge and agree that for all purposes hereunder the Premises are encumbered by the easements, agreements, exceptions and other instruments reflected on Exhibit "C" attached hereto and made a part hereof by this reference, all of which Grantee acknowledges are not, and shall not be, objectionable to Grantee, and Grantee consents to the existence thereof.

XI. Acceptance.

Grantee hereby accepts the right and interest granted to it in this Deed and Agreement.

XII. Grantor's Insurance.

Grantor shall maintain, at its own cost, insurance against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage of a type and in such amounts as would, in the reasonable opinion of Grantee, normally be carried on a property such as the Premises. If available to Grantor without additional unreasonable cost or expense, such insurance shall include Grantee's interest and name Grantee as an additional insured and shall provide for at least thirty (30) days notice to additional insureds before cancellation and that the act or omission of one insured will not invalidate the policy as to the other insured. Furthermore, Grantor shall deliver to Grantee certificates or other such documents evidencing the aforesaid insurance coverage at the commencement of this grant and a new policy or certificate at least ten (10)

days prior to the expiration of such policy. Grantee shall have the right to provide insurance at Grantor's cost and expense should Grantor fail to obtain the required insurance.

XIII. Taxes.

Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges and any other charges which may become a lien on the Premises, including, but not limited to, any taxes, assessments or other charges assessed against Grantee on account of Grantee's ownership of the easement conveyed by this Deed and Agreement. Grantee shall have the right, but is in no event required or expected, to make or advance, upon three (3) days' prior written notice to Grantor, in the place of Grantor, any payment relating to taxes, assessments, water or sewer charges or other governmental or municipal charge, fine, imposition or lien asserted against the Premises and may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or assessment or into the validity of such tax, assessment or other charge. Such payment, if made by Grantee, shall become a lien on the Premises of the same priority as the tax, charge or assessment would have had if not paid.

XIV. Release and Indemnification.

(1) Grantor shall be responsible for, and shall release, defend and hold harmless Grantee, its agents, employees or independent contractors, from and against any and all liabilities, damages, costs, charges and expenses which may be claimed against Grantee, and Grantor covenants that Grantee shall have no liability, damage, loss or expense resulting from Grantee's interest in the Premises granted by this Deed and Agreement by reason of loss of life, personal injury or damages to property occurring in or around the Premises.

(2) Grantor shall indemnify, hold harmless and defend at its own cost and expense Grantee, its agents, employees or independent contractors, from and against any and all claims, liabilities, expenses, costs, damages, losses and expenses (including reasonable attorney's, architect's and engineer's fees and disbursements) incurred in, arising out of or in any way relating to the enforcement of Grantor's covenants and agreements under this Deed and Agreement, including, but not limited to, Grantor's obligations to maintain, repair and rehabilitate the Premises, pay taxes and charges assessed against the Premises, and keep the Premises insured. In the event Grantor is required to indemnify Grantee pursuant to the terms of this Deed and

Agreement, the amount of such indemnity, until discharged, shall constitute a lien on the Premises.

(3) No substances deemed environmentally hazardous under any law relating to environmental conditions, including federal, state and local environmental statutes, ordinances and regulations, shall be generated, treated, processed, stored or disposed of, or otherwise present in, on or under the Premises in such a way as to violate any law relating to any such substance; and no activity shall be undertaken on the Premises which would cause a release or threatened release of hazardous material onto the Premises. Grantor, and Grantor's successors and assigns, hereby agree unconditionally to indemnify, defend and hold Grantee, its successors and assigns, harmless against any loss, liability, damage, expense or claim arising from any type of clean-up, detoxification, repair or removal demanded by any federal, state or local authority under any hazardous material law with respect to the Premises, and against any liability to any third party in connection with any violation of a hazardous material law arising from the generation, treatment, processing, storage, removal, clean-up or disposal of any hazardous material.

XV. Consents and Approvals.

(1) Any notice which either Grantor or Grantee may desire or be required to give to the other party under this Agreement shall be in writing, addressed to the party to which such notice is required to be given at its address set forth above, or at such other address as such party may have designated by notice duly given as provided in this paragraph. Such notice shall be deemed to have been properly given or served for all purposes (i) if hand delivered, effective upon delivery, (ii) if mailed, by United States registered or certified mail, postage prepaid, return receipt requested, effective two (2) business days after mailing, or (iii) if sent by overnight commercial courier service, effective the next business day after delivery to such express courier service.

(2) If Grantee's prior consent or approval is required by this Agreement for any action proposed by Grantor, and if Grantor shall request the consent of Grantee to such action by written notice to Grantee setting forth in detail such proposed action, if Grantee shall fail to respond to such notice by written approval or rejection given to Grantor within sixty (60) days after the giving of such notice, then the consent of Grantee to the action described in the notice shall be deemed to have been given.

(3) Whenever the consent of Grantee is required under this Agreement, such consent shall not be unreasonably withheld, and Grantor shall bear the

reasonable cost of Grantee's review, including, but not limited to, the cost of inspections, reasonable architectural fees and Grantee's administrative expenses in processing Grantor's request.

XVI. General Provisions.

(1) This Deed and Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia.

(2) Whenever appropriate herein or required by the context or circumstances, the term "Grantor" shall be read in the plural, and masculine pronouns shall be construed as feminine or neuter, the singular as plural, and vice versa.

(3) For purposes of furthering the preservation of the Premises and the Facades and of furthering the other purposes of this instrument, and to meet changing conditions, Grantor and Grantee may jointly amend the terms of this instrument in writing; provided, however, that no such amendment shall limit the perpetual duration or interfere with the preservation and conservation purposes of the easement granted herein. Any amendment shall become effective only upon recording in the Deed Records of Fulton County, Georgia.

(4) If any of the provisions of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Deed and Agreement, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Deed and Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, Grantor has executed, sealed and delivered this Deed of Gift and Agreement for an Architectural, Facade, and Preservation Easement, and Grantee has caused these presents to be accepted and signed in its corporate name by its duly authorized officer, as of the day and year first above written.

Signed, sealed and delivered

In the presence of:

Michael J. Syke

Unofficial Witness

R. McCaulley

Notary Public

My commission expires:



GRANTOR:

AUBURN AVENUE WAREHOUSE, L.P., a Georgia limited partnership

By: Auburn Avenue Development Corp., a Georgia corporation, Its General Partner

By: L. Mtamanika Youngblood
L. Mtamanika Youngblood, Its President

[CORPORATE SEAL]

Signed, sealed and delivered

In the presence of:

Robert S. Dyer

Unofficial Witness

Jean L. Totzke

Notary Public

My commission expires:

(NOTARY SEAL)

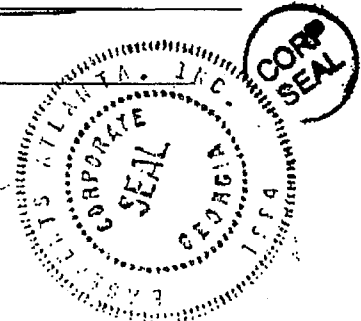
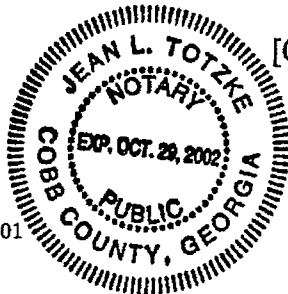
GRANTEE:

EASEMENTS ATLANTA, INC., a Georgia nonprofit corporation

By: J. H. Steel

Its: Vice President

[CORPORATE SEAL]



ATL1 #351854 v1\RG\071830.00001

EXHIBIT A
LEGAL DESCRIPTION

TRACT 1

All that tract or parcel of land situate, lying and being in Land Lot 19, 14th Land District of Fulton County, Georgia, and being more particularly described as follows:

BEGIN AT A POINT formed by the intersection of the southernmost right-of-way line of West Highland Avenue (a/k/a Irwin Street), a 50 foot right-of-way, with the southeasternmost right-of-way line of Auburn Avenue (a 50 foot right-of-way) and proceed thence along the aforesaid southernmost right-of-way line north $89^{\circ}35'52''$ east a distance of 151.70 feet to a point; proceed thence south $08^{\circ}18'50''$ west a distance of 1029.93 feet to a point; proceed thence in a southwesterly direction along a curve to the right an arc distance of 118.02 feet to a point located on the northernmost right-of-way line of Edgewood Avenue (a 50 foot right-of-way), said curve being subtended by a chord 117.96 feet in length and bearing south $11^{\circ}19'32''$ west; proceed thence along the aforesaid northernmost right-of-way line south $85^{\circ}09'01''$ west a distance of 61.55 feet to a point; proceed thence north $00^{\circ}44'58''$ west a distance of 216.90 feet to a point; proceed thence south $87^{\circ}55'14''$ west a distance of 338.10 feet to a point located on the easternmost right-of-way of Airline Street (a 30 foot right-of-way and a gravel street); proceed thence along the aforesaid easternmost right-of-way line north $01^{\circ}07'28''$ east a distance a 541.11 feet to a point formed by the intersection of said easternmost right-of-way line and the southeasternmost right-of-way line of Auburn Avenue; proceed thence along the aforesaid southeasternmost right-of-way line north $47^{\circ}55'07''$ east a distance of 141.78 feet to a point; proceed thence along the aforesaid southeasternmost right-of-way line north $45^{\circ}47'18''$ east a distance of 427.74 feet to the POINT OF BEGINNING. said tract or parcel of land containing 9.135 acres and being more particularly shown on that survey prepared by Busbee Surveying Co., Inc. for Lawyers Title Insurance Corporation, Allstate Insurance Company and Auburn Avenue Warehouse, L.P. and being dated August 7, 1995 and last revised June 10, 1998.

EXHIBIT B, Page 1



EXHIBIT B, Page 2



EXHIBIT B, Page 3



EXHIBIT B, Page 4

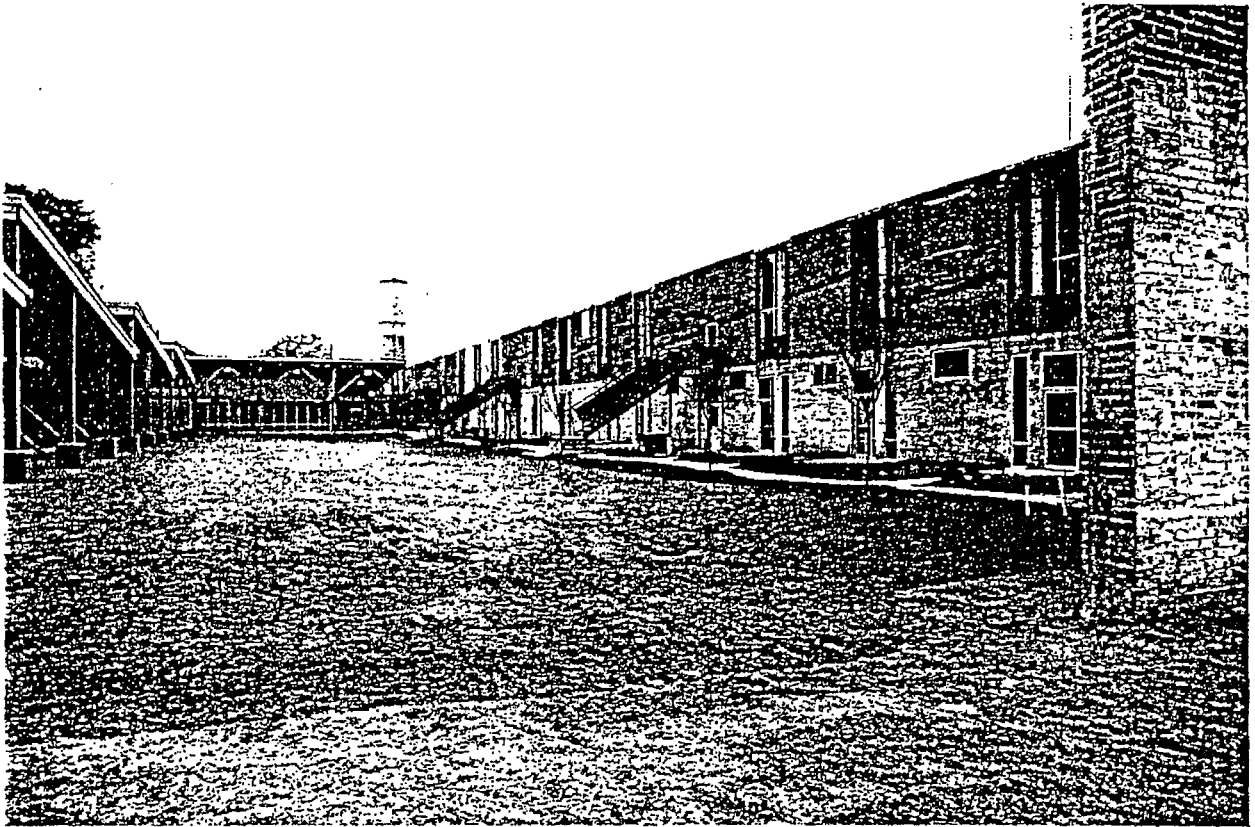


EXHIBIT B, Page 5

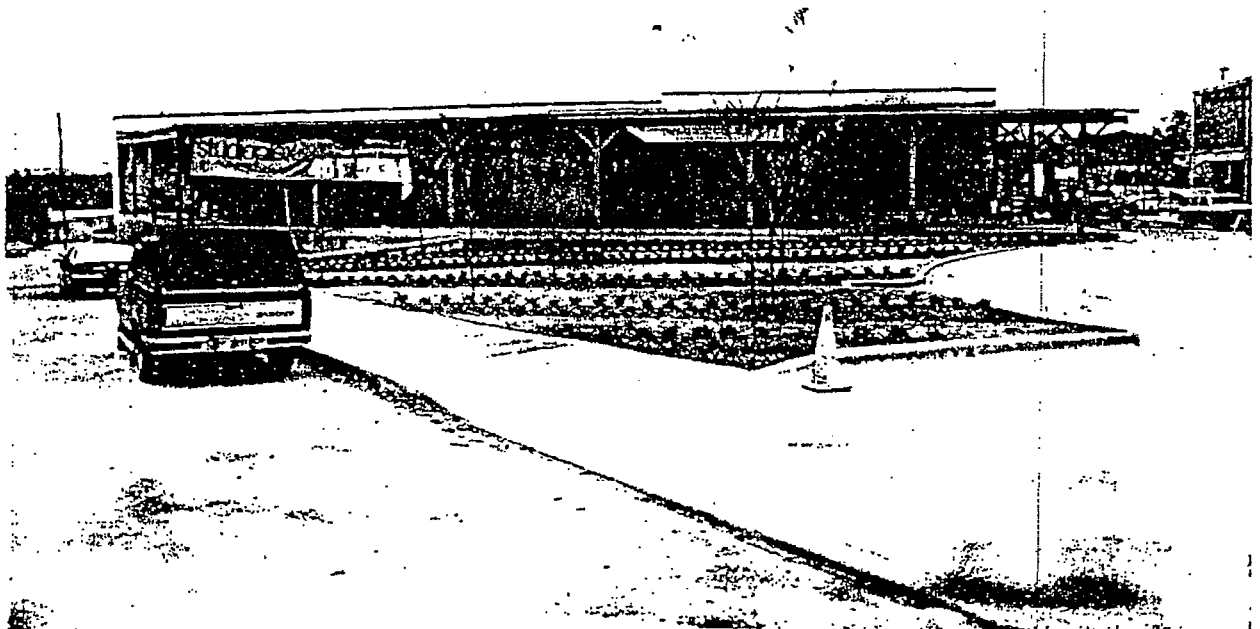
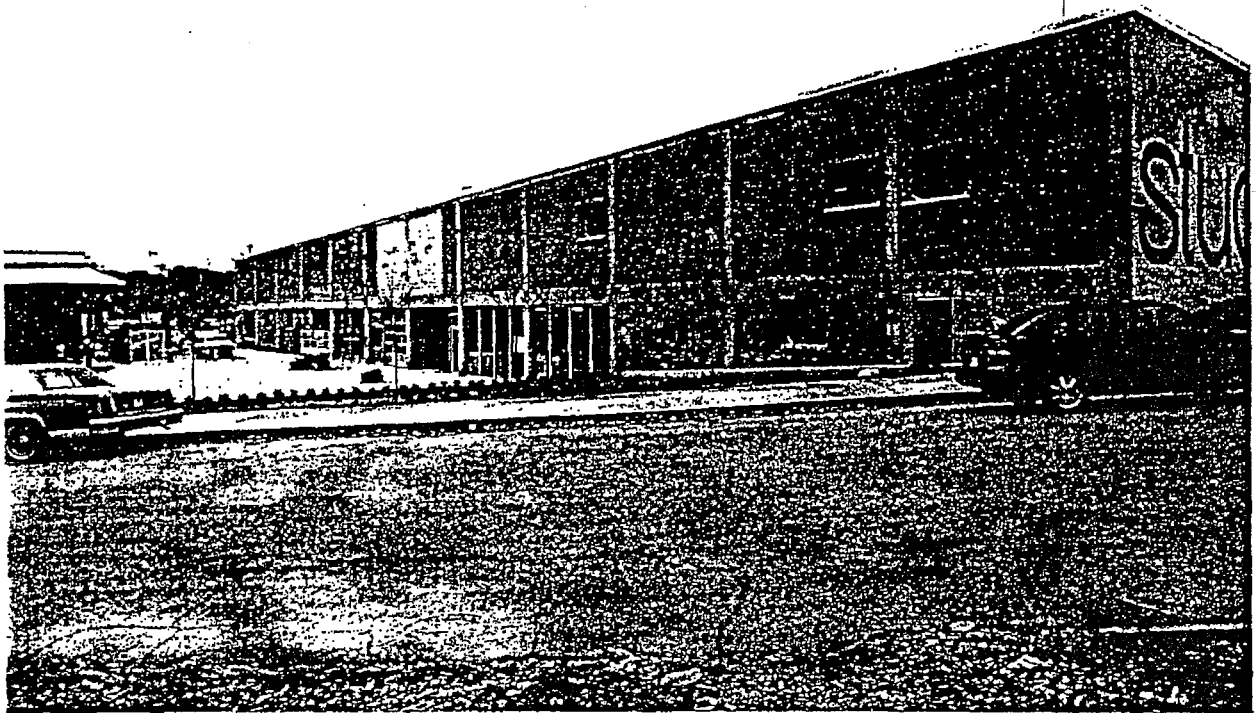


EXHIBIT B, Page 6

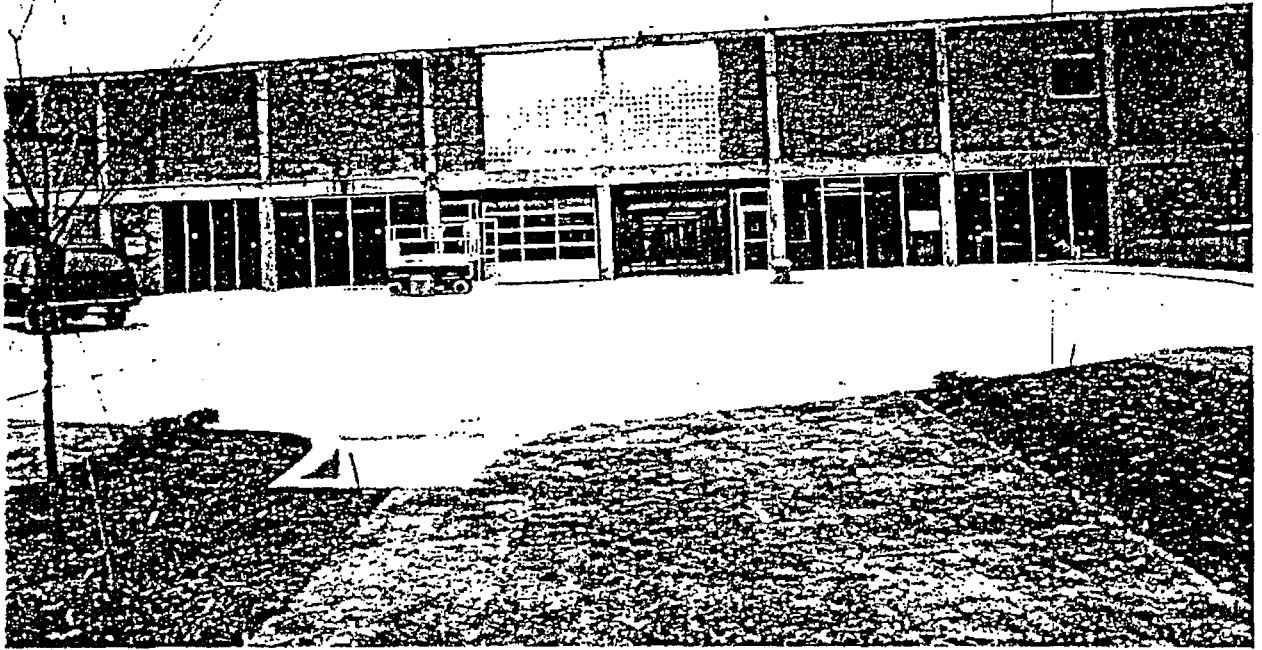


EXHIBIT C to Deed of Gift

1. Land Use Restriction Agreement by and among Auburn Avenue Warehouse, L.P., Urban Residential Finance Authority of the City of Atlanta, Georgia, and FirstUnion National Bank, as Trustee, dated June 1, 1998, filed June 22, 1998, recorded in Deed Book 24613, Page 5, Fulton County, Georgia, records.
2. Indemnity Agreement between Auburn Warehouse Development Co. [sic] and The City of Atlanta, dated September 15, 1998, filed September 15, 1998, recorded in Deed Book 25140, Page 135, and refiled September 16, 1998, and recorded in Deed Book 25145, Page 302, aforesaid records.
3. Indemnity Agreement between Auburn Avenue Warehouse, L.L.C. [sic] and The City of Atlanta, dated June 21, 1999, filed July __, 1999, recorded in Deed Book 27587, Page 147, and refiled September 15, 1999, and rerecorded in Deed Book 17597, Page 242, aforesaid records.
4. Indemnity Agreement between Auburn Avenue Warehouse, L.L.C. [sic] and the City of Atlanta, dated August 4, 1999, filed August 4, 1999, recorded in Deed Book 27256, Page 259, and refiled August 6, 1999, and rerecorded in Deed Book 27425, Page 321, aforesaid records.