

EXHIBIT "C"

RESTRICTIVE COVENANTS

The property (the "PROPERTY") described in this deed is conveyed subject to the following restrictive covenants which are hereby incorporated in this deed conveying the PROPERTY from Grantor to Grantee. (The terms "Grantor" and "Grantee" as used in this deed include all respective heirs, executors, legal representatives, successors, successors in title, and assigns.)

RESTRICTIVE COVENANTS

1. Establishment of Restrictions. The PROPERTY shall hereafter be held and occupied subject to the restrictions set forth in this deed. These restrictions shall operate as covenants running with the land, and these restrictions shall inure to the benefit of and pass with each and every owner of the PROPERTY and shall survive the closing and shall apply to and bind the heirs, executors, legal representatives, successors, successors in title, and assigns of any owner thereof. Grantee shall assume all expenses of conforming the PROPERTY to the restrictions set forth in this deed.

2. Purpose of Restrictions. The purpose of these restrictions is to insure the development and use of the PROPERTY in accordance with the criteria hereinafter set forth to protect the owner or tenant of the PROPERTY and any parcel thereof, and all property owners and tenants in the surrounding commercial development and shopping mall against development not in accord with such criteria and against such use of surrounding parcels as will depreciate the value of such parcels; to prevent the erection upon the PROPERTY of improvements built of materials inconsistent with such criteria; to encourage the erection of attractive improvements

at appropriate locations; to prevent haphazard and inharmonious improvements; to secure and maintain proper setbacks from streets and adequate free spaces between improvements; and, in general, to provide adequately for a high type and quality of improvements of the PROPERTY in accordance with such criteria. Wherever used herein, the term "improvements" shall mean and include buildings (both the main portion and all projections or extensions thereof), canopies, parking areas, loading areas, outside platforms and docks, fences, walls, hedges, trees, shrubs, mass planting and other landscaping, poles, posts, bases, signs and any and all structures of any type or kind located, placed, erected or maintained on the PROPERTY.

3. Off-Street Parking. Paved, off-street parking and access lanes shall be provided on the PROPERTY sufficient to accommodate the automobiles of the executives, employees, customers and invitees together with other vehicles used in the business to be conducted on the PROPERTY. Off-street parking shall also conform to the requirements, regulations, ordinances and rules of all applicable state, county and municipal governmental authorities.

4. Signs. All signs are subject to the prior written approval of Grantor with regard to materials, contents, size, construction, color, face type, location and set-back of any sign installed, placed or erected on the PROPERTY. Grantee covenants not to begin construction of any sign until Grantor has given his approval. Grantor reserves the right to inspect all signs at the proposed site of installation, placement or erection and to remove or cause to be removed all unapproved signs, such removal to be at the sole cost and expense of the person or persons responsible for the installation, placement or erection of each unapproved sign. Grantee covenants to keep all signs well-maintained and fully operable at all times. There shall not be allowed on the PROPERTY or on any

improvements located thereon any pennants, banners, placards, streamers, sign trailers, spinners, hot air or other type balloons or the like.

Sign Contents. The content or wording on all signs, with the exception of directional signs and parking signs, or signs advertising property for sale or for lease, shall be restricted to setting forth the building or company name, company emblem, logo or trade name. Slogans, mottos, or other commentary shall not be allowed on any sign or signs, and unless otherwise required by law, underwriters' and sign fabricators' labels and permits shall be located so as to be inconspicuous. All wiring, ballasting starters and related equipment on all signs shall be concealed from view unless otherwise required by law.

Sign Lighting. Signs may be illuminated so long as none of the following illuminating methods is used:

- (a) Moving, flashing, scintillating or blinking signs;
- (b) Painted iridescent signs;
- (c) Da-Lite or Da-Glo fluorescent plastic signs; or
- (d) Signs utilizing exposed lighting tubes or exposed neon lighting tubes.

Freestanding Signs. There shall be allowed only one freestanding monument sign on the PROPERTY; provided, however, such limitation of one freestanding sign shall not include directional signs for a drive-in window or menu panel used in connection with such drive-in window, which directional signs and menu panel shall otherwise conform with these covenants. The height of the freestanding sign shall not exceed seven (7') feet and shall not contain an area exceeding thirty (30') square feet on any one of not more than four (4) sides of such sign. The freestanding sign shall be erected and thereafter maintained by Grantee on a post, pole or base which shall be of the same or similar quality, color and texture as

the primary materials used in the exterior finish of the improvements erected or to be erected on the PROPERTY. Signs indicating that the PROPERTY is for sale or lease are not subject to these specific provisions regarding freestanding signs.

Signs Attached to Improvements. There shall be no signs painted on any improvements located on the PROPERTY. There shall be no more than <sup>TWO</sup>~~three~~ signs attached to the exterior of all of the improvements on the PROPERTY. The letters of all signs attached to improvements shall be individually cut and mounted letters or raised letters on panels and shall be either backlighted or floodlighted; provided such floodlighting emanates from ground level or below, and, if lighted, all floodlight fixtures and wiring are either screened from view or below ground level. The letters of all signs attached to buildings shall not exceed two (2') feet in height and shall be no closer than two (2') feet from the end of the building on which the letters are mounted or attached. No signs, stickers, advertising materials, or other matters shall be attached to the glass of any windows or doors installed in any improvement or inventory located on the PROPERTY.

Method of Approval of Any Proposed Sign. Prior to the commencement of installation of any sign, Grantee shall submit to Grantor for Grantor's approval three sets of shop drawings of any proposed sign. In addition to containing all of the information set forth above, the shop drawings shall include construction details, colors and finishes. The proposed location of the signs shall be indicated on the shop drawings. The location of the union and fabricators' labels on the signs must also be indicated.

Within thirty (30) days after submission of the plans containing the information set forth above in Paragraph 4, Grantor shall either approve or reject the plans in

writing. If written approval or rejection is not given by Grantor within thirty (30) days, the plans shall be deemed approved so far as they are consistent with the purpose and provisions of these restrictive covenants. If the plans are rejected, the reasons therefor shall be noted on the plans.

After the plans for the signs have been approved in writing by Grantor, Grantee shall obtain and pay for all necessary licenses and permits and shall comply with all applicable law, ordinances, rules and regulations promulgated by duly constituted governmental bodies.

5. Uses. The PROPERTY must initially be used as a commercial bank branch office. The PROPERTY must continue to be used as such for five (5) years from the date of execution by Grantor of this deed. Thereafter, no use of the PROPERTY will be permitted that is inconsistent with a regional shopping center. It is acknowledged the following uses are not inconsistent with a regional shopping center: discount stores, grocery stores and/or supermarkets, drug stores, other general retail stores of a kind and nature generally found in neighborhood-type shopping centers, automobile service stations, motels, hotels, hardware and building supply stores, catalog sales outlets, financial institutions, medical centers, distribution centers with offices and warehousing, convenience stores, restaurants, fast food stores, theatres and amusement centers, such as skating rinks, golf driving ranges and miniature golf courses.

No part of the PROPERTY shall be used for manufacturing purposes or for general warehousing, provided that the foregoing shall not prohibit the use of the PROPERTY for storage of merchandise in connection with the conduct of a retail business, or as a distribution store for retail merchandise. No part of the PROPERTY shall be used for the sale or display of pornographic material or for the operation of any pornographic business including massage parlors, adult

theatres displaying pornographic pictures or films, or adult book stores dealing in pornographic materials. No part of the PROPERTY shall be used for an automotive body repair shop, or for storage of wrecked or damaged vehicles, and no part of the PROPERTY shall be used as a car wash except as an appurtenance to a convenience store or other central use approved by Grantor. No vehicle will be displayed on the PROPERTY except inside a building or on a paved, lighted and landscaped parking area. No such vehicle will be displayed with signage other than that signage installed by the manufacturer.

All uses of the PROPERTY shall be conducted within an enclosed building, except for off-street parking, loading and unloading, drive-in windows, service stations and other such uses as Grantor may, by authorization in writing, permit to be carried on in the open. There shall be no open or outside storage areas permitted on the PROPERTY unless specific advance, written permission is given by Grantor. There shall be no roof-mounted antennas or satellite dishes on the PROPERTY unless specific, advance, written permission is given by Grantor.

6. Subdividing. The PROPERTY may not be further subdivided.

7. Site Plans, Architectural Elevations and Landscaping. Before any improvement is erected or altered on the PROPERTY, Grantee shall submit to Grantor for Grantor's written approval all exterior architectural plans and elevations, the exterior building and site plans for any such erection or alteration, and landscaping plans. Grantee shall submit such plans in writing over the signature of the owner or lessee of the PROPERTY on which the improvement is to be erected or altered. These plans shall show, among other things, the location, materials and color of each proposed improvement, the boundary lines of the PROPERTY, the location of drive lanes, parking areas and spaces, building setback

distances, the location, style and type of any outside lighting fixtures and poles, and the materials and colors thereof, and the materials, colors and height of fences or other dividers, if any, between the PROPERTY and the adjoining lot or lots. The plans shall also indicate that the construction and development upon the PROPERTY shall conform with the development specifications contained in Paragraph 8 of these restrictive covenants. The landscaping plans required herein shall provide for landscaping which shall conform to the landscaping specifications contained in Paragraph 9 of these restrictive covenants. Such plans shall contain both a landscape planting plan and an automatic underground irrigation plan. The landscape planting plan shall contain a full description of the plants to be utilized in the landscaping of the PROPERTY, including common name, botanical name, type, size or caliper, type rootballs or container, type sod or seed, type mulch to be utilized, and planting details such as depth and soil mix. The automatic underground irrigation plan shall detail the complete underground irrigation system for all planted areas. Both such plans shall be prepared by a landscape architect licensed by the State of Georgia and experienced in commercial landscaping. The plans shall contain an outline of maintenance procedures for landscaping and irrigation, specifying the respective duties of all parties to be involved in such maintenance, and including detailed planting schedules and materials.

If Grantor shall fail to give written approval or disapproval of the aforesaid plans and elevations within thirty (30) days, the plans and elevations shall be deemed approved so far as they are consistent with the purpose and provisions of these restrictive covenants.

Approval or disapproval by the Grantor of any proposed improvement shall be based on a variety of criteria, including but not limited to:

(a) The conformity of the plans submitted to the purpose and provisions of these restrictive covenants including without limitation all signage, development and landscaping criteria;

(b) The adequacy of site dimensions;

(c) The conformity and harmony of external materials and design with existing and proposed neighboring structures;

(d) The effect of the improvements on neighboring sites; and

(e) The relation of the topography, grade and finished ground elevation of the PROPERTY to that of neighboring sites.

Every person who acquires title to any portion of the PROPERTY or who submits plans and specifications, plot plans, elevation materials or color schemes to Grantor for approval, covenants not to bring against Grantor either at law or in equity, any action or suit arising out of or in connection with Grantor's approval, disapproval or failure to approve any plans and specifications, plot plans, elevation materials or color schemes.


8. Development Specifications. No more than one primary building shall be allowed on the PROPERTY. No building on the PROPERTY shall exceed two stories in height. The exterior finish material of any building on the PROPERTY shall be predominantly face brick or other similar masonry product to which Grantor consents in writing. All utilities located upon the PROPERTY shall be located underground.

9. Landscaping Specifications. The PROPERTY shall be landscaped according to the following specifications:

(a) Peripheral Road Frontage Planting. All peripheral road frontage shall be planted with Pin Oak (*Quercus palustris*) of six (6) inch caliper (measured one foot above the rootball) with a minimum height of twenty (20) feet, maximum height of twenty-five (25) feet, and a minimum spread of twelve (12) feet. One tree shall be planted every fifty (50) feet of road frontage. Each tree shall be free of lower branches from the ground to a point approximately forty percent (40%) of the total height of the tree, with branching in proportion to the height of the tree. Each tree shall have a straight trunk which is not split.

(b) Building Periphery Planting. Each building to be located on the PROPERTY shall have a landscaped area on each side (which shall include the front and back of the building). Each such landscaped area shall be at least five (5) feet wide, with a length of at least fifty percent (50%) of the respective side.

(c) Parking Area Planting. Each parking area to be located on the PROPERTY shall contain islands planted with evergreen ground cover, sod (optional) and a sufficient number of shade trees to maintain a ratio of one (1) tree to every twelve (12) parking spaces. Such trees shall have a minimum caliper of three (3) inches and a minimum height of fourteen (14) feet.

ten(10)  (d) Perimeter of PROPERTY Boundary Planting. The perimeter of the PROPERTY shall be planted with strips or buffer areas at least ~~eight (8)~~ feet wide except for the planted area at the rear of the PROPERTY, which must be at least five (5) feet wide. These strips shall be planted with approximately fifty percent (50%) medium sized evergreen trees and fifty percent (50%) small flowering trees and shrubs.

(e) Storage and Service Area Planting. All storage or service areas on the PROPERTY shall be completely screened from view by an evergreen hedge, or a masonry wall fronted by an evergreen hedge, of at least six (6) feet in height.

(f) Automatic Underground Irrigation. Grantee shall construct and maintain on the PROPERTY at Grantee's expense, an underground irrigation system for all planted areason the PROPERTY, which shall effect such irrigation by hose bibs located a maximum of one hundred fifty (150) feet apart.

(g) Miscellaneous. All trees to be planted on the PROPERTY shall be dug up and shipped with a wire ball, suitable for planting as a street tree, and properly wrapped and guyed. All lawn areas shall be sodded with Kentucky 31 Fescue Sod.

(h) Maintenance. Grantee shall maintain the landscaping and the irrigation system upon the PROPERTY, at Grantee's expense, in accordance with the maintenance plan approved by Grantor pursuant to Paragraph 7 of these restrictive covenants. All areas of the PROPERTY not covered by buildings or paving shall be regularly trimmed, pruned, cut, mowed, fertilized and kept in a neat and orderly condition.

10. Maintenance of the Property. Grantee shall maintain and keep in good repair all paved surfaces of the

PROPERTY. Grantee shall resurface all paved areas of the PROPERTY at least once every ten (10) years and shall repair immediately any area that contains pot holes or other defects.

Grantee shall sweep, light, stripe (where appropriate) and clean regularly all paved and parking areas of the PROPERTY. Grantee shall, as soon as reasonably practicable, remove all ice and snow that may be found at any time upon the paved areas on the PROPERTY.

Grantor or any authorized agent of Grantor may, from time to time, at reasonable hours enter upon and inspect the PROPERTY to insure that each improvement and the maintenance of the PROPERTY comply with the provisions of these restrictive covenants. Grantor has the right, if Grantee fails to perform the maintenance obligations contained in this Paragraph, or the landscape maintenance obligations contained in Paragraph 9 of these restrictive covenants, upon thirty (30) days notice to Grantee to perform such maintenance and charge the reasonable and actual costs thereof to Grantee, which charge shall constitute a lien upon the PROPERTY until paid in full.

11. Off-Street Loading Spaces. Delivery vehicles must be loaded and unloaded on and from the PROPERTY. Sufficient loading and unloading spaces and other necessary improvements shall be provided by Grantee to permit all loading and unloading to be done on and from the PROPERTY.

12. Refuse. No owner or lessee of the PROPERTY shall cause or permit or suffer any junk, scrap, rubbish, trash, refuse or litter to be deposited on, stored or to remain on the PROPERTY so as to detract from the neat and well-ordered appearance thereof or so as to constitute a fire hazard thereon. All refuse areas shall be screened by a permanent masonry wall constructed to match the improvements, which wall shall have a metal gate so as to be invisible from the street or streets on which the PROPERTY abuts and from abutting properties.

13. Enforcement. Enforcement of these restrictive covenants shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent such restrictive covenants, to restrain violations, to enjoin violations and to recover damages for violations. The remedies given to Grantor in this Paragraph are distinct, cumulative remedies, and the exercise of any of them shall not be deemed to exclude Grantor's right to exercise any or all other remedies which may be permitted by law or equity. The two year Statute of Limitations period of the Official Code of Georgia §9-3-29 shall be governing in regard to each breach of any restrictive covenant contained herein. Grantor's failure, however long continued, to enforce any right, reservation, restriction or condition contained in these restrictive covenants, shall not be deemed a waiver of such rights, reservations, restrictions, or conditions and shall not bar or affect any other right of Grantor contained herein.

14. No Temporary Structures. No improvement of a temporary character, including trailers, campers, tents and similar structures, shall be placed upon any portion of the PROPERTY at any time; provided, however, that this prohibition shall not apply during construction of any improvements on the PROPERTY in regard to shelters used by contractors engaged in the orderly continuation of construction of the improvements.

15. Mechanical Units. Any mechanical units on the exterior or roof top of any building on the PROPERTY which are visible from any dedicated road, ring road or parking area of the adjacent shopping center must be screened in a manner acceptable to Grantor.

16. Duration. These restrictive covenants, every provision hereof, and every covenant, condition and restriction contained in this deed shall continue in full force and effect a period of twenty (20) years from the date of execution by Grantor of this deed; provided, however, that these Restrictive

Covenants, or any provision hereof, or any covenant, condition or restriction herein contained may be terminated, extended, modified, amended or waived, as to the whole of the PROPERTY or any portion thereof, with the prior written consent of Grantor and Grantee. No such termination, extension, modification, waiver or amendment shall be effective until a proper instrument in writing has been duly executed and recorded in the Office of the Clerk of the Superior Court of DeKalb County, Georgia.

17. Assignability of Grantor's Rights. Any and all of the rights, powers and reservations of Grantor herein contained may be assigned by Grantor to any other person, corporation, association, partnership or other entity to whom the Grantor conveys any of the PROPERTY to be benefited by these restrictive covenants. Said person, corporation, association, partnership or other entity shall, to the extent of such assignment, have the same rights and powers as are given to Grantor herein.

18. Constructive Notice and Acceptance Notices. Every person who now or hereafter owns or acquires any right, title, estate or interest in or to any portion of the PROPERTY is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction herein contained, whether or not any reference to these Restrictive Covenants is contained in the instrument by which such person acquired an interest in the PROPERTY.

19. Marginal Headings. The marginal headings or titles to the paragraphs of these restrictive covenants are for descriptive purposes only and shall have no effect upon the construction or interpretation of any part of these restrictive covenants.

20. Severability. If any provisions of these restrictive covenants or the application of such provisions to any person or circumstances shall be held to be invalid by any

court, the remainder of these restrictive covenants or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

21. Conflict. Notwithstanding any provisions herein which are or may be construed to be to the contrary, in the event of any conflicts, ambiguities or other inconsistencies which may arise between and/or among the terms and provisions of these restrictive covenants and the terms and provisions of any laws, ordinances, statutes, rules or regulations of any governmental body or agency having jurisdiction, the terms and provisions which are more restrictive shall be deemed controlling.

22. Notices. (a) Until the Effective Date of a notice to Grantee, changing or revising Grantor's address, any notices, submissions or other communications to Grantor hereunder shall be delivered in person or sent by registered or certified U.S. mail, postage prepaid, return receipt requested, to the following address:

DeKalb Center Associates  
c/o JMB/Federated Realty Association, Ltd.  
7 Piedmont Center, Suite 315  
Atlanta, Georgia 30305  
Attn: Regional Projects Director

With copy to:

Hudgens Management Company  
3525 Mall Boulevard, Suite 5-AA  
Duluth, Georgia 30136  
Attn: President

(b) Until the Effective Date of a notice to Grantor, changing or revising the identity of Grantee or Grantee's address, accompanied by a copy of a warranty deed to Grantee's successor in title, if applicable, all notices or other communications to Grantee shall be mailed or delivered in accordance with Section 21(a) above to the following addresses:

The Citizens & Southern National Bank  
Management Services Division  
P. O. Box 4899  
Atlanta, Georgia 30302

With a copy to:

The Citizens & Southern National Bank  
Legal Division  
34 Broad Street  
Atlanta, Georgia 30302

(c) The term "Effective Date" as used herein shall mean the postmark date of a notice mailed in accordance herewith or the date of actual delivery if delivered by hand.

23. Exculpation of Grantor. No approval by Grantor shall be deemed to be any representation or warranty by Grantor of the adequacy or sufficiency of any plans for any purpose whatsoever.

600-6773 PAGE 590

DECLARATION OF  
FORTY FOOT ACCESS DRIVE AND UTILITY EASEMENT

AUG 17 4 21 PM '90

THIS DECLARATION OF FORTY FOOT ACCESS DRIVE AND

UTILITY EASEMENT ("DECLARATION") is created as of the 17<sup>th</sup>  
day of August, 1990, by DEKALB CENTER ASSOCIATES,  
a Georgia limited partnership ("DCA") and THE CITIZENS AND  
SOUTHERN NATIONAL BANK, a national banking corporation ("C&S").

C&S is the owner of certain real property lying and  
being in Land Lot 170 of the 16th Land District of DeKalb  
County, Georgia, more particularly described in Exhibit "A"  
attached hereto ("C&S LAND"). DCA conveyed the C&S LAND to  
C&S, and is the owner of adjoining property, more particularly  
described in Exhibit "B" attached hereto, ("DCA LAND").

DCA desires to create for the benefit of C&S, and  
C&S'S successors and assigns, a forty-foot access drive and  
utility easement adjacent to the southerly and westerly portion  
of the C&S LAND.

NOW, THEREFORE, in consideration of the benefits to  
the C&S LAND and the DCA LAND, herein set forth, DCA hereby  
declares and creates the following easement:

1. Creation of Easement. DCA hereby declares,  
grants and creates a perpetual, nonexclusive easement (the  
"EASEMENT") under, over, and across the real property ("DCA  
SERVIENT LAND") shown on the drawing attached hereto as  
Exhibit "C." as "40 FOOT ACCESS DRIVE AND UTILITY EASEMENT" for  
the sole and exclusive purposes of:

- (i) Installing, operating and maintaining  
curbs, gutters, landscaping,  
underground irrigation, underground  
storm drainage, underground sanitary  
sewers, underground utilities, paving,  
directional signs, and identification  
signs, all meeting the specifications  
and conforming to the limitations set  
forth in Section 6;

- (ii) Ingress and egress across the DCA SERVIENT LAND to the C&S LAND, to and from the streets and roads located adjacent to the DCA SERVIENT LAND.

2. Run With The Land. The EASEMENT is appurtenant to the C&S LAND and shall run with the C&S LAND, and it shall be binding upon the DCA LAND, and inure to the benefit of, any and all future record owners of the C&S LAND. An owner shall be bound hereunder only so long as such owner owns the DCA LAND and Owner shall be benefitted hereunder only so long as the owner owns the C&S LAND.

3. Use Of The EASEMENT. The DCA SERVIENT LAND shall not be used for any purpose except as set forth in Section 1 and no fence, building, structure, or barrier shall be erected thereon, which would unreasonably interfere with the use and enjoyment of the EASEMENT. Nothing contained herein shall be deemed to limit the right of DCA to modify the description of the DCA LAND and to grant to the owners, from time to time, of the lots of the DCA LAND, rights under the EASEMENT, which, at DCA'S election, may be done by unilateral modification of this DECLARATION by DCA to add expressly such land owners as beneficiaries of the EASEMENT; provided, however, that the granting of such rights to additional land owners shall be conditioned upon each such owner, which has any benefitted land located on or adjacent to the DCA LAND as an extension of the access drive created hereby, bearing an equitable portion of the costs and expenses of construction, maintenance, repair and replacement of the improvements and paving on such servient land. Further, nothing herein shall be deemed to prohibit any owner of the DCA LAND from barricading the DCA SERVIENT LAND for the minimum period of time required under Georgia law to prevent a dedication of the DCA SERVIENT LAND for public use or the creation of prescriptive rights therein.

4. No Dedication to Public. Nothing contained herein shall be deemed to constitute any dedication to the public or for public use of the DCA SERVIENT LAND or the EASEMENT. This Section may be enforced in equity.

5. Condemnation and damage. In the event the DCA SERVIENT LAND is taken by condemnation (or by deed in lieu thereof), the EASEMENT burdening such land granted hereby shall be deemed terminated and extinguished to the extent so condemned or damaged. In no event shall any party other than the record fee owner(s) of the DCA SERVIENT LAND so condemned or damaged be entitled to any portion of any condemnation award or insurance proceeds paid to the record fee owner(s) of the DCA SERVIENT LAND.

6. Construction and Maintenance.

(a) The building which C&S will construct on the C&S Land will not have direct access onto Turner Hill Road or Mall Parkway. Access will be provided through the DCA SERVIENT LAND which will have one curb cut from the southern boundary line of the C&S LAND into the DCA SERVIENT LAND and two curb cuts from the western boundary line of the C&S LAND into the DCA SERVIENT LAND as more particularly shown on Exhibit "C". C&S will be solely responsible for obtaining all necessary permits for the construction of the access drives over and the curb cuts into the DCA SERVIENT LAND. C&S or DCA, whichever requires access to the DCA SERVIENT LAND first, shall have the right to construct such access drives over and curb cuts into the DCA SERVIENT LAND. Upon the construction of the access drives and curb cuts, the party which constructed the access drives and curb cuts shall give the other party notice of the cost of such construction. DCA Shall bear two-thirds of the actual, verified cost of such construction and C&S shall bear one-third of such actual, verified cost. Each party hereby consents and agrees to reimburse the other party upon

forty-five (45) days notice of the actual, verified cost of such construction. Provided, notwithstanding anything to the contrary herein, the costs incurred for any underground irrigation, underground storm drainage, underground sanitary service, underground utilities and landscaping constructed within the DCA SERVIENT LAND shall be paid 100% by DCA unless such improvements directly serve the C&S LAND only.

(b) The owner of the DCA SERVIENT LAND shall be responsible for two-thirds of the annual cost of maintaining and repairing such land, and the owner of the C&S LAND shall be responsible for one-third of the annual cost of maintaining and repairing such lands only as specifically relating to the cost of paving, curbing and not as related to the cost of any underground irrigation, underground storm drainage, underground sanitary sewers, underground utilities and landscaping except those that directly serve the C&S LAND; provided, however, that upon dedication and acceptance of any portion of such land to any governmental authority having jurisdiction, such governmental authority shall be responsible for the maintenance and repair of any portion so dedicated and accepted, and providing that such maintenance and repair shall not interfere with or interrupt ingress and egress to the C&S Land.

(c) DCA hereby declares, grants and creates a temporary construction easement across so much of the DCA LAND as is necessary to install a sanitary sewer line to the south of the C&S LAND and a water line to the west of the C&S LAND as is necessary to service the DCA LAND as shown on the drawings attached hereto as Exhibit "C." Upon construction and installation of a sanitary sewer line and water line by C&S, DCA shall reimburse C&S within forty-five (45) days of the completion of construction and notice from C&S for all actual, verifiable expenses incurred by C&S in the installation of the sanitary sewer line and water line including but not limited to

all costs of engineering, permits, surveys or drawings required by the county or other parties for the installation of the sewer line and water line, the actual installation and construction costs and any maintenance bonds required. Upon installation of the sewer line and water line the owner of the DCA SERVIENT LAND shall be responsible for all costs of maintaining and repairing the sewer line and water line; provided, however, that upon dedication and acceptance of the sewer line and water line by any governmental authority having jurisdiction, such government or authority shall be responsible for the maintenance and repair of any portion so dedicated and accepted. Upon completion of such construction, the easement granted by this clause (c) shall automatically terminate.

(d) DCA hereby declares, grants and creates an easement for grading and construction of a storm sewer line and a sediment pond by C&S on the DCA LAND adjacent to the C&S LAND as shown on Exhibit "C" in order to establish a proper flow of water from the DCA SERVIENT LAND into the storm sewer system to be constructed by C&S. This grading easement shall terminate upon the improvement of the adjacent DCA SERVIENT LAND provided that the owner of the DCA SERVIENT LAND shall be obligated to construct such improvements to direct storm waters into the storm sewer system and not across the C&S LAND. In the event that the owner of the DCA SERVIENT LAND does not fulfill the obligations under this section, upon a reasonable notice (except in the case of emergency, in which case no notice shall be necessary) C&S may perform such maintenance and repair in behalf of, and for the account of DCA and no liability for trespass shall accrue in such event and DCA shall within forty-five (45) days from receipt of notice from C&S thereupon reimburse C&S for any costs incurred by C&S in fulfilling these obligations. Upon completion of such construction, the easement granted by this clause (d) shall automatically terminate.

(e) In the event that the owner of the DCA SERVIENT LAND does not fulfill the obligations under this Section, upon reasonable notice (except in the case of emergency, in which case no notice shall be necessary) C&S may perform such maintenance and repair on behalf of, and for the account of DCA and no liability for trespass shall accrue in such event. In the event that C&S and DCA shall fail to reimburse such other owners for the reasonable, actual cost of such maintenance and repair within forty-five (45) days after receipt of written request therefor, such amount shall become a lien upon its property, or any portion thereof, benefitted hereunder. C&S and DCA shall indemnify, hold harmless and defend a party performing such maintenance and repair against any and all demands, claims, costs, expenses (including reasonable attorneys' fees), actions and causes of action arising from the performance of such work of its behalf.

(f) Directional and identification signs shall be no more than three (3) feet in height, no more than five square feet per face, and on poles with an outside diameter of four inches or less.

(g) DCA and any public utility company may enter upon the DCA SERVIENT LAND to perform maintenance and repair of utility, irrigation, or other service lines installed by such parties, providing that such maintenance and repair shall not interfere with or interrupt ingress and egress to the C&S Land.

7. Default. A default in the performance of any obligations hereunder shall not terminate any easement granted herein.

8. Amendment. Except as set forth in Section 3, this Agreement may only be amended or modified by an instrument in writing executed by all the record owners of the C&S LAND and the DCA LAND and recorded in the appropriate records of DeKalb County, Georgia. The costs of such recordation shall be shared equally by all of the aforesaid owners.

9. Relation Of The Parties. Nothing contained herein shall be deemed to create the relationship of principal and agent, partnership or joint venture between the parties hereto.

10. Compliance. The owner of the DCA SERVIENT LAND, at its expense, will promptly comply with, and cause its land to comply with, all laws, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of, and agreements with, all courts and governmental authorities, now or hereafter affecting or applicable to its land or any part thereof, provided that compliance with any of the foregoing may be postponed for any period during which such party is contesting the validity or application thereof if failure to comply will not result in the imposition on the other party of any civil or criminal liability and no land shall be subject to the imposition of any lien as a result of such failure.

11. Binding Effect. All provisions of this Declaration are intended to create an easement upon and among the DCA SERVIENT LAND and to create reciprocal rights among the owners of the C&S LAND. All of such provisions shall bind and inure to the successors in title to the C&S LAND.

12. Severability. Every provision of this Declaration is hereby declared to be independent of, and separable from, every other provision. If any provision shall be held to be invalid or unenforceable, that holding shall be without effect upon the validity, enforceability or running of any other provisions of this Declaration.

13. Captions. All captions in this Declaration are for convenience only and do not in any way limit or amplify the provisions hereof.

14. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to conflicts of law principles.

15. Exhibits. The Exhibits referred to herein are

incorporated herein by such reference.

IN WITNESS WHEREOF, C&S and DCA have executed this Declaration under its hand and seal as of the date first above written.

Signed, sealed and delivered in the presence of:

[Signature]  
Unofficial Witness

[Signature]  
Notary Public  
My Commission Expires:  
Cobb County, Georgia  
My Commission Expires Dec. 9, 1990

(NOTARIAL SEAL)

Signed, sealed and delivered in the presence of:

[Signature]  
Unofficial Witness

[Signature]  
Notary Public

My Commission Expires:

"OFFICIAL SEAL"  
NOTARIAL SEAL  
Notary Public, State of Illinois  
My Commission Expires May 25, 1994

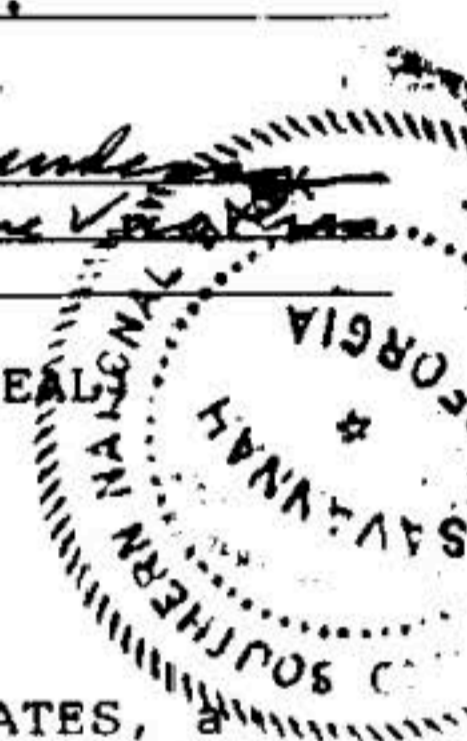
C&S:

THE CITIZENS AND SOUTHERN NATIONAL BANK, a national banking association

By: [Signature]  
Name/Title: DELSSE WORTH, JR.  
VICE-PRES.

Attest: [Signature]  
Name/Title: President

(AFFIX BANK SEAL)



DCA:

DEKALB CENTER ASSOCIATES, a Georgia limited partnership

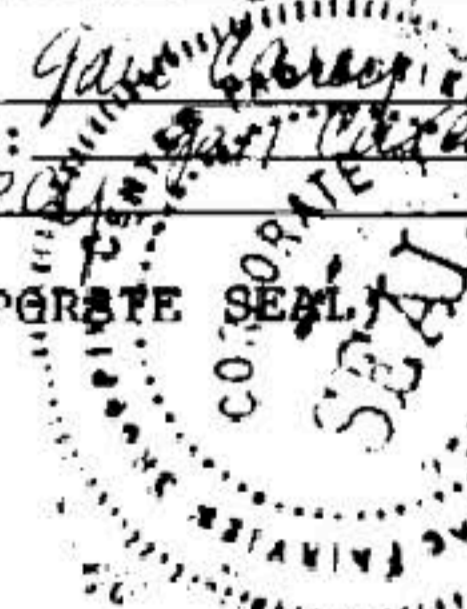
By: CF I-20 E Associates, a New York general partnership, sole general partner

By: Cadillac Fairview Shopping Center Properties (Georgia) Inc., a Delaware corporation, general partner

By: [Signature]  
Name/Title: JAMES GEEK  
VICE PRES

Attest: [Signature]  
Name/Title: Asst. Secy

(AFFIX CORPORATE SEAL)



## EXHIBIT A

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in Land Lot 171 of the 16th District of DeKalb County, Georgia, and being more particularly described as follows:

**TO FIND THE TRUE POINT OF BEGINNING, COMMENCE** at the intersection of the southern right-of-way line of Mall Parkway (having a 100-foot right-of-way width) with the western right-of-way line of Turner Hill Road (having a variable right-of-way width), if said rights-of-way were extended to form an angle instead of a mitered corner; run thence in a southerly direction along said western right-of-way line of Turner Hill Road South 00 degrees 19 minutes 17 seconds West a distance of 47.05 feet to a point, said point being the **TRUE POINT OF BEGINNING**. **FROM SAID TRUE POINT OF BEGINNING AS THUS ESTABLISHED, RUN** along said western right-of-way line of Turner Hill Road the following courses and distances: South 00 degrees 19 minutes 17 seconds West a distance of 32.90 feet to a point; and South 01 degrees 02 minutes 39 seconds West a distance of 84.95 feet to a point; thence leaving said right-of-way line, run South 45 degrees 49 minutes 42 seconds West a distance of 28.39 feet to a point; thence North 89 degrees 23 minutes 14 seconds West a distance of 229.53 feet to a point; thence North 44 degrees 23 minutes 14 seconds West a distance of 28.28 feet to a point; thence North 00 degrees 36 minutes 46 seconds East a distance of 151.10 feet to a point; thence North 48 degrees 52 minutes 29 seconds East a distance of 26.63 feet to a point located on the southern right-of-way line of Mall Parkway; run thence in a generally easterly direction along said southern right-of-way line of Mall Parkway the following courses and distances: along the arc of a 1,195.92-foot radius curve, an arc distance of 155.76 feet to a point (said arc being subtended by a chord having a bearing of South 87 degrees 04 minutes 25 seconds East and a length of 155.65 feet); North 89 degrees 11 minutes 41 seconds East a distance of 48.38 feet to a point; and South 44 degrees 41 minutes 38 seconds East a distance of 65.27 feet to a point located on the western right-of-way line of Turner Hill Road, said point being the **TRUE POINT OF BEGINNING**.

The above-described property contains 1.1040 acres and is more particularly shown on that certain Boundary & Topographic Survey for The Citizens and Southern National Bank prepared by Travis N. Pruitt, Sr., Georgia Registered Land Surveyor No. 1729, Travis Pruitt & Associates, P.C., dated March 19, 1990, last revised August 6, 1990.

EXHIBIT B

DCA SERVIENT LAND

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 171 of the 16th District of DeKalb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at the intersection of the southern right-of-way line of Mall Parkway (having a 100 foot right-of-way width) with the western right-of-way line of Turner Hill Road (having a variable right-of-way width), the said right-of-ways were extended to form an angle instead of a mitered corner; run thence in a southerly direction along said western right-of-way line of Turner Hill Road south 00 degrees 19 minutes 17 seconds west a distance of 79.95 feet to a point; thence continue to run along and coincident with said western right-of-way line south 01 degrees 02 minutes 39 seconds west a distance of 84.95 feet to a point, said point being the TRUE POINT OF BEGINNING; from said TRUE POINT OF BEGINNING as thus established, thence continue to run along said western right-of-way line south 01 degrees 02 minutes 39 seconds west a distance of 80.00 feet to a point; thence leave said western right-of-way line and run north 44 degrees 10 minutes 18 seconds west a distance of 28.18 feet to a point; thence run north 89 degrees 23 minutes 14 seconds west a distance of 289.23 feet to a point; thence run north 00 degrees 36 minutes 46 seconds east a distance of 216.70 feet to a point; thence run north 39 degrees 40 minutes 43 seconds west a distance of 30.51 feet to a point located on the southern right-of-way line of Mall Parkway; thence run along and coincident with said southern right-of-way line easterly along the arc of the curve an arc distance of 80.39 feet (said curve having a radius of 1195.92 feet, being subtended by chord lying to the north of said arc, bearing south 81 degrees 25 minutes 00 seconds east a chord distance of 80.38 feet) to a point; thence leave said southern right-of-way line and run south 48 degrees 52 minutes 29 seconds west a distance of 26.63 feet to a point; thence run south 00 degrees 36 minutes 46 seconds west a distance of 151.10 feet to a point; thence run south 44 degrees 23 minutes 14 seconds east a distance of 28.28 feet to a point; thence run south 89 degrees 23 minutes 14 seconds east a distance of 229.53 feet to a point; thence run north 45 degrees 49 minutes 42 seconds east a distance of 28.39 feet to a point located on the western right-of-way line of Turner Hill Road, said point being the TRUE POINT OF BEGINNING.

The above-described property is more particularly shown on that certain Boundary & Topographic Survey for The Citizens and Southern National Bank prepared by Travis and Pruitt, Sr., Georgia Registered Land Surveyor No. 1729, Travis Pruitt & Associates, P.C., dated March 19, 1990, last revised August 6, 1990.

