

CHANCERY CLERK: Index as a part of the Northwest Quarter of the Northwest Quarter of Section 31, Township 1 South, Range 6 West, Desoto County, Mississippi.

Prepared by Craig A. Smith, O'Reilly Automotive, Inc. P.O. Box 1156, Springfield, MO 65801; ph. 417-829-5721, fax 417-827-5726

### ACCESS EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made as of the 28<sup>th</sup> day of July, 2006, by and between **BARRY HOLLAND and LARRY HOLLAND** ("Holland") (Grantors), **2460 Goodman Road West**, Horn Lake, MS 38637 and **O'REILLY AUTOMOTIVE, INC.**, a Missouri corporation ("O'Reilly") (Grantee), **233 S. Patterson, Springfield, Missouri 65802**.

WHEREAS, Holland is the owner in fee simple of certain real property in Desoto County, Mississippi, which is more particularly described on the attached **Exhibit "A"** (the "Holland Property"); and

WHEREAS, O'Reilly is the owner in fee simple of certain real property in Desoto County, Mississippi, which is more particularly described on the attached **Exhibit "B"** (the "O'Reilly Property"); and

WHEREAS, Holland wishes to convey and O'Reilly wishes to receive a perpetual, non-exclusive easement for pedestrian and vehicular ingress and egress on, across and over a portion of the Holland Property; and

WHEREAS, O'Reilly wishes to convey and Holland wishes to receive a perpetual non-exclusive easement for pedestrian and vehicular ingress and egress on, across and over a portion of the O'Reilly Property.

NOW, THEREFORE, in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easements. Holland hereby grants and conveys to O'Reilly, its successors, employees, contractors, invitees and assigns, a perpetual, non-exclusive easement and right-of-way on, across and over a portion of the Holland Property as illustrated on the attached **Exhibit "C"** (the "Holland Easement Property").

Holland further grants and conveys to O'Reilly a temporary construction and grading easement over the Holland Property in order that O'Reilly may install a paved driveway on a portion of the Holland Easement Property. During construction of the driveway, O'Reilly has the right to enter upon and use Holland's land immediately adjacent to the Holland Easement Property with

equipment necessary or convenient to said construction, operation, or maintenance, together with the right to temporarily store earth taken from said easement thereon. O'Reilly shall not store equipment or materials on the Holland Property, shall not substantially interfere with Holland's access to the median cut on Mississippi State Highway 302 (Goodman Road) during construction or maintenance, and shall restore the Holland Property after any activity by O'Reilly on the Holland Property.

O'Reilly hereby grants and conveys to Holland, its successors and assigns, a perpetual, non-exclusive easement and right-of-way on, across and over a portion of the O'Reilly Property as illustrated on the attached **Exhibit "D"** (the "O'Reilly Easement Property").

2. **Purpose of Easement.** The easement on the Holland Easement Property shall be for the purpose of granting to O'Reilly, its employees, representatives, customers, agents, contractors and invitees, a permanent, non-exclusive easement and right of use of all access roads and driveways ("Driveway") within the Holland Easement Property for pedestrian and vehicular ingress and egress from the O'Reilly Property to Mississippi State Highway 302 (Goodman Road). Holland agrees not to erect, construct, or install any signage, buildings, or other improvements that would materially obstruct the access of the O'Reilly Property to the Holland Easement Property.

The easement on the O'Reilly Easement Property shall be for the purposes of granting to Holland, Holland's employees, representatives, customers, and invitees a permanent, non-exclusive easement and right of use of all access roads and driveways within the O'Reilly Easement Property for pedestrian and vehicular ingress and egress from the Holland Property to Mississippi State Highway 302 (Goodman Road). O'Reilly agrees not to erect, construct, or install any signage, buildings, or other improvements that would materially obstruct the access of the Holland Property to the O'Reilly Easement Property

3. **Construction.** O'Reilly and Holland agree that O'Reilly, at its sole expense, is responsible for all expenses for construction of the Driveway on the O'Reilly Easement Property and the Holland Easement Property.

4. **Maintenance.** Holland and O'Reilly agree that all expenses for maintenance and repair to the Holland Easement Property and the O'Reilly Easement Property shall be shared equally between O'Reilly and Holland. Provided, however, Holland shall not be responsible for any portion of the maintenance on the Holland Easement Property and the O'Reilly Easement Property until such time as Holland, (or its successors), receive a building permit for development on the Holland Property. Such items of maintenance and repair shall include, without limitation, resurfacing and resealing the easement areas created herein. Before undertaking any shared maintenance or repair, each party shall consult the other party and both parties shall agree to the maintenance and repair to be performed. The parties agree that their consent shall not be unreasonably withheld with respect to reasonable and necessary maintenance and repair.

5. **Indemnity by Holland.** Holland shall indemnify and hold O'Reilly harmless from and against any and all damages, demands, claims, losses, liabilities, injuries to third parties and property, deaths, penalties, fines, liens, judgments, suits, actions, investigations, proceedings, costs and expenses whatsoever, which arise in connection with Holland's and Holland's respective agents, employees, contractors, customers and invitees usage of the Holland Easement Property and all costs and expenses that O'Reilly may incur in connection with any such liabilities.

6. **Indemnity by O'Reilly.** O'Reilly shall indemnify and hold Holland harmless from and against any and all damages, demands, claims, losses, liabilities, injuries to third parties and

property, deaths, penalties, fines, liens, judgments, suits, actions, investigations, proceedings, costs and expenses whatsoever, which arise in connection with O'Reilly's and O'Reilly's respective agents, employees, contractors, customers and invitees usage of the Holland Easement Property and all costs and expenses that Holland may incur in connection with any such liabilities.

7. Nature of Easement. The burdens of the easement on the Holland Property shall run with the Holland Property and shall be binding upon every successor owner of the Holland Property. The easement on the Holland Property shall inure to the benefit of the O'Reilly Property and O'Reilly.

The burdens of the easement on the O'Reilly Easement Property shall run with the O'Reilly Property and shall be binding upon every successor owner of the O'Reilly Property. The easement on the O'Reilly Easement Property shall inure to the benefit of the Holland Property and Holland.

8. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one instrument.

9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

10. Authority. O'Reilly represents and warrants that it has full right and lawful authority to enter into this Agreement, that it is lawfully seized of the entire O'Reilly Property, and that no consent or approval of any mortgagee or other entity is required.

Holland represents and warrants that it has full right and lawful authority to enter into this Agreement, that it is lawfully seized of the entire Holland Property, and that no consent or approval of any mortgagee or other entity is required.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the date first set forth above.

(SEE FOLLOWING PAGES FOR SIGNATURES AND ACKNOWLEDGMENTS)

Barry Holland  
BARRY HOLLAND

Larry Holland  
LARRY HOLLAND

STATE OF MISSISSIPPI )  
COUNTY OF Desoto )

Personally appeared before me, the undersigned authority in and for the said county and state, on this 16th day of July, 2006, within my jurisdiction, the within named BARRY HOLLAND and LARRY HOLLAND who each acknowledged that he executed the above and foregoing instrument as his own free act and deed.

My commission expires

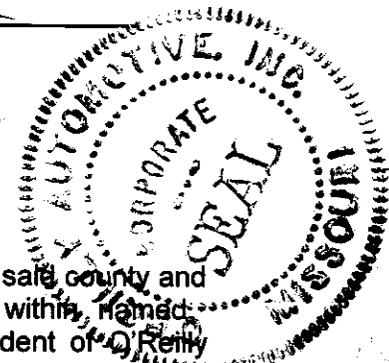


Michael Roberto  
Notary Public

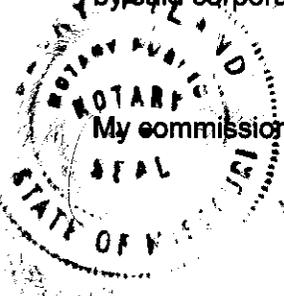
O'REILLY AUTOMOTIVE, INC.  
A Missouri corporation

BY: Ted F. Wise  
Name: Ted F. Wise  
Its: President

STATE OF MISSOURI )  
 ) ss  
COUNTY OF GREENE )

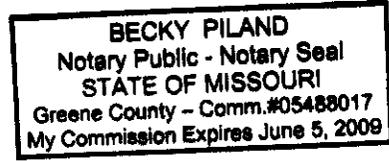


Personally appeared before me, the undersigned authority in and for the said county and state, on this 28<sup>th</sup> day of July, 2006, within my jurisdiction, the within named Ted F. Wise, who acknowledged that he is President of O'Reilly Automotive, Inc., a Missouri corporation, and that for and on behalf of the said corporation, and as its act and deed, he executed the above and foregoing instrument, after having been duly authorized by said corporation so to do.



My commission expires: 6/5/09

Becky Piland  
Notary Public



**AFTER RECORDATION RETURN ORIGINAL TO:**  
O'Reilly Automotive, Inc.  
Attn: Becky Piland, Real Estate Department  
P.O. Box 1156  
Springfield, MO 65801

**CONSENT AND SUBORDINATION**

December 29, 2005

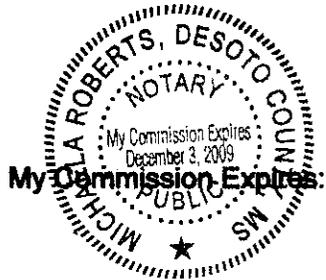
The undersigned, as lienholder pursuant to that certain Deed of Trust, dated \*, and recorded in the office of the Chancery Clerk of DeSoto County, Mississippi, in Book \* at Page \* ("Deed of Trust"), hereby consents to this Access Easement and agrees that the lien of the Deed of Trust shall be subject and subordinate to these easements.

2134 794

**\*\*NAME OF LENDER** RENASANT BANK  
Successor by merger of  
BY: [Signature] The Peoples Bank & Trust Company  
Title: Sr. Vice President

STATE OF Mississippi )  
COUNTY OF Desoto )

Personally appeared before me, the undersigned authority in and for the said county and state, on this 17th day of July, 2006, within my jurisdiction, the within named Ricky Diltz, duly identified before me, who acknowledged that (s)he is Sr. Vice President of Renasant Bank of Mississippi banking corporation, and that for and on behalf of said entity, and as its act and deed, (s)he executed the above and foregoing instrument, after first having been duly authorized by said entity so to do.



Michael Roberts  
NOTARY PUBLIC

**EXHIBIT "A"**  
**HOLLAND PROPERTY**

LOT 4, DAVIDSON OAKS SUBDIVISION, IN SECTION 31, TOWNSHIP 1 SOUTH, RANGE 6 WEST, DESOTO COUNTY, MISSISSIPPI, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 89, PAGE 31, IN THE OFFICE OF THE CHANCERY CLERK OF DESOTO COUNTY, MISSISSIPPI.

**EXHIBIT "B"**  
**O'REILLY PROPERTY**

A TRACT OF LAND BEING LOCATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 6 WEST, DESOTO COUNTY, MISSISSIPPI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 31; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 927.34 FEET TO A POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 94.63 FEET TO A 1/2 INCH REBAR SET ON THE SOUTH RIGHT OF WAY LINE OF MISSISSIPPI HIGHWAY #302 (AKA GOODMAN ROAD) BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 11 MINUTES 47 SECONDS EAST, 251.38 FEET TO A 1/2 INCH REBAR; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 150.00 FEET TO A 1/2 INCH REBAR; THENCE NORTH 00 DEGREES 11 MINUTES 47 SECONDS WEST, 266.72 FEET TO A 1/2 INCH REBAR SET IN THE SAID SOUTH RIGHT OF WAY LINE; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE THE FOLLOWING COURSES: SOUTH 85 DEGREES 16 MINUTES 43 SECONDS EAST, 18.19 FEET TO A FOUND CONCRETE RIGHT OF WAY MARKER; THENCE SOUTH 84 DEGREES 00 MINUTES 34 SECONDS EAST, 132.65 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 0.857 ACRES OR 38,884 SQUARE FEET MORE OR LESS

Exhibit "C"  
Holland Easement  
Property

Mississippi State Highway No. 302  
(a.k.a. Goodman Road)  
Right of Way - Varies  
5 Lane Asphalt Paving (81' Wide) - Major  
State Jurisdiction - Public  
Speed Limit - 45 mph

Holland  
Property

Lot 4  
(Plat Bk.89, Pg.31)  
(Deed Bk.489, Pg.739)  
Property of:  
Barry Holland & Larry Hollard  
6638 Nellwood Rd.  
Olive Branch, MS 38654  
(Zoned C-4)  
(No-Buildings)

80' (per R/V Plans)  
(Measured)  
12" RCP

N90°00'00"E  
927.34'

S85°16'43"E  
18.19'

S84°00'34"E 132.65'

S82°58'26"W 125.71'

(Deed Bk.449, Pg.424)  
Property of:  
Bradlee S. Spence  
700 Keough Dr.  
Collierville, TN 38017  
(Zoned C-4)  
(No-Buildings)

O'Reilly Auto Parts

O'Reilly  
Property

87'4" X 81'4"  
SQ. FT. = 7022  
FLOOR ELEVATION: 369.00' (F.F.E. ON  
SUCCEEDING SHEETS TO BE 100.00')

EGRESS DOOR

DEALER DOOR

N00°11'47"W

S00°11'47"E

According  
in Plat  
C-4  
C-2

150.00' N90°00'00"W

172.58' N90°00'00"W (m/



Exhibit "D"  
O'Reilly Easement  
Property

Holland  
Property

Lot 4  
(Plat Bk.89, Pg.31)  
(Deed Bk.489, Pg.739)  
Property of:  
Barry Holland & Larry Hollard  
6638 Neilwood Rd.  
Olive Branch, MS 38654  
(Zoned C-4)  
(No-Buildings)

(Deed Bk.449, Pg.424)  
Property of:  
Bradlee S. Spence  
700 Keough Dr.  
Collierville, TN 38017  
(Zoned C-4)  
(No-Buildings)

Mississippi State Highway No. 302  
(a.k.a. Goodman Road)  
Right of Way - Varies  
5 Lane Asphalt Paving (81' Wide) - Major  
State Jurisdiction - Public  
Speed Limit - 45 mph

O'Reilly Auto Parts  
88'-4" X 81'-4"  
SQ. FT. = 7022  
FLOOR ELEVATION: 389.00' (F.F.E. ON  
SUCCEEDING SHEETS TO BE 100.00')  
O'Reilly  
Property

According  
in Plat  
C-4  
C-2

