

Prepared by and Return to:  
J. Walker Sims, Attorney  
SIMS LAW FIRM  
5779 Getwell Road, Bldg. D, Suite 5  
Southaven, MS 38672  
662-996-1109  
MS Bar No. 6815

**AMENDED AND RESTATED  
ACCESS EASEMENT AGREEMENT**

This AMENDED AND RESTATED ACCESS EASEMENT AGREEMENT ("Agreement") is entered into as of April 15, 2011, by and among **MICHAEL A. LIGHTMAN, SR.**, an individual ("Lightman"), **LIGHTMAN AIRWAYS CO., LLC**, a Mississippi limited liability company ("Airways"), **LIN'S INVESTMENTS, LLC**, a Mississippi limited liability company ("Lin's"), and **SOLBERG PROPERTIES**, a Tennessee general partnership ("Solberg"), collectively, the "Parties."

**WITNESSETH:**

WHEREAS, Malco Theatres, Inc., an Arkansas corporation, Lightman and Solberg entered into that certain Access Easement Agreement dated as of September 30, 2004 (the "Original Agreement") recorded in Book 529, Page 71 in the DeSoto County, Mississippi Chancery Clerk's Office; and

WHEREAS, various transfers and subdivisions of the property affected by the Original Agreement have occurred;

WHEREAS, Lin's is the owner of that certain property shown as Parcel A-1 on the site plan attached hereto as **EXHIBIT "A"**;

WHEREAS, Airways is the owner of that certain property shown as Parcel A-2 on the site plan attached hereto as **EXHIBIT "A"**;

WHEREAS, Solberg is the owner of that certain property shown as Parcel B on **EXHIBIT "A"** attached hereto;

WHEREAS, Airways is the owner of that certain property shown as Parcel C on **EXHIBIT "A"** attached hereto;

WHEREAS, Lightman is the owner of that certain property shown as Parcel D on **EXHIBIT "A"** attached hereto; and

WHEREAS, the Parties desire to amend and restate the Original Agreement which created easements for ingress and egress of automobiles and pedestrians for the benefit of Parcels A-1, A-2, B, and C, as set forth in the body of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Original Agreement is hereby amended and restated as follows:

1. Lightman grants unto Lin's, as owner of Parcel A-1, its successors, assigns, agents, contractors, customers and employees, a perpetual, non-exclusive and unobstructed easement upon or across, as applicable, the access road between Parcel A-2 and Parcel B, identified as Parcel D on the attached **EXHIBIT "A"**, for automobile and pedestrian ingress and egress, and access and the right of access between the public streets adjacent to the property.

Hal Stanley  
JD

13

2. Lightman grants unto Airways, as owner of Parcel A-2 and Parcel C, its successors, assigns, agents, contractors, customers and employees, a perpetual, non-exclusive and unobstructed easement upon or across, as applicable, the access road between Parcel A-2 and Parcel B, identified as Parcel D on the attached EXHIBIT "A", for automobile and pedestrian ingress and egress, and access and the right of access between the public streets adjacent to the property.
3. Lightman grants unto Solberg, as owner of Parcel B, its successors, assigns, agents, contractors, customers and employees, a perpetual, non-exclusive and unobstructed easement upon or across, as applicable, the access road between Parcel A-2 and Parcel B, identified as Parcel D on the attached EXHIBIT "A", for automobile and pedestrian ingress and egress, and access and the right of access between the public streets adjacent to the property.
4. There shall be no cross-parking right conveyed herein. The Parties shall cause their employees not to park on either of the other Parcels, except Lightman grants unto the owners of Parcel B and Parcel C a perpetual, non-exclusive, and unobstructed easement allowing the employees and/or patio customers of Parcel B and Parcel C to park in the first row of spaces immediately behind Parcel A and Parcel B which row is located on a section of Parcel D in the area shown on EXHIBIT "A" as "Employee Parking Area", and/or future developments as they are created and/or modified from time to time; however, not to exceed forty-two (42) parking spaces. Lightman and the future owners of that part of Parcel D reserve the right to relocate the parking area in light of future uses or development of that part of Parcel D (a relocated area will be in close proximity to Parcel B and Parcel C).
5. Each party reserves the unconditional right from time to time to relocate its buildings or its parking or both thereby relocating the access easement in light of future uses or development of its own property.
6. The party owning any respective portion of the fee simple title to the land will repair and perpetually maintain the property in good repair and condition and will pay all costs and expenses related to the maintenance and repair of the property.
7. The party owning any respective portion of the fee simple title to the land comprising the property shall pay, each year, the real property ad valorem taxes and other governmental charges or assessments on or before the date that such taxes, charges or assessments would be deemed to be past due. Each party hereto shall be responsible to obtain any liability insurance or other insurance coverage that it desires for its own account and at its own cost and expense.
8. If any party shall fail to perform any of the provisions, covenants or conditions of the Agreement (the "Defaulting Party") as to the maintenance or repair of the improvements for the property or any other provision, covenant or condition, the other party shall have the right, upon thirty (30) days' prior written notice to the Defaulting Party [unless within such thirty (30) days period the Defaulting Party shall cure such default or take such action as is reasonably calculated to commence the curing thereof], to proceed to make such payment or to take such action as shall be necessary to cure such default, all in the name of, and for the account of, the Defaulting Party. In such case, the Defaulting Party shall on demand reimburse the party paying such sum or taking such action for all costs and expenses, including reasonable attorneys fees and carrying costs, incurred by the party paying such sum or taking such action.
9. All notices, certificates, demands, requests, consents, approvals and other similar instruments provided for or permitted to be given pursuant to this Agreement must be in writing and shall be deemed to have been properly given or served and received if delivered in person or if sent by United States certified or registered mail, postage prepaid, or if sent by recognized overnight service providing proof of delivery to the party to whom the notice is sent (confirmed facsimile transmission, original sent by overnight mail service for next day delivery), at such addresses as they respectively may have designated from time to time in writing, and if to any lenders or assigns addressed to their principal offices, or at such addresses as said lenders or said assigns shall have designated from time to time in writing to the other parties hereto. At the commencement of this Agreement:

Lightman's address is:

Michael A. Lightman, Sr.  
5100 Poplar, Suite 2713  
Memphis, TN 38137

with a copy to:

Richard H. Kremer  
1010 June Road, Suite 100  
Memphis, TN 38119

Lin's address is:

Lin's Investments, LLC  
7204 Airways Blvd.  
Southaven MS 38671-5802

with a copy to:

Samuel J. Zalowitz  
335 Walnut Gardens Drive  
Cordova, TN 38018

Airways' address is:

Michael A. Lightman, Jr.  
5100 Poplar, Suite 2713  
Memphis, TN 38137

Solberg's address is:

Solberg Properties  
P.O. Box 751510  
Memphis, TN 38175-1510

Delivery in person shall be effective on the date of delivery. Delivery by mail shall be effective three (3) days from the date of posting in the United States mail. Delivery by recognized overnight courier shall be effective the next business day following the date the notice is delivered to the recognized overnight courier for delivery. By giving to the other party at least ten (10) days' written notice thereof, any party hereto or its respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

10. The Parties hereto agree that their respective interests in and to this Agreement and the rights created hereunder may not be assigned or transferred by the Parties hereto to any party other than subsequent owners of Parcel A-1, Parcel A-2, Parcel B and/or Parcel C and/or any portion of Parcel A-1, Parcel A-2, Parcel B and/or Parcel C or mortgagees holding deeds of trust or mortgages on Parcel A-1, Parcel A-2, Parcel B and/or Parcel C and/or any portion of Parcel A-1, Parcel A-2, Parcel B and/or Parcel C or such mortgagees successors and assigns.
11. The grants and other provisions of the Agreement shall constitute easements and covenants running with the land. The grant to Lin's shall be deemed appurtenant to Parcel A-1, the grant to Airways shall be deemed appurtenant to Parcel A-2 and Parcel C, and the grant to Solberg shall be deemed appurtenant to Parcel B. The grants and other provisions of this Agreement shall inure to the benefit of, and be binding upon, each

signatory hereto, and its/his respective heirs, devisees, assigns, successors, and legal representatives, including, but not limited to, subsequent owners of the parcels, and their respective heirs, devisees, assigns, successors and legal representatives, together with their respective tenants, concessionaires, customers, invitees and licensees. The aforesaid easement beneficiaries shall have the permanent, irrevocable and non-exclusive right to use the property in common with all invitees, licensees and tenants of all other parties hereto and such tenant's invitees and licensees for driving vehicles, for pedestrian traffic and for no other purposes. Free and unrestricted ingress and egress across the property for automobile and pedestrian traffic in the specified areas shall not be prevented.

12. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the property to the general public use or for any public use or purpose whatsoever, it being the intentions of the Parties hereto that the terms be strictly limited as set forth herein. Except as herein specifically provided, no rights, privileges or immunities of any signatory hereto shall inure to the benefit of any third-party, nor shall any third-party be deemed to be a beneficiary of any of the provisions contained herein.
13. This Agreement may not be altered, amended or changed, except by written instrument signed by the Parties hereto or their respective successors and assigns. In the event any of the provisions of the Agreement shall be held invalid by any court, such invalidation shall not affect the remaining provisions of this Agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.
14. Regions Bank, the holder of the indebtedness secured by a Deed of Trust of record in Book 1004, Page 209, as amended, in the Chancery Clerk's Office of DeSoto County, MS on Parcel D, joins herein to consent to the terms of this Agreement and agree that a foreclosure or a deed in lieu of foreclosure of the Deed of Trust held by it shall not extinguish this Agreement and easement rights granted herein.

[ END OF PAGE ]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized officer on the date first above written.

Michael A. Lightman  
MICHAEL A. LIGHTMAN, SR.

LIGHTMAN AIRWAYS CO., LLC,  
a Mississippi limited liability company

By: Michael A. Lightman, Jr.  
Michael A. Lightman, Jr. Manager

SOLBERG PROPERTIES,  
a Tennessee General Partnership

By: \_\_\_\_\_  
Ronald Solberg, General Partner

LIN'S INVESTMENTS, LLC,  
a Mississippi limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

REGIONS BANK

By: Maria Garrett  
Name: MARIA GARRETT  
Title: VICE PRESIDENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized officer on the date first above written.

\_\_\_\_\_  
**MICHAEL A. LIGHTMAN, SR.**

**LIGHTMAN AIRWAYS CO., LLC,**  
a Mississippi limited liability company

By: \_\_\_\_\_  
Michael A. Lightman, Jr., Manager

**SOLBERG PROPERTIES,**  
a Tennessee General Partnership

By:           *R Z J M*            
Ronald Solberg, General Partner

**LIN'S INVESTMENTS, LLC,**  
a Mississippi limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**REGIONS BANK**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized officer on the date first above written.

\_\_\_\_\_  
MICHAEL A. LIGHTMAN, SR.

**LIGHTMAN AIRWAYS CO., LLC,**  
a Mississippi limited liability company

By: \_\_\_\_\_  
Michael A. Lightman, Jr., Manager

**SOLBERG PROPERTIES,**  
a Tennessee General Partnership

By: \_\_\_\_\_  
Ronald Solberg, General Partner

**LIN'S INVESTMENTS, LLC,**  
a Mississippi limited liability company

By: ~~\_\_\_\_\_~~  
Name: Liang Lin  
Title: Chief Manager

**REGIONS BANK**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned Notary Public in and for said County and State, duly commissioned and qualified, personally appeared MICHAEL A. LIGHTMAN, SR., to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing Amended and Restated Access Easement Agreement, and who, upon oath, acknowledged that he executed the same as his free act and deed for the purposes therein contained.

WITNESS my hand and seal at office in Memphis, Tennessee, this 24<sup>th</sup> day of February, 2011.

Stephanie Cannon  
Notary Public

My Commission expires:

7.27.2011



MY COMMISSION EXPIRES.  
July 27, 2011

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned notary public, of the state and county aforementioned, personally appeared MICHAEL A. LIGHTMAN, JR., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a Manager of LIGHTMAN AIRWAYS CO., LLC, a Mississippi limited liability company, the within named bargainor, and that he as such Manager, being duly authorized so to do, executed the foregoing Amended and Restated Access Easement Agreement for the purpose therein contained by signing the name of the limited liability company by himself as Manager.

Witness my hand and seal at office in Memphis, Tennessee, this 24<sup>th</sup> day of February, 2011.

Stephanie Cannon  
Notary Public

My Commission expires:

7.27.2011



MY COMMISSION EXPIRES.  
July 27, 2011

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned notary public, of the state and county aforementioned, personally appeared RONALD SOLBERG, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a general partner of SOLBERG PROPERTIES, the within named bargainor, a Tennessee general partnership, and that he as such General Partner, being duly authorized so to do, executed the foregoing Amended and Restated Access Easement Agreement for the purpose therein contained by signing the name of the partnership by himself as General Partner.

Witness my hand and seal at office in Memphis, Tennessee, this 24 day of February, 2011.

ANC  
Notary Public

My Commission expires:

10-7-14



MY COMM. EXP 10-07-2014

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Before me, the undersigned notary public, of the state and county aforementioned, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the \_\_\_\_\_ of LIN'S INVESTMENTS, LLC, a Mississippi limited liability company, the within named bargainor, and that he as such \_\_\_\_\_, being duly authorized so to do, executed the foregoing Access Easement Agreement for the purpose therein contained by signing the name of the limited liability company by himself as \_\_\_\_\_.

Witness my hand and seal at office in \_\_\_\_\_, \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Commission Expires

\_\_\_\_\_  
Notary Public

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned notary public, of the state and county aforementioned, personally appeared RONALD SOLBERG, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a general partner of SOLBERG PROPERTIES, the within named bargainor, a Tennessee general partnership, and that he as such General Partner, being duly authorized so to do, executed the foregoing Amended and Restated Access Easement Agreement for the purpose therein contained by signing the name of the partnership by himself as General Partner.

Witness my hand and seal at office in Memphis, Tennessee, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

My Commission expires:

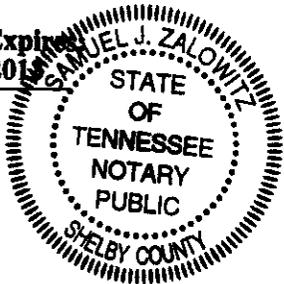
\_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned notary public, of the state and county aforementioned, personally appeared LIANG LIN, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chief Manager of LIN'S INVESTMENTS, LLC, a Mississippi limited liability company, the within named bargainor, and that he as such Chief Manager, being duly authorized so to do, executed the foregoing Access Easement Agreement for the purpose therein contained by signing the name of the limited liability company by himself as Chief Manager.

Witness my hand and seal at office in Memphis, Tennessee, this 23 day of March, 2011.

My Commission Expires  
February 13, 2015  
Commission Expires



Samuel J. Zalowitz  
Notary Public

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned notary public, of the state and county aforementioned, personally appeared MARIA GARRETT, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the VICE PRES. of REGIONS BANK, an ALABAMA CORPORATION, the within named bargainer, and that he/she as such VICE PRES., being duly authorized so to do, executed the foregoing Amended and Restated Access Easement Agreement for the purpose therein contained by signing the name of the bank by himself/herself as VICE PRES.

Witness my hand and seal at office in Memphis, Tennessee, this 23<sup>RD</sup> day of FEBRUARY, 2011.

Marcella Smith  
Notary Public

My Commission expires:

MY COMMISSION EXPIRES JUNE 18, 2013



Return to: <sup>HCS</sup> 20100725  
HAL C. STANLEY P.C.  
7515 CORPORATE CENTRE DR.  
GERMANTOWN, TN 38138  
CPC # 3355895



All parcels are part of Section 30, Township 01 South, Range 07 West, DeSoto County, MS:

Description of Parcel A-1:

Lot 6, Division of Lot 6, DeSoto Station, situated in Section 30, Township 1 South, Range 7 West, City of Southaven, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 108, Page 29, in the office of the Chancery Clerk of DeSoto County, Mississippi, to which plat reference is hereby made for a more particular description

Description of Parcel A-2:

Lot 6A, Division of Lot 6, DeSoto Station, situated in Section 30, Township 1 South, Range 7 West, City of Southaven, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 108, Page 29, in the office of the Chancery Clerk of DeSoto County, Mississippi, to which plat reference is hereby made for a more particular description

Description of Parcel B:

Lot 7, Final Plat of Division of Lot 7, Desoto Station P.U.D., located in Section 30, Township 1 South, Range 7 West, City of Southaven, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 95, Page 46, in the office of the Chancery Clerk of DeSoto County, Mississippi, to which plat reference is hereby made for a more particular description

Description of Parcel C:

Lot 7A, Final Plat of Division of Lot 7, Desoto Station P.U.D., located in Section 30, Township 1 South, Range 7 West, City of Southaven, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 95, Page 46, in the office of the Chancery Clerk of DeSoto County, Mississippi, to which plat reference is hereby made for a more particular description

Description of Parcel D:

Lot 2, First Amendment to Fourth Revision, Desoto Station, located in Section 30, Township 1 South, Range 7 West, City of Southaven, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 60, Page 21, in the office of the Chancery Clerk of DeSoto County, Mississippi, to which plat reference is hereby made for a more particular description