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SUBAGREM 1/9

This instrument prepared by:  
Austin A. Averitt, Esq.  
Butler Snow LLP  
1819 Fifth Avenue North, Suite 1000  
Birmingham, Alabama 35203  
(205) 297-2200

STATE OF ALABAMA )

COUNTY OF SHELBY )

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (the “**Agreement**”) made as of this 11th day of December, 2017, by and among **NEWCO2, LLC**, an Alabama limited liability company, with an address of One Office Park Circle, Suite 300, Birmingham, Alabama 35223 (the “**Landlord**”), **EXPRESS OIL CHANGE, LLC**, a Delaware limited liability company, with an address of 1880 South Park Drive, Hoover, Alabama 35244 (the “**Tenant**”), and **RENASANT BANK**, a Mississippi state banking corporation, with an address of 2001 Park Place N Suite 600, Birmingham, Alabama 35203 (together with its successors or assigns, the “**Bank**”).

**RECITALS:**

Landlord and Tenant are parties to that certain Lease Agreement dated December 11, 2017 (as amended, the “**Lease**”), pursuant to which Tenant leases from Landlord that certain real property located in Shelby County, Alabama, as more particularly described in Exhibit A attached hereto and incorporated herein (the “**Property**”).

Landlord is borrowing the sum of up to \$660,000.00 from Bank (such sum, as may be amended, extended, restated, modified, renewed or refinanced, collectively, the “**Loan**”), pursuant to that certain Construction Loan Agreement by and between Bank and Landlord of even date herewith (the “**Loan Agreement**”; capitalized terms used herein and not otherwise defined shall have the meanings ascribed in the Loan Agreement), as evidenced by, among other things, that certain Promissory Note payable by Landlord to the order of Bank of even date herewith (as amended, extended, restated, modified, renewed or refinanced, collectively, the “**Note**”), and secured by, among other things, that certain Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement of even date herewith, granting Bank a first priority mortgage lien and security interest on the real property and personal property that encompasses the Property (the “**Mortgage**”). The Loan Agreement, the Note, the Mortgage and the other documents, certificates, instruments and agreements executed by Landlord, Tenant or others in connection with the Loan or to otherwise evidence or secure the Loan, and all renewals, supplements, or amendments thereto or a part thereof, are collectively referred to as the “**Loan Documents**”.

Tenant and Bank desire to confirm their understanding with respect to the Lease and the Loan Documents, and to have Landlord confirm its agreement therewith.

**AGREEMENT:**

In consideration of the covenants, terms, conditions, and agreements contained herein, the parties hereto agree as follows:

1. The Lease and any extensions, modifications or renewals thereof, including, but not limited to, any option to purchase or right of first refusal to purchase the Property or any portion thereof, if any, is and shall continue to be subject and subordinate in all respects to the Loan Documents and the liens and security interests in favor of Bank created thereby.

2. Tenant agrees to deliver to Bank, in the manner set forth below, a copy of any notice of default sent to Landlord by Tenant. If Landlord fails to cure such default within the time provided in the Lease, Bank shall have the right, but not the obligation, to cure such default on behalf of Landlord within thirty (30) calendar days after the time provided for Landlord to cure such default in the Lease has expired or, if such default is curable but cannot be cured within that time, within a reasonable period provided Bank is proceeding with due diligence to cure such default. In such event, Tenant shall not terminate the Lease while such remedies are being diligently pursued by Bank. Further, Tenant shall not terminate the Lease on the basis of any default by Landlord that is incurable by Bank (such as, for example, the bankruptcy of Landlord or breach of any representation by Landlord), provided Bank is proceeding with due diligence to commence an action to appoint a receiver or to obtain the right to possession of the Property by foreclosure, deed in lieu of foreclosure, or otherwise (each of the foregoing, a "**Foreclosure**"). Tenant hereby agrees that no action taken by Bank to enforce any rights under the Loan Documents by reason of any Default thereunder (including, without limitation, the appointment of a receiver, any Foreclosure or any demand for rent under any assignment of rents or leases) shall give rise to any right of Tenant to terminate the Lease, nor shall such action invalidate or constitute a breach of any of the terms of the Lease.

3. If Bank or its nominee or designee, or another purchaser of the Property upon a Foreclosure (Bank or any such person or entity, a "**Successor Owner**") succeeds to the interest of Landlord under the Lease, such Successor Owner shall not disturb Tenant's possession of the Property and shall continue and recognize the Lease and Tenant's rights thereunder, and Tenant shall make full and complete attornment to Successor Owner as substitute Landlord upon the same terms, covenants and conditions as provided in the Lease, including, but not limited to, any option to purchase or right of first refusal to purchase the Property as may be provided in the Lease. Tenant agrees that any such option or right of first refusal to purchase the Property or any portion thereof, as may be provided in the Lease shall not apply to and shall not in any way impair or delay any Foreclosure.

4. Tenant agrees that, if Successor Owner shall succeed to the interest of Landlord under the Lease, Successor Owner shall not be:

(a) liable for any prior act or omission of Landlord or any prior Landlord or consequential damages arising therefrom;

(b) subject to any offsets or defenses which Tenant might have as to Landlord or any prior Landlord;

(c) required or obligated to credit Tenant with any rent or additional rent for any rental period beyond the then current month which Tenant might have paid Landlord; or

(d) bound by any amendments or modifications of the Lease made without Bank's or Successor Owner's prior express written consent; or

(e) liable for the refund of all or any part of any security deposit unless such security deposit shall have been actually received by Bank and designated as a security deposit when transmitted to Bank.

5. Tenant agrees that, without the prior express written consent of Bank in its sole discretion in each case, Tenant shall not (a) amend, modify, terminate or cancel the Lease or any extensions or renewals thereof, or tender a surrender of the Lease (except in each case that, upon a default by Landlord under the Lease, Tenant may exercise its rights under the Lease after giving to Bank the notice and cure period required by this Agreement), (b) make a prepayment of any rent or additional rent more than one (1) month in advance of the due date thereof, or (c) subordinate or permit the subordination of the Lease to any lien or security interest subordinate to the Loan Documents. Any such purported action made without Bank's prior express written consent shall be void as against Bank or the holder of the Loan Documents.

6. To the extent that the Lease shall entitle Tenant to notice of the existence of any of the Loan Documents and the identity of any beneficiary under the Mortgage, any mortgagee or any ground lessor, this Agreement shall constitute such notice to Tenant with respect to the Loan Documents and Bank.

7. Upon and after the occurrence of a Default under the Loan Documents that is not cured after any applicable notice or cure periods, Bank shall be entitled, but not obligated, to require that Tenant pay all rent, additional rents, escrows and impounds under the Lease as directed by Bank, which payment shall, to the extent made, satisfy such payment obligations of Tenant under the Lease. Landlord agrees to hold Tenant harmless with respect to any such payments made by Tenant to Bank.

8. Nothing in this Agreement shall impose upon Bank any liability for the obligations of Landlord under the Lease unless and until Bank takes title to the Property, at which time Bank shall be responsible only for ongoing obligations arising after the date such Successor Owner takes title and possession of the Property. Anything herein or in the Lease to the contrary notwithstanding, in the event that a Successor Owner shall acquire title to the Property, Successor Owner shall have no obligation, nor incur any liability, beyond Successor Owner's then interest, if any, in the Property, and Tenant shall look exclusively to such interest, if any, of Successor Owner in the Property for the payment and discharge of any obligations imposed upon Successor Owner hereunder or under the Lease, and Successor Owner is hereby released or relieved of any other liability hereunder and under the Lease. Tenant agrees that, with respect to any money judgment which may be obtained or secured by Tenant against

Successor Owner, Tenant shall look solely to the estate or interest owned by Successor Owner in the Property, and Tenant will not collect or attempt to collect any such judgment out of any other assets of Successor Owner.

9. Except as specifically provided in this Agreement, Bank shall not, by virtue of this Agreement, the Mortgage or any other instrument to which Bank may be party, be or become subject to any liability or obligation to Tenant under the Lease or otherwise.

10. The provisions of the Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective successors and assigns. The words, "Bank", "Landlord" and "Tenant" shall include their respective heirs, legatees, executors, administrators, beneficiaries, successors and assigns.

11. Any notice or other communication required or permitted to be given in connection with this Agreement shall be given at the applicable address set forth in the opening paragraph of this Agreement and shall be in writing and shall be deemed received (a) on the date delivered, if sent by hand delivery (to the person or department if one is specified below) with receipt acknowledged by the recipient thereof, (b) three (3) Business Days following the date deposited in U.S. mail, certified or registered, with return receipt requested, or (c) one (1) Business Day following the date deposited with Federal Express or other national overnight carrier.

12. This Agreement contains the entire agreement between the parties and no modification of this Agreement shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party.

13. This Agreement may be executed in multiple counterparts, all of which shall be deemed originals and with the same effect as if all parties had signed the same document. All of such counterparts shall be construed together and shall constitute one instrument.

14. Landlord shall indemnify, save, defend and hold Bank harmless from any loss, cost, expense or liability, including fees of accountants, attorneys, consultants and expert witnesses reasonably incurred in defending or enforcing Bank's rights arising out of or related to this Agreement or otherwise relating to the relationship of the parties hereto, regardless of whether they are incurred before, during or after any litigation or other dispute resolution procedure, regardless of Bank's success on the merits and regardless of whether they relate to issues arising out of or related to contract, tort, bankruptcy or any other area of law.

15. This Agreement shall be governed by and interpreted, construed and enforced according to the laws of the State of Alabama. The parties submit to exclusive personal jurisdiction of the state courts in Jefferson County in the State of Alabama for the enforcement of any and all obligations under this Agreement, the Loan Documents, or arising out of or related to the transactions contemplated thereby

16. EACH PARTY HEREBY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, THE LOAN DOCUMENTS OR THE LOAN, OR (B) IN ANY

WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF BANK, LANDLORD OR TENANT WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THIS AGREEMENT OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES UNDER THIS AGREEMENT OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. LANDLORD AND TENANT AGREE THAT BANK MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF LANDLORD AND TENANT IRREVOCABLY TO WAIVE THEIR RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT OF BANK TO MAKE THE LOAN, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN LANDLORD, TENANT AND BANK SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

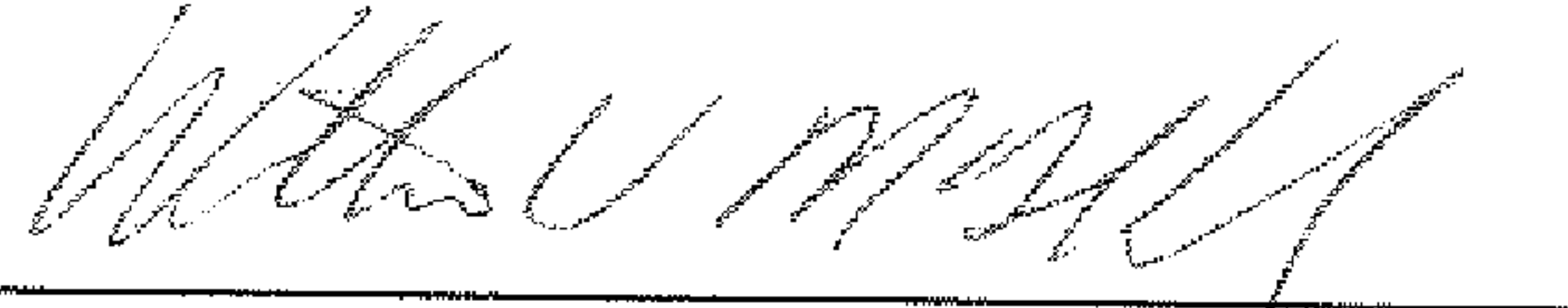
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

LANDLORD:

NEWCO2, LLC, an Alabama limited liability company

By:



William W. McDonald, Jr.

Its:

Manager

STATE OF ALABAMA

)

COUNTY OF Jefferson

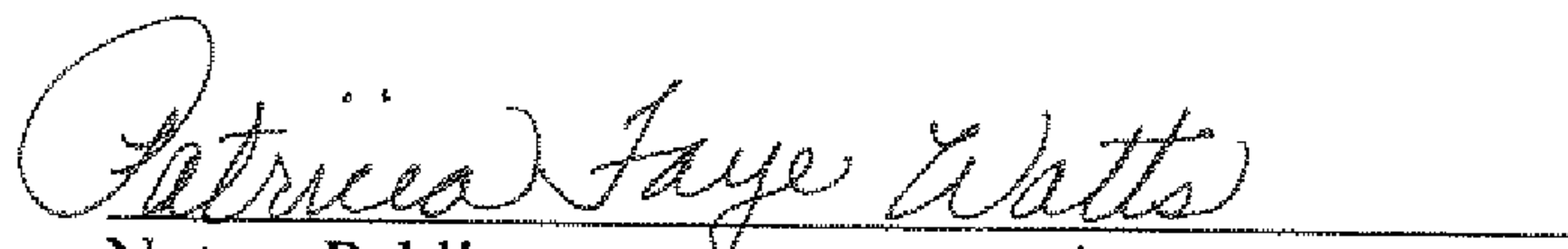
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)

I, PATRICIA FAYE WATTS, a Notary Public in and for said County, in said State, hereby certify that William W. McDonald, Jr., whose name as the manager of NEWCO2, LLC, an Alabama limited liability company, is signed to the foregoing agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said agreement, he, as such manager of the company and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand and official seal, this 5<sup>TH</sup> day of December, 2017.

[AFFIX SEAL]



Notary Public

My Commission Expires: 8/15/2020

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

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TENANT:

EXPRESS OIL CHANGE, LLC, a Delaware  
limited liability company

By: \_\_\_\_\_

Richard A. Brooks

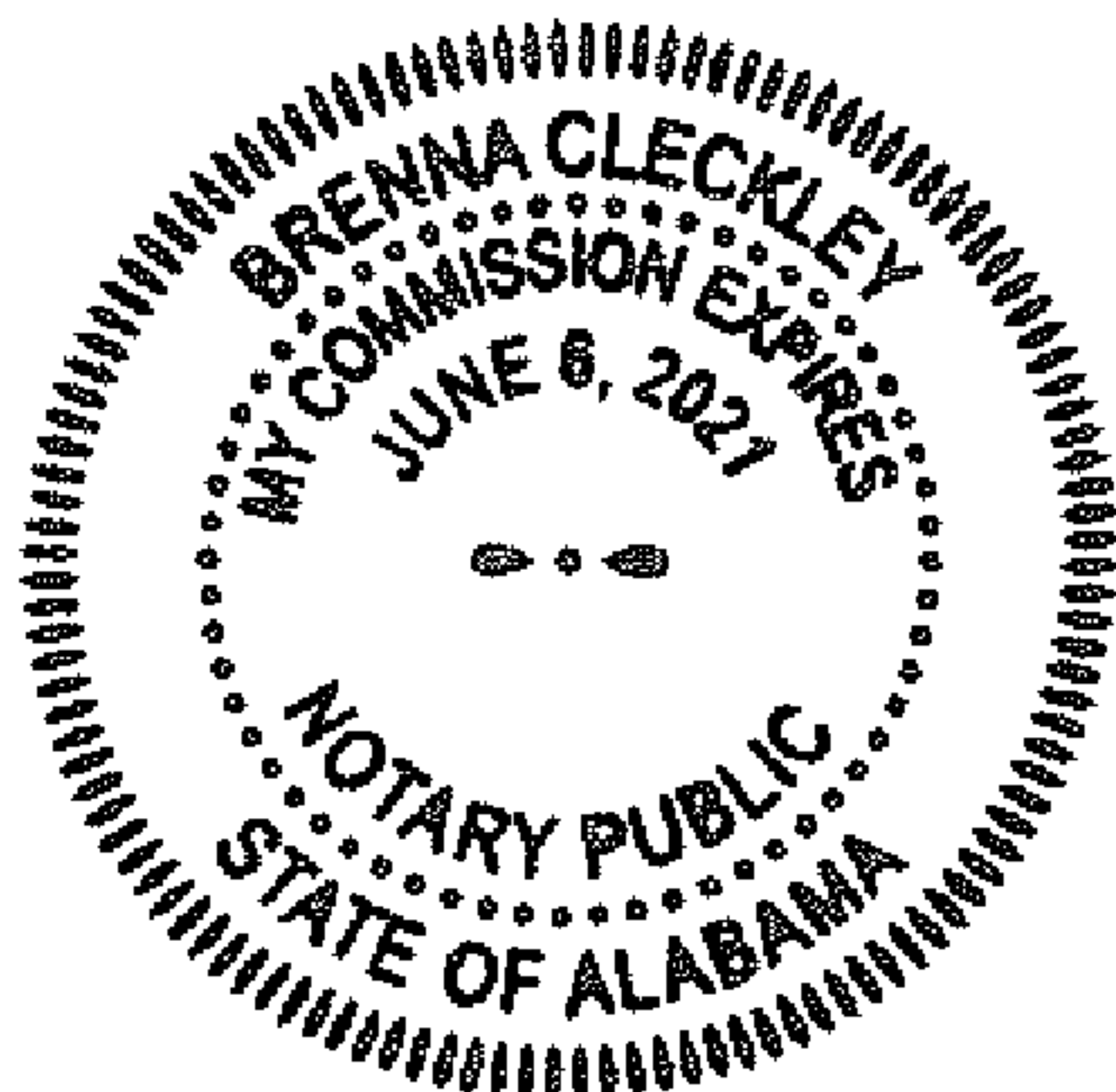
Its: \_\_\_\_\_

CEO

STATE OF ALABAMA )  
COUNTY OF Shelby )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Richard A. Brooks, whose name as CEO of Express Oil Change, LLC, a Delaware limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 7th day of December, 2017.



[AFFIX SEAL]

Brenna Cleckley  
Notary Public

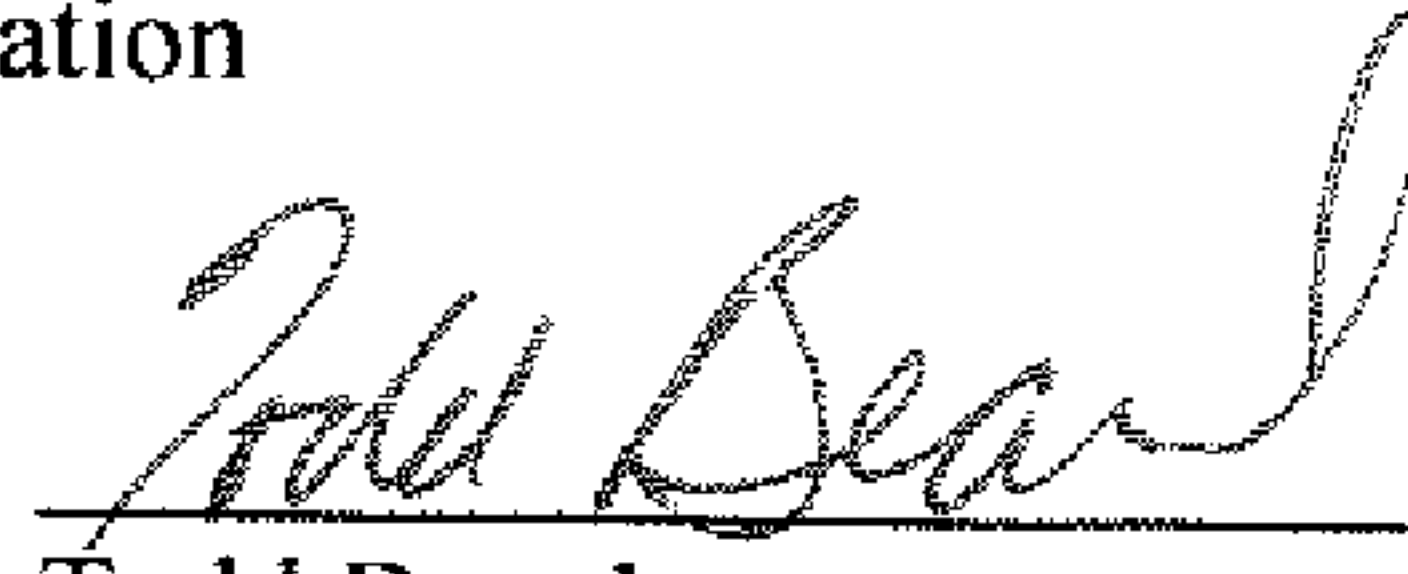
My commission expires: June 6, 2021

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

BANK:

RENASANT BANK, a Mississippi state banking corporation

By:



Todd Beard

Its: Senior Vice President

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Todd Beard, whose name as the Senior Vice President of Renasant Bank, a Mississippi state banking corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said bank.

Given under my hand and official seal this the 28th day of December, 2017.



  
Notary Public

[AFFIX SEAL]

My commission expires: 12/28/2019

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EXHIBIT A

LEGAL DESCRIPTION

LOT 11, ACCORDING TO THE SURVEY OF SOUTH PARK, AS RECORDED IN MAP  
BOOK 20, PAGE 100, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.



Filed and Recorded  
Official Public Records  
Judge James W. Fuhrmeister, Probate Judge,  
County Clerk  
Shelby County, AL  
12/28/2017 08:37:04 AM  
\$39.00 JESSICA  
20171228000461100

A handwritten signature in black ink, appearing to read "James W. Fuhrmeister", is written over the bottom right portion of the official text block.