

*This Instrument Prepared By:*  
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**Capell & Howard, PC**  
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Montgomery, AL 36104  
(334) 241-8000

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MORTAMEN 1/6

**STATE OF ALABAMA**

**COUNTY OF SHELBY**

**MODIFICATION OF COMMERCIAL MORTGAGE, SECURITY AGREEMENT AND  
ASSIGNMENT OF LEASES AND RENTS**

**THIS MODIFICATION OF COMMERCIAL MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS** (this "Modification") is made to be effective as of January 19, 2022 (the "Effective Date") by and between **GARDENS OF PELHAM, LLC**, an Alabama limited liability company ("Mortgagor"), and **SYNOVUS BANK**( "Lender").

**RECITALS**

**A.** Mortgagor executed that certain Commercial Mortgage, Security Agreement and Assignment of Leases and Rents dated as of December 31, 2020 in favor of Lender in the original principal amount of indebtedness of Nine Hundred Sixty Thousand and No/100 Dollars (\$960,000.00) which was recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument #20210106000008840 (the "Mortgage"). The Mortgage secures a Term Note (the "Note") of even date therewith in said amount from Mortgagor to Lender. The Mortgage covers the real property described on Exhibit A attached hereto.

**B.** Mortgagor has requested an additional advancement of principal from Lender together with an extension of the maturity date of the Note. In connection therewith, Mortgagor has agreed to execute, as of the Effective Date, an Amended and Restated Promissory Note in favor of Lender in the original principal amount of \$1,215,000.00 (the "Amended Note").

**C.** As a condition to the additional extension of credit by the Lender, Mortgagor and Lender desire to modify the terms of the Mortgage to increase the maximum principal amount of indebtedness due thereunder to fully secure the Amended Note.

**D.** As an inducement to Lender to enter into this modification, Mortgagor is willing to enter into this Modification on the terms and conditions contained herein.

**NOW, THEREFORE**, in consideration of the foregoing premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree that the Mortgage is hereby modified as follows:

### **TERMS OF MODIFICATION**

1. The Mortgage is hereby modified to incorporate the terms of the Amended Note and to increase the principal amount of indebtedness stated in the Mortgage from \$960,000.00 to \$1,215,000.00. Accordingly, the following provision of the Mortgage is hereby amended to reflect such modification:

Section 1.1 of the Mortgage is hereby deleted in its entirety and substituted, in lieu thereof, with the following:

**“1.1 Mortgage.** For valuable consideration paid and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor hereby irrevocably and unconditionally mortgages, grants, bargains, transfers, sells, conveys, sets over and assigns to the Lender and its successors and assigns forever, WITH MORTGAGE COVENANTS, all of Mortgagor’s right, title and interest in and to the “Property” described below, to secure the prompt payment and performance of the Obligations (as hereinafter defined), including without limitation, all amounts due and owing to the Lender and all obligations respecting that certain **Amended and Restated Promissory Note**, dated **January 19, 2022**, by **Gardens of Pelham, LLC** in favor of the Lender in the original principal amount of **\$1,215,000.00** (the “Note”, and collectively, along with all other agreements, documents, certificates and instruments delivered in connection therewith or related thereto, the “Loan Documents”), and any substitutions, modifications, extensions or amendments to any of the Loan Documents.”

Section 1.6 of the Mortgage is hereby deleted in its entirety and substituted, in lieu thereof, with the following:

**“1.6 Obligations.** The term “Obligation(s),” as used in this Mortgage, shall mean **\$1,215,000.00** of the amounts outstanding pursuant to the terms of the Loan Documents as set forth herein. Said term shall also include all interest and other charges chargeable to the Mortgagor or due from the Mortgagor to the Lender from time to time and all advances, costs and expenses referred to in this Mortgage, including without limitation the costs and expenses (including reasonable attorney’s fees) of enforcement of the Lender’s rights hereunder or pursuant to any document or instrument executed in connection herewith.”

2. As of the Effective Date, Mortgagor updates and confirms all of the representations and warranties contained in the Mortgage and hereby represents and warrants that the Property is free and clear of all liens, mortgages and claims other than the Mortgage.

3. As of the Effective Date, Mortgagor agrees that that the Mortgage, as modified and amended herein, shall continue to secure the indebtedness set forth in the Amended Note. Nothing herein shall affect the validity of the rights, title and interest conveyed in the Mortgage until the entire indebtedness secured thereby has been paid in full. Mortgagor and Lender agree to take any and all further action including, but not limited to, the execution and delivery of any and all

documents, instruments, agreements, certificates and amendments as are necessary or required in order to vest in, perfect or continue in Lender a valid first priority lien on and in the Property.

4. Except as expressly modified and amended herein, all the terms, provisions and conditions of the Mortgage shall remain in full force and effect and are hereby ratified, confirmed and approved by Mortgagor and Lender. Mortgagor intends that no novation occur with respect to the execution and delivery of this Modification and nothing herein shall be deemed to be a waiver, release or discharge of any right, obligation or remedy provided to any party under any of the Loan Documents.

5. Mortgagor hereby agrees to pay any and all costs and expenses associated with the negotiation, drafting, execution and recording of this Modification or any document required hereunder including, but not limited to, the fees and expenses of Lender and its counsel.

6 All capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Documents by and between Mortgagor and Lender dated as of December 31, 2020, as amended.

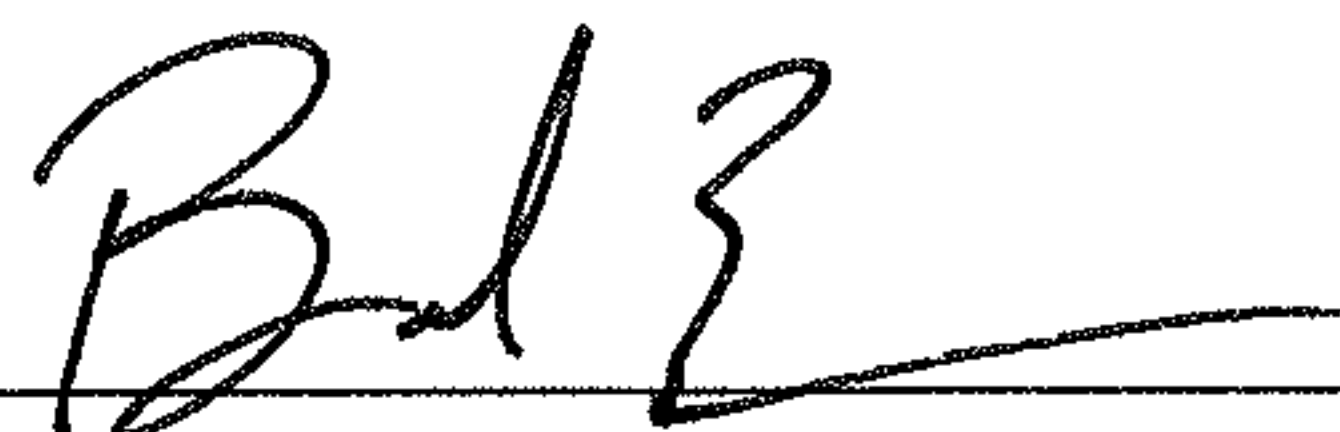
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IMMEDIATELY FOLLOW]



**IN WITNESS WHEREOF**, the undersigned parties have caused this Modification to be executed and sealed by their duly authorized officers to be effective as of the Effective Date.

**MORTGAGOR:**

**GARDENS OF PELHAM, LLC**, an Alabama limited liability company

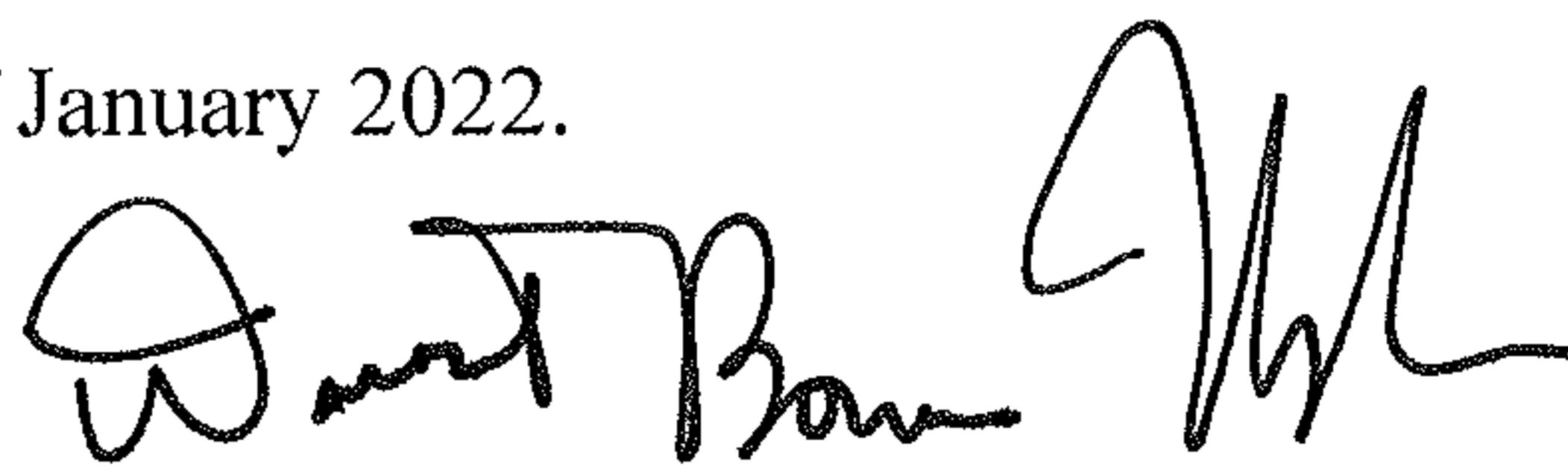
By:   
Brad Eisemann  
Its: Manager

STATE OF ALABAMA

COUNTY OF MONTGOMERY

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Brad Eisemann, whose name as Manager of **GARDENS OF PELHAM, LLC**, an Alabama 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, in such capacity and with full authority, executed the same voluntarily for and as the act of said limited liability company.

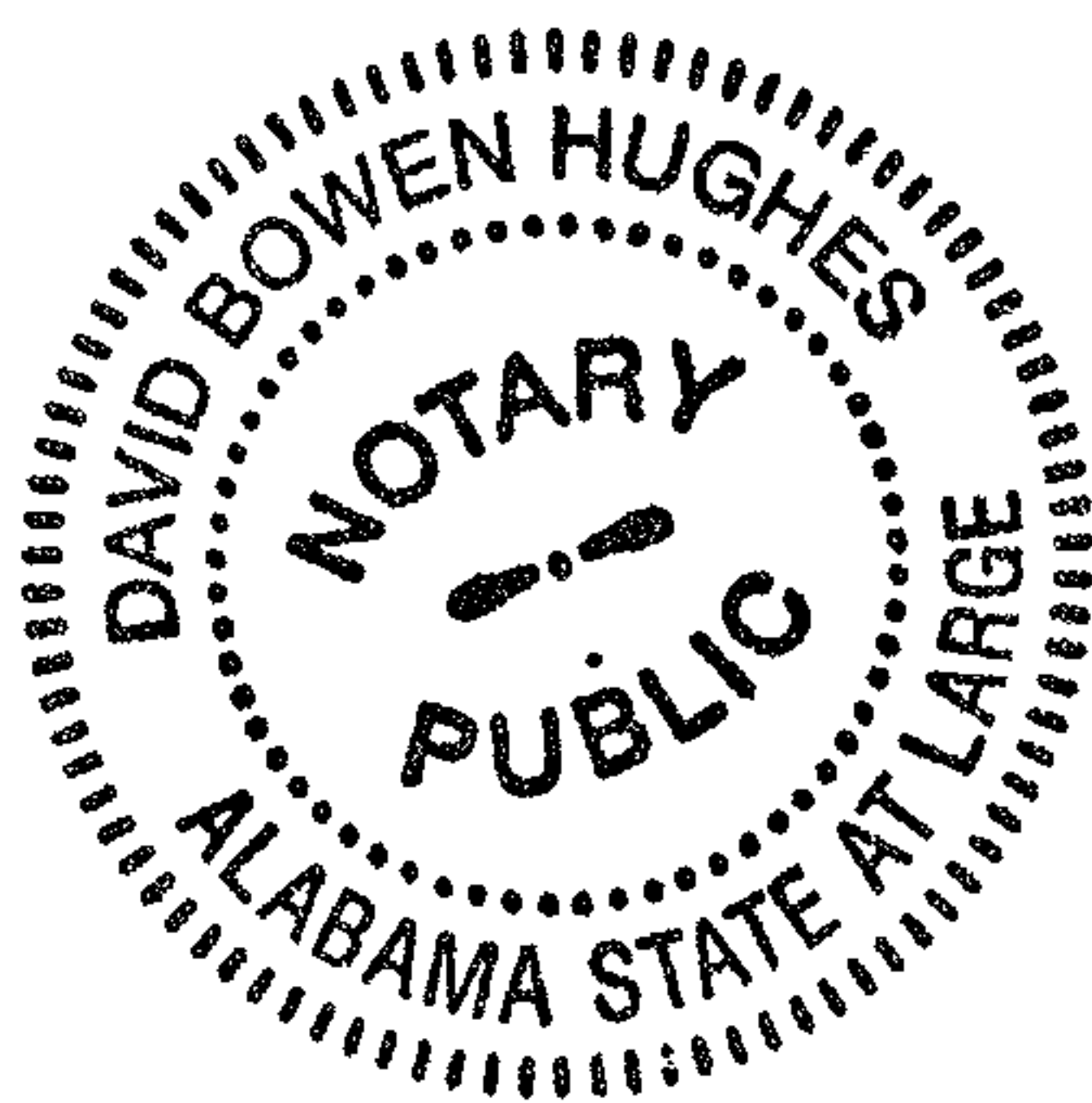
Given under my hand this 19th day of January 2022.



Notary Public

My commission expires: 9-8-2025

[NOTARIAL SEAL]



**LENDER:**

**SYNOVUS BANK**

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

Amy Johnson

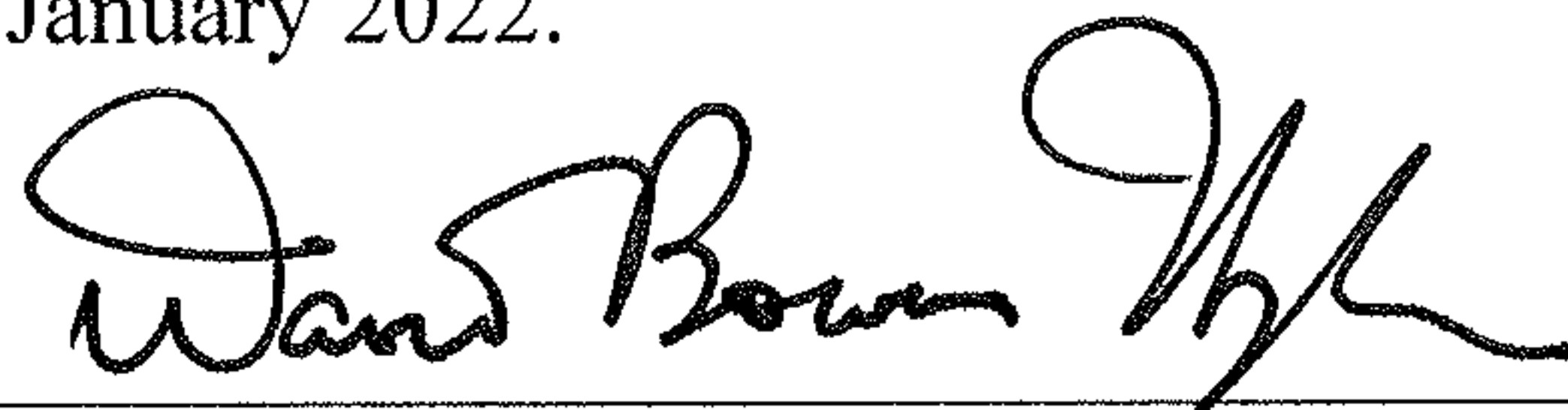
Its: Senior Vice President

STATE OF ALABAMA

COUNTY OF MONTGOMERY

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Amy Johnson, whose name as Senior Vice President of **SYNOVUS BANK**, 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, she, as such officer and with full authority, executed the same voluntarily for and as the act of said bank.

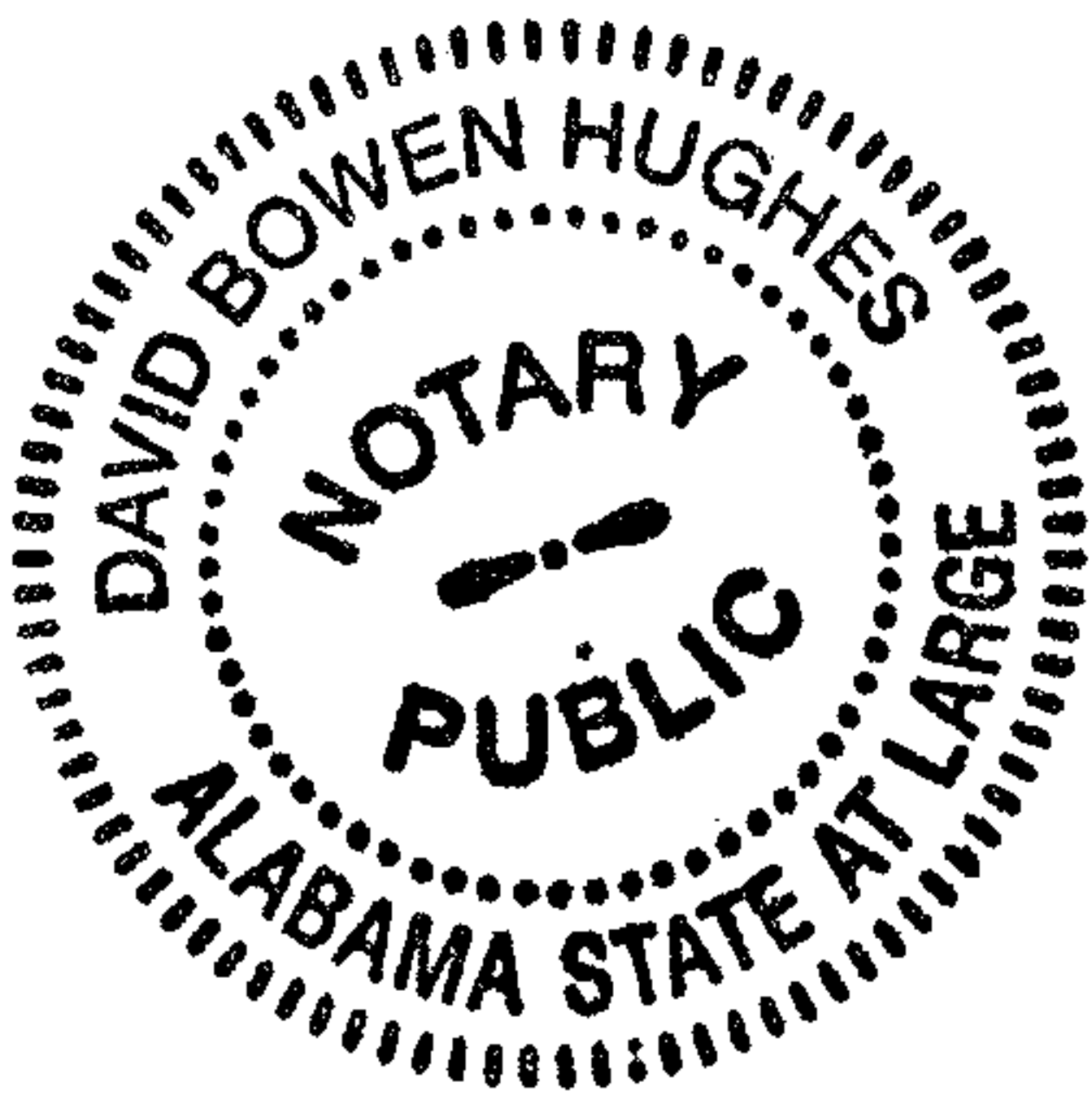
Given under my hand this 19th day of January 2022.



Notary Public

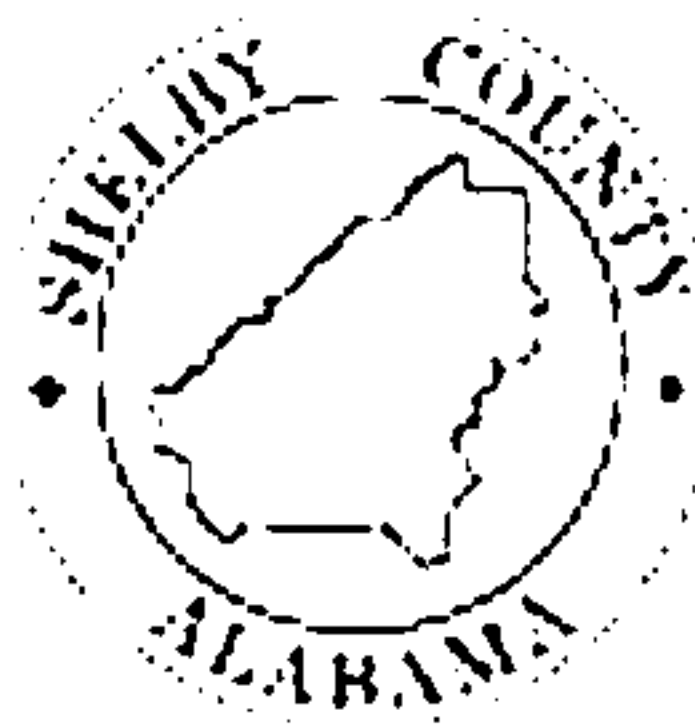
My commission expires: 9-8-2025

[NOTARIAL SEAL]



**EXHIBIT A**

A part of the Northeast 1/4 of the Northeast 1/4 of Section 36, Township 19 South, Range 3 West, being more particularly described as follows: Commence at the Southeast corner of the Northeast 1/4 of the Northeast 1/4 of Section 36, Township 19, South Range 3 West; thence run West along the South line of said 1/4-1/4 Section 138.44 feet to an existing iron pin and the point of beginning; thence continue West along the last described course 324.18 feet; thence turn right 116 degrees 32 minutes 26 seconds and run Northeasterly 247.63 feet to a point in the Southwesterly Right of Way of Old Montgomery Highway; thence turn 92 degrees 00 minutes 07 seconds and run Southeasterly along said Right of Way line 294.56 feet; thence turn right 90 degrees 42 minutes 00 seconds and run Southwesterly 92.59 feet to the point of beginning; being situated in Shelby County, Alabama. LESS AND EXCEPT any part of the subject property within a road Right-of-Way.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
01/20/2022 02:06:31 PM  
\$1859.50 CHERRY  
20220120000028450

*Allen S. Bayl*