STATE OF ALABAMA)
COUNTY OF JEFFERSON)

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT, made as of the 22nd day of November, 2000, is by **KOO, LLC**, an Alabama Limited Liability Company (hereinafter called the "Borrower"), *mortgagor*, whose mailing address is 3125 Independence Drive, Suite 116, Birmingham, Alabama 35209, Attn: Carter S. Kennedy, in favor of **FIRST COMMERCIAL BANK**, a State Bank (hereinafter called the "Lender"), *mortgagee*, whose mailing address is 800 Shades Creek Parkway, Birmingham, Alabama 35209, Attn: Nelson S. Bean.

Inst # 2000-40519

THIS MORTGAGE IS A "CONSTRUCTION MORTGAGE" AS DEFINED IN SECTION 7-9-313(1)(C) OF THE CODE OF ALABAMA, AND SECURES, AMONG OTHER OBLIGATIONS, AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND.

THIS MORTGAGE AND SECURITY AGREEMENT SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TO SECTION 7-9-402(6), CODE OF ALABAMA, 1975, AS AMENDED.

WITNESSETH:

WHEREAS, Borrower is justly indebted to Lender for borrowed money in the principal sum of Nine Million Eight Hundred Thousand and No/100 Dollars ($9,800,000.00) (the "Loan"), as evidenced by one or more promissory notes of even date herewith from Borrower, payable to Lender in installments with interest thereon (said promissory notes, as the same may hereafter be renewed, extended or modified, being herein collectively called the "Note") (the Note, together with this Mortgage, any amendments, modifications, and replacements hereof or thereof, and all other documents now or hereafter evidencing or securing the Note and all certificates, documents, and instruments now or hereafter executed by Borrower in favor of Lender, are collectively referred to herein as the "Loan Documents"); and

WHEREAS, this is a FUTURE ADVANCE MORTGAGE and the Note evidences proceeds of which are to be advanced by the Lender to the Borrower, and, in addition to the indebtedness evidenced by the Note, this mortgage shall also secure all other indebtedness, obligations and liabilities of the Borrower to the Lender, whether now existing or hereafter arising; and

WHEREAS, as a condition precedent to making the Loan, Lender has required that Borrower execute this Mortgage as security for the Loan.

NOW, THEREFORE, for and in consideration of the foregoing recitals, the sum of Ten Dollars, and other valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other obligations of Borrower under the Note, this Mortgage and all other Loan Documents (all of such indebtedness and obligations secured hereby being referred to herein as the "Secured Indebtedness"), Borrower has bargained and sold and does hereby grant, bargain, sell, alien, and convey unto Lender, its successors and assigns, all of the foregoing described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances and appurtenances, including replacements and additions thereto (which property is hereinafter referred to collectively as the "Premises"):

(a) All those certain tracts or parcels of land located in Shelby County, Alabama, as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Land"); and

(b) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to said buildings, structures or improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, vehicles and personal property of every kind and nature whatsoever now or hereafter owned by Borrower and located in, or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Premises, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing, and all building materials and supplies of every kind now or hereafter placed or located on the Land (collectively the "Improvements"), all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Premises as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage; and

(c) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by them; and

(d) All rents, issues, profits and revenues of the Premises from time to time accruing, including, without limitation, all sums due under any leases or tenancies, together with all proceeds of insurance, condemnation payments, security deposits and escrow funds, and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Borrower of, in and to the same, reserving only the right to Borrower to collect the same so long as an Event of Default has not occurred hereunder or such collection is not otherwise restricted by this Mortgage; and

(e) All Construction Contracts (between the Contractors and Borrower providing for the construction of the Project, or any portion thereof), the Architect Contracts (between the Architects and the Borrower providing for the design of the Project, the preparation of the Plans and Specifications, the supervision and inspection of the construction of the Project and the provision of any other architectural services or projects related to the Project), the Plans and Specifications (all plans and specifications for the Project, or any portion thereof), and other Construction documents (1) all contracts (including the Architect Contracts) with architects and engineers (including the Architects and the Engineers) responsible for the design of any of the Project, the preparation or evaluation of any of such plans and specifications or the supervision of the construction of any of the Project; (2) all contracts to which the Borrower is a party (including the Construction Contracts) providing for the construction of any of the Project or the furnishing of labor or materials in connection therewith or the furnishing or installation of any equipment or other personal property in connection therewith; (3) all contracts to which the Borrower is a party providing for the management of the construction of any of the Project; (4) all rights of the Borrower as a third party beneficiary under all contracts and subcontracts pertaining to the Project as to which the Borrower is not a party; (5) all payment and performance bonds relating to any of the Project; (6) all other contracts and agreements related to the design, management, construction, equipping and development of any of the Project; and (7) all contracts with public utilities, Governmental Authorities and other persons for the furnishing of roads or utilities to the Project and all deposits thereunder);

(f) The Borrower's books and records relating to the Mortgaged Property or construction of the improvements thereon or any part thereof, all contracts now or hereafter made by Borrower relating to the Mortgaged Property or the construction of the improvements thereon or any part thereof, and all bonds and other guarantees of performance in favor of Borrower or with respect to any such contracts, all sales contracts for the purchase of lots in the proposed subdivision, and the proceeds therefrom, including Borrower's right to the earnest money deposits made pursuant to the sales contracts provided by the Borrower in favor of others;

(g) To the fullest extent assignable (if assignable by law), any and all licenses and permits obtained by Borrower relating to the use and operation of the Premises; and

(h) All cash and non-cash proceeds and all products of any of the foregoing items or type of property described in (a), (b), (c), (d), (e), (f), of (g) above, including, but not limited to, all insurance, contract and tort proceeds and claims, and including all inventory, accounts, chattel paper, documents, instruments, equipment, fixtures, consumer goods and general intangibles acquired with cash proceeds of any of the foregoing items or types of property described in (a), (b), (c), (d), (e), (f), or (g) above.

TO HAVE AND TO HOLD the Premises and all parts thereof unto Lender, its successors and assigns forever, subject however to the terms and conditions herein set forth;

PROVIDED, HOWEVER, that, if Borrower shall pay to Lender the principal and interest payable in respect to the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Borrower, and shall keep, perform, and observe all and singular the covenants and promises in the Note and in each of the Loan Documents expressed to be kept, performed, and observed by and on the part of Borrower, all without fraud or delay, then this Mortgage, and all the properties, interest, and rights hereby granted, bargained, and sold shall cease, determine, and be void, but shall otherwise remain in full force and effect.

AND Borrower covenants and agrees with Lender as follows:

ARTICLE I

1.01 **Performance of Note and Mortgage.** Borrower will perform, observe, and comply with all provisions hereof and of the Note secured hereby and duly and punctually will pay to Lender the sum of money expressed in the Note with interest thereon and all other sums required to be paid by Borrower pursuant to the provisions of this Mortgage, all without any deductions or credit for taxes or other similar charges paid by Borrower.

1.02 **Warranty of Title.** Borrower is lawfully seized of an indefeasible estate in fee simple in the land and real property hereby mortgaged and has good and absolute title to all existing personal property hereby mortgaged and has good right, full power and lawful authority to sell, convey and mortgage the same in the manner and form aforesaid; that the same is free and clear of all liens, charges, and encumbrances whatsoever, including, as to the personal property and fixtures, conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and that Borrower shall and will warrant and forever defend the title thereto unto Lender, its successors and assigns, against the lawful claims of all persons whomsoever.

1.03 **Taxes, Liens and Other Charges.**

(a) Borrower shall pay, on or before the delinquency date thereof, all taxes, levies, license fees, permit fees and all other charges (in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen) of every character whatsoever, (including all penalties and interest thereon) now or hereafter levied, assessed, confirmed or imposed on, or in respect of, or which may be a lien upon the Premises, or any part thereof, or any estate, right or interest therein, or upon the rents, issues, income or profits thereof, and shall submit to Lender such evidence of the due and punctual payment of all such taxes, assessments and other fees and charges as may be required by law. Borrower shall have the right before they become delinquent to contest or object to the amount of validity of any such tax, assessment, fee or charge by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Borrower's covenant to pay any such tax, assessment, fee or charge at the time and in the manner provided herein, unless Borrower has given prior written notice to Lender of Borrower's intent to so contest or object, and unless (i) Borrower shall demonstrate to Lender's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Premises, or any part thereof, to satisfy such tax, assessment, fee or charge prior to final determination of such proceedings; and (ii) if required by Lender, Borrower shall furnish a good and sufficient bond or surety as requested by and satisfactory to Lender; and (iii) Borrower shall have provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such proceedings.

(b) Except for income tax, gross receipts tax or similar tax imposed on Lender by reason hereof, Borrower shall pay, on or before the due date thereof, all taxes, assessments, charges, expenses, costs and fees which may now or hereafter be levied upon, or assessed or charged against, or incurred in connection with, the Note, this Mortgage or any other instrument now or hereafter evidencing, securing or otherwise relating to the Note or this Mortgage.

(c) Borrower shall pay, on or before the due date thereof, all premiums on policies of insurance covering, affecting or relating to the Premises, as required pursuant to Section 1.04, below; and all utility charges which are incurred by Borrower for the benefit of the Premises, or which may become a charge or lien against the Premises for gas, electricity, water and sewer services and the like furnished to the Premises, and all other public or private assessments or charges of a similar nature affecting the Premises or any portion thereof, whether or not the nonpayment of same may result in a lien thereon. Borrower shall submit to Lender such evidence of the due and punctual payment of all such premiums, rentals and other sums as Lender may require.

(d) Borrower shall not suffer any mechanic's, materialmen's, laborer's, statutory or other lien to be created or remain outstanding against the Premises; provided, however, that Borrower may contest any such lien in good faith by appropriate legal proceedings provided the lien is bonded in such manner as not adversely to affect the priority of this Mortgage. Lender has not consented and will not consent to the performance of any work or the furnishing of any materials which might be deemed to create a lien or liens superior to the lien hereof.

1.04 **<u>Insurance</u>.**

(a) Upon the request of Lender, Borrower shall procure for, deliver to and maintain for the benefit of Lender during the term of this Mortgage, certificates of insurance evidencing paid-up insurance policies of such insurance companies, in such amounts, in form and substance, and with such expiration dates as are acceptable to Lender and containing non-contributory standard mortgagee clauses, their equivalent, or a satisfactory mortgagee loss payable endorsement in favor of Lender, providing the following types of insurance covering the Premises and the interest and liabilities incident to the ownership, possession and operation thereof:

(i) insurance against loss or damage by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, vandalism and malicious mischief and against such other hazards as, under good insurance practices, from time to time are insured against for properties of similar character and location, the amount of which insurance shall be not less than the full replacement cost of the Premises without deduction for depreciation, and which policies of insurance shall contain satisfactory replacement cost endorsements;

(ii) comprehensive public liability insurance on an "occurrence basis" against claims for "personal injury", including without limitation bodily injury, death or property damage occurring on, in or about the Premises and the adjoining streets, sidewalks and passageways, such insurance to afford immediate minimum protection to a limit of not less than $1,000,000 with respect to personal injury or death to any one or more persons or damage to property;

(iii) worker's compensation insurance (including employer's liability insurance, if requested by Lender) for all employees of Borrower engaged on or with respect to the Premises, in such amount as is reasonably satisfactory to Lender, or, if such limits are established by law, in such amounts;

(iv) business interruption or rental continuation insurance in an amount equal to twelve (12) months' gross revenues from the Premises, less those expenses not typically incurred during a period of business interruption;

(v) such other insurance on the Premises or any replacements or substitutions therefor and in such amounts as may from time to time be reasonably required by Lender against other insurable casualties which at the time are commonly insured against in the case of premises similarly situated, due regard being given to the height and type of the improvements, their construction, location, use and occupancy, or any replacements or substitutions therefor.

(b) All policies of insurance required by the terms of this Mortgage shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act of negligence of Borrower which might otherwise result in forfeiture of said insurance, and the further agreement of the insurer waiving all rights of set off, counterclaim or deductions against Borrower.

(c) Lender is hereby authorized and empowered, at its option, to collect and receive all proceeds from the insurance policies required under this Section 1.04, and Borrower does hereby authorize and direct each insurance company to make payment for all such losses accordingly. In the event any insurance company fails to disburse directly and solely to Lender but disburses instead either solely to Borrower or to Borrower and Lender jointly, Borrower agrees immediately to endorse and transfer such proceeds to Lender to the extent of Lender's interest therein. Upon the failure of Borrower to endorse and transfer such proceeds as aforesaid, Lender may execute such endorsement or transfers for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender as Borrower's agent and attorney-in-fact so to do. After deducting from said insurance proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorney's fees, Lender may release any moneys so received by it for the repair and restoration of the property so damaged, without affecting the lien of this Mortgage, or Lender may apply the same in such manner as Lender shall determine to reduce the sums secured hereby, and any balance of such moneys then remaining shall be paid to Borrower.

(d) At least thirty (30) days prior to the expiration date of each policy maintained pursuant to this Section 1.04, a renewal or replacement thereof satisfactory to Lender shall be delivered to Lender. If requested by Lender, Borrower shall deliver to Lender receipts evidencing the payment for all such insurance policies and renewals or replacements. The delivery of any insurance policies hereunder shall constitute an assignment of all unearned premiums as further security hereunder. In the event of the foreclosure of this Mortgage or any other transfer of title to the Premises in extinguishment or partial extinguishment of the Secured Indebtedness, all right, title and interest of Borrower in and to all insurance policies then in force shall pass to the purchaser or Lender, and Lender is hereby irrevocably appointed by Borrower as attorney-in-fact for Borrower to assign any such policy to said purchaser or to Lender without accounting to Borrower for any unearned premiums thereon.

(e) All policies of insurance required pursuant to the terms of this Section 1.04 shall contain a provision that such policies will not be canceled or materially amended, which term shall include any reduction in the scope of limits of coverage, without at least thirty (30) days prior written notice to Lender. In the event Borrower fails to provide, maintain, keep in force or deliver and furnish to Lender evidence of policies of insurance required by this Section 1.04, Lender may procure such insurance or single-interest insurance for such risks covering Lender's interest, and Borrower will pay all premiums thereon promptly upon demand by Lender. Until such payment is made by Borrower, the amount of all such premiums, together with interest as hereinafter set forth, shall be added to the Secured Indebtedness and shall be secured by this Mortgage.

1.05 **Monthly Deposits**. If hereafter required by applicable banking regulatory authority, or otherwise at the option of Lender, Borrower shall, upon request of Lender, deposit with Lender, on the due date of each installment under the Note, an amount equal to one-twelfth (1/12) of the yearly taxes and assessments and insurance premiums as estimated by Lender to be sufficient to pay such charges; said deposits to be held and to be used by Lender to pay current taxes and assessments, insurance premiums and other charges on the Premises as the same accrue and are payable. Payment from said sums for said purposes shall be made by Lender at its discretion and may be made even though such payments will benefit subsequent owners of the Premises. Said deposits shall not be, nor be deemed to be, trust funds, but may be, to the extent permitted by applicable law, commingled with the general funds of Lender; Lender agrees to deposit such funds in an interest-bearing account acceptable to Borrower and Lender, and to pay such interest to Borrower upon the payment in full of the sums secured by this Mortgage. If said deposits are insufficient to pay the taxes and assessments, insurance premiums and other charges in full as the same become payable, Borrower will deposit with Lender such additional sums or sums as may be required in order for Lender to pay such taxes and assessments, insurance premiums and other charges in full. Upon any default in the provisions of this Mortgage or the Note, or any instrument evidencing, securing or in any way related to the Secured Indebtedness, Lender may, at its option, apply any money in the fund relating from said deposits to the payment of the Secured Indebtedness in such manner as it may elect.

1.06 **Condemnation**. If all or any Material Part (as herein defined) of the Premises shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, the indebtedness secured hereby shall at the option of Lender become immediately due and payable. For purposes hereof, a "Material Part" of the Premises shall be any part thereof, which, if damaged or taken, shall prevent the cash flow available from the remaining portions of the Premises after such taking from supporting the remaining debt secured hereby is substantially the same ratio of coverage as the debt is being supported prior to such damage or taking. Borrower, immediately upon the obtaining knowledge of any institution, or any proposed, contemplated or threatened institution of any action or proceeding for the taking through condemnation of the Premises or any part thereof, will notify Lender, and Lender is hereby authorized, at its option to commence, appear in and prosecute, through counsel selected by Lender, in its own or in Borrower's name, any action or proceeding relating to any condemnation. Borrower may compromise or settle any claim for compensation but shall not make any compromise or settlement for an award that is less than the Secured Indebtedness without the prior written consent of Lender. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Borrower to Lender, and Lender is authorized, at its option, to collect and receive all such compensation, awards or damages and to give proper receipts and acquittance therefor without any obligation to question the amount of any such compensation, awards or damages. After deducting from said condemnation proceeds of all its expenses incurred in the collection and administration of such sums, including reasonable attorney's fees, Lender may release any moneys so received by it for the repair or restoration of the Premises taken, or may apply the same in such manner as Lender shall determine to reduce the sums secured hereby, and any balance of such moneys shall be paid to Borrower.

1.07 **Care of Premises**.

(a) Borrower will keep the buildings, parking areas, roads and walkways, landscaping, and all other Improvements of any kind now or hereafter erected on the Land or any part thereof in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which would or could increase the risk of fire or other hazard to the Premises or any other part thereof or which would or could result in the cancellation of any insurance policy carried with respect to the Premises.

(b) Borrower will not remove, demolish or alter the structural character of any Improvement located on the Land without the written consent of Lender, nor make or permit use of the Premises for any purpose other than for which the same are now used.

(c) If the Premises or any part thereof is damaged by fire or any other cause, Borrower will give immediate written notice thereof to Lender.

(d) Lender or its representative is hereby authorized to enter upon and inspect the Premises during normal business hours.

(e) Borrower will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof.

(f) If all or any part of the Premises shall be damaged by fire or other casualty, Borrower will promptly restore the Premises to the equivalent of its original condition; and if a part of the Premises shall be damaged through condemnation, Borrower will promptly restore, repair or alter the remaining portions of the Premises in a manner satisfactory to Lender. Notwithstanding the foregoing, Borrower shall not be obligated so to restore unless in each instance Lender agrees to make available to Borrower any net insurance or condemnation proceeds actually received by Lender hereunder in connection with such casualty loss or condemnation, to the extent such proceeds are required to defray the expense of such restoration; provided, however, that the insufficiency of any such insurance or condemnation proceeds to defray the entire expense of restoration shall in no way relieve Borrower of its obligation to restore. In the event all or any portion of the Premises shall be damaged or destroyed by fire or other casualty or by condemnation, Borrower shall promptly deposit with Lender a sum equal to the amount by which the estimated cost of the restoration of the Premises (as determined by Lender in its good faith judgment) exceeds the actual net insurance or condemnation proceeds with respect to such damage or destruction.

1.08 **Leases.** Borrower will comply with and observe its obligations as landlord under all leases affecting the Premises or any part thereof. If requested by Lender, Borrower will furnish Lender with executed copies of all leases now or hereafter created with respect to all or any part of the Premises, and will enter into leases only upon a lease form previously approved by Lender and for a fair market rental, unless Borrower first obtains Lender's written approval of changes to such form or the execution of a lease not on such form. If requested by Lender, Borrower will separately assign to Lender as additional security any and all such leases whether now existing or hereafter created, including, without limitation, all rents, royalties, issues, and profits of the Premises from time to time accruing.

1.09 **Security Agreement.** With respect to the apparatus, fittings, fixtures and articles of personal property referred to or described in this Mortgage, or in any way connected with the use and enjoyment of the Premises, this Mortgage is hereby made and declared to be a security agreement encumbering each and every item of personal property included herein as a part of the Premises, in compliance with the provisions of the Uniform Commercial Code as enacted in the state wherein the Land is situated, and Borrower hereby grants to Lender a security interest in said personal property. A financing statement or statements reciting this Mortgage to be a security agreement affecting all of said personal property aforementioned shall be executed by Borrower and Lender and appropriately filed. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage, or otherwise in respect of an Event of Default hereunder, shall be (i) as prescribed herein, or (ii) as prescribed by law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Lender's sole election. Borrower and Lender agree that the filing of such financing statement(s) in the records normally having to do with personal property shall not in any way affect the agreement of Borrower and Lender that everything used in connection with the production of income from the Premises or adapted for use therein or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be, regarded as part of the real estate conveyed hereby regardless of whether (a) any such item is physically attached to the improvements, (b) serial numbers are used for the better identification of certain items capable of being thus identified in an Exhibit to this Mortgage, or (c) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to (i) the proceeds of any fire and/or hazard insurance policy, or (ii) any awareness in eminent domain proceedings for taking or for loss of value, or (iii) Borrower's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Premises, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Lender as determined by this instrument or affect the priority of Lender's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement(s) is solely for the protection of Lender in the event any court shall at any time hold, with respect to the foregoing items (i), (ii), or (iii), that notice of Lender's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records. This Mortgage may be filed as a financing statement in any office where Lender deems such filing necessary or desirable, and Borrower will promptly upon demand reimburse Lender for the costs therefor.

1.10 **Further Assurances; After-Acquired Property**. At any time, and from time to time, upon request by Lender, Borrower will make, execute and deliver or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be rerecorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further deeds of trusts, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of Lender, be necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve (a) the obligations of Borrower under the Note and under this Mortgage, and (b) the security interest created by this Mortgage as a first and prior security interest upon and security title in and to all of the Premises, whether now owned or hereafter acquired by Borrower. Upon any failure by Borrower so to do, Lender may make, execute, record, file, re-record and/or re-file any and all such deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates, and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower so to do. The lien of this Mortgage will automatically attach, without further act, to all after-acquired property attached to and/or used in the operation of the Premises or any part thereof.

1.11 **Indemnity; Expenses**. Borrower will pay or reimburse Lender, upon demand therefor, for all reasonable attorney's fees, costs and expenses incurred by Lender in any suit, action, legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the Secured Indebtedness, this Mortgage or the interest created herein, or the Premises, including, but not limited to, the exercise of the power of sale contained in this Mortgage, any condemnation action involving the Premises or any action to protect the security hereof, and any such amounts paid by Lender shall be added to the Secured Indebtedness and shall be secured by this Mortgage. Borrower will indemnify and hold Lender harmless from and against all claims, damages, and expenses, including attorney's fees and court costs, resulting from any action by a third party against Lender relating to this Mortgage or the interest created herein, or the Premises, including, but not limited to, any action or proceeding claiming loss, damage or injury to person or property, or any action or proceeding claiming a violation of any national, state or local law, rule or regulation, including those relating to environmental standards or dangerous or hazardous wastes, provided that Borrower shall not be required to indemnify Lender for matters directly caused by Lender's gross negligence or willful misconduct.

1.12 **Estoppel Affidavits**. Upon ten (10) days prior written notice, Borrower shall furnish to Lender a written statement, duly acknowledged, based upon its records, setting for the unpaid principal of, and interest on, the Secured Indebtedness, stating whether or not to its knowledge any off-sets or defenses exist against the Secured Indebtedness, or any portion thereof, and, if such off-sets or defenses exist, stating in detail the specific facts relating to each such off-set or defense.

1.13 **Subrogation**. To the full extent of the Secured Indebtedness, Lender is hereby subrogated to the liens, claims and demands, and to the rights of the owners and holders of each and every lien, claim, demand and other encumbrance on the Premises which is paid or satisfied, in whole or in part, out of the proceeds of the Secured Indebtedness, and the respective liens, claims, demands and other encumbrances shall be, and each of them is hereby preserved and shall pass to and be held by Lender as additional collateral and further security for the Secured Indebtedness, to the same extent they would have been preserved and would have been passed to and held by Lender had they been duly and legally assigned, transferred, set over and delivered unto Lender by assignment, notwithstanding the fact that the same may be satisfied and canceled of record.

1.14 **Books, Records, Accounts and Reports.**

(a) Borrower shall keep and maintain or shall cause to be kept and maintained, at Borrower's cost and expense, and in accordance with standard accounting principles, proper and accurate books, records and accounts reflecting all items of income and expense in connection with any services, equipment or furnishings provided in connection with the operation of the Premises. Lender, by Lender's agents, accountants and attorneys, shall have the right from time to time to examine such books, records and accounts at the office of Borrower or such other person or entity maintaining such books, records and accounts, to make such copies or extracts thereof as Lender shall desire, and to discuss Borrower's affairs, finances and accounts with Borrower and with the officers and principals of Borrower, at such reasonable times as may be requested by Lender.

(b) For as long as any portion of the Secured Indebtedness shall remain outstanding, Borrower will provide to Lender the following financial information:

(i) annual financial statements of the Borrower within one hundred twenty (120) days of its fiscal year, prepared in accordance with generally acceptable accounting principles consistently applied or with another comprehensive basis of accounting acceptable to Lender, certified by the members or chief financial officer of the Borrower, as applicable, to be true and correct (Lender reserves the right to require that the annual financial statements of the Borrower be audited and prepared by a nationally recognized accounting firm or other certified public accounting firm acceptable to Lender if required by external or internal banking regulations or if an event of default shall have occurred under the Loan Documents);

(ii) quarterly operating statements of the Project certified by the members or chief financial officer of the Borrower to be true and correct; and

(iii) such other financial information pertaining to Borrower or the Premises as Lender may from time to time reasonably request.

The delivery of each of the financial statements required herein shall constitute Borrower's contemporaneous certification that (i) Borrower has complied with and is in compliance with all terms, covenants and conditions of this Mortgage which are binding upon it, and; (ii) there exists no Event of Default as defined in this Mortgage and no event which with the giving of notice or lapse of time, or both, would constitute such an Event of Default; or, if such is not the case, that one or more specified Events of Default have occurred, and; (iii) the representations and warranties contained in this Mortgage are true with the same affect as though made on the date of such certificate.

1.15 **Licenses and Permits Obtained.** Borrower represents and warrants that all necessary permits, licenses and certificates have been obtained to permit Borrower to operate the Premises in the manner contemplated, and Borrower will maintain in effect all such licenses, permits, and certificates, together with any other agreements necessary for the use and operation of the Premises.

1.16 **Limit of Validity.** If from any circumstances whatsoever, fulfillment of any provision of this Mortgage of the Note, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Mortgage or under the Note that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity. The provisions of this Section 1.16 shall control every other provision of this Mortgage and of the Note.

1.17 **Default Affidavits.** Upon the occurrence of any default hereunder, at Lender's request, Borrower shall deliver an affidavit specifying the nature of such default and the period of existence thereof and the action Borrower has taken or proposes to take with respect thereto.

1.18 **Legal Actions.** In the event that Lender is made a party, either voluntarily or involuntarily, in any action or proceeding affecting the Premises, the Note, the Secured Indebtedness or the validity or priority of this Mortgage (but excluding any action or proceeding involving a dispute solely between Lender and a participating lender, if any), Borrower shall immediately, upon demand, reimburse Lender for all costs, expenses and liabilities incurred by Lender by reason of any such action or proceeding, including reasonable attorney's fees, and any such amounts paid by Lender shall be added to the Secured Indebtedness and shall be secured by this Mortgage.

1.19 **Compliance with Zoning and Restrictions.** Borrower shall at all times operate the Premises in accordance with all applicable restrictions and zoning ordinances.

1.20 **Conveyance of Premises.** Borrower shall not directly or indirectly encumber (by lien, junior mortgage, or otherwise), pledge, convey, transfer or assign any or all of its interest in the Premises or any ownership interests of Borrower without the prior written consent of Lender. Lender's consent to such a transfer, if given in Lender's sole discretion, shall not release or alter in any manner the liability of Borrower or anyone who has assumed or guaranteed the payment of the Secured Indebtedness or any portion thereof. At the option of Lender the Secured Indebtedness shall be immediately due and payable in the event that Borrower conveys all or any portion of the Premises or any interest therein, or in the event that Borrower's equitable title thereto or interest therein shall be assigned, transferred or conveyed in any manner, without obtaining Lender's prior written consent thereto, and any waiver or consent for any prior transfer shall not preclude Lender from declaring the Secured Indebtedness due and payable for any subsequent transfer.

1.21 **Compliance with Applicable Environmental Law.** The term "Applicable Environmental Law" shall be defined as any statutory law or case law pertaining to health or the environment, or petroleum products, or asbestos, or oil, or hazardous substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as codified at 42 U.S.C. §9601 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, as codified at 42 U.S.C. §6901 et seq.; and the Superfund Amendments and Reauthorization Act of 1986, as codified at 42 U.S.C. §9671, et seq.; the terms "hazardous substance" and "release" shall have the meanings specified in CERCLA; provided, in the event CERCLA is amended to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and provided, to the extent that the laws of the State of Alabama establish a meaning for "hazardous substance" or "release" which is broader than that specified in CERCLA, such broader meaning shall apply. Borrower represents and warrants to Lender that neither the Premises nor Borrower are in violation of or subject to any existing, pending or, to the best of Borrower's knowledge, threatened investigation or inquiry by any governmental authority or any response costs or remedial obligations under any Applicable Environmental Law and this representation and warranty would continue to be true and correct following disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances, if any, pertaining to the Premises; that Borrower has not obtained and is not required to obtain any permits, licenses or similar authorizations to construct, occupy, operate or use any buildings, improvements, fixtures or equipment forming a part of the Premises by reason of any Applicable Environmental Law; that Borrower has taken all steps necessary to determine and has determined that no asbestos, petroleum products, oil, hazardous substances, or solid wastes have been disposed of, or otherwise released on, or are otherwise located on the Premises; and that the use which Borrower has made, makes or intends to make of the Premises will not result in the location on or disposal or other release of any asbestos, petroleum products, oil, hazardous substances or solid waste on or to the Premises. Borrower agrees to notify Lender in the event that any governmental agency or other entity notifies Borrower that it may not be in compliance with any Applicable Environmental Laws. Borrower agrees to permit Lender to have access to the Premises at all reasonable times in order to conduct any tests which Lender deems are necessary to ensure that Borrower and the Premises are in compliance with all Applicable Environmental Laws. Borrower acknowledges that, pursuant to that certain Environmental Indemnity of even date herewith, it has agreed to pay any fines, charges, fees, expenses, damages, losses, liabilities, or response costs arising from or pertaining to the application of any such Applicable Environmental Law to the Premises and to indemnify and forever save Lender harmless from any and all judgments, fines, charges, fees, expenses, damages, losses, liabilities, response costs, or attorneys' fees and expenses arising from the application of any such Applicable Environmental Law to the Premises or Lender, and that such Environmental Indemnity shall survive any foreclosure of this Mortgage or the taking by Lender of a deed in lieu of foreclosure; provided, however, that such Environmental Indemnity shall not extend to acts of Lender which result in such fines, charges, fees, expenses, damages, losses, liabilities, or response costs.

1.22 **Appraisals.** At Lender's request, Borrower will permit Lender, or its agents, employees or independent contractors, to enter upon and appraise the Premises at any time and from time to time, and Borrower will cooperate with and provide any information requested in connection with such appraisals. At any time while the Secured Indebtedness remains outstanding, Lender may have the Premises reappraised at Borrower's expense if (i) an Event of Default shall then exist under the Loan Documents, or (ii) such appraisal shall be required by any regulatory guideline or authority to which Lender is subject, or (iii) Lender shall have determined, in the exercise of its sole discretion, that the aggregate value of the Premises has materially declined since the date of the last such appraisal, or (iv) Lender shall have determined, in the exercise of its sole discretion, that a material adverse change in the financial condition of Borrower has occurred; provided that Borrower shall in no event be responsible for the cost of more than one such reappraisal during any twelve (12) month period.

1.23 **Future Advances.** Lender, at its option, may make future advances to Borrower, provided, that nothing contained herein shall constitute an obligation to do so except as may otherwise be required of Lender under the Loan Agreement, if applicable. Such future advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Mortgage when evidenced by the Note or by any other instrument indicating that such advances are secured by this Mortgage or when advanced under the terms of this Mortgage. Lender may make such future advances (a) at the request of Borrower, whether or not there is any obligation to make future advances; or (b) to pay, with or without the consent or request of Borrower, any amounts which may be due under this Mortgage or under any other mortgage or lien affecting the Property.

1.24 **Representations and Warranties.** Borrower represents and warrants to Lender, knowing that Lender will rely on such representations and warranties as incentive to make the loan to Borrower, that:

(a) There are no actions, suits, or proceedings pending or, to the best of Borrower's knowledge, threatened, which might adversely affect the financial condition of Borrower or any guarantor of the Note or which might impair the value of any collateral taken or to be taken by Lender in connection with the transactions contemplated hereby. Neither Borrower nor any guarantor of the Note is in violation of any agreement the violation of which might reasonably be expected to have a materially adverse effect on Borrower's or such guarantor's business or assets, and neither Borrower nor any guarantor of the Note is in violation of any order, judgment, or decree of any court, or any statute or governmental regulation to which Borrower or such guarantor is subject. Neither the execution and performance of this Mortgage, the Note, or any other Loan Document will result in any breach of any mortgage, security deed, lease, credit or loan agreement or any other instrument which may bind or affect Borrower or any guarantor of the Note.

(b) All financial statements of Borrower and other business enterprises in which Borrower has an interest heretofore given and hereafter to be given to Lender are and will be true and complete in all respects as of its respective dates and prepared in accordance with generally accepted accounting principles consistently applied, and fairly represent the financial conditions of the business or persons to which it pertains, and no materially adverse change has occurred in the financial conditions reflected therein since the respective date thereof.

(c) All utility and sanitary sewage services necessary for the use of the Premises and all roads necessary for the use of the Premises are available pursuant to permanent private or public easements which are not subject to the exclusive rights of any other persons which could interfere with Borrower's use thereof.

(d) There are no proceedings pending, or, to the best of Borrower's knowledge, threatened, to acquire by power of condemnation or eminent domain any portion of the Premises, or any interest therein, or to enjoin or similarly prevent the use of any of the Premises as presently used.

(e) All documents furnished to Lender by or on behalf of Borrower as part of or in support of the loan application or pursuant to any commitment letter issued by Lender are true, correct, complete and accurately represent the matters to which they pertain.

(f) The Premises do and shall at all times comply with all applicable laws, ordinances, rules and regulations, including, without limitation, the Americans with Disabilities Act and regulations thereunder, and all laws, ordinances, rules and regulations to zoning, building codes, set back requirements and environmental matters.

(g) Borrower is a duly organized and validly existing limited liability company having full power and authority to consummate the transactions contemplated by the Loan Documents.

ARTICLE II

2.01 **Events of Default**. The terms "Event of Default" or "Events of Default", wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Failure of Borrower (i) to make any scheduled payment of interest or principal under the terms of the Note on or before the due date thereof, or (ii) to pay any other sum due, whether by acceleration or otherwise, under the terms of any Loan Document within ten (10) days after written demand therefor by Lender (in each case, a "Monetary Default"); or

(b) The failure of Borrower properly and timely to perform or observe any covenant or condition set forth in any Loan Document (other than a Monetary Default) which is not cured within any applicable cure period as set forth herein or, if no cure period is specified therefor, is not cured within thirty (30) days of Lender's notice to Borrower of such Default; or

(c) The occurrence of any "Event of Default" under, and as defined in, any other Loan Document.

2.02 **Acceleration of Maturity**. If an Event of Default shall have occurred, then the entire Secured Indebtedness shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Mortgage, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

2.03 **Right to Enter and Take Possession**.

(a) If an Event of Default shall have occurred and be continuing, Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Premises and, if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Premises without the appointment of a receiver or an application therefor, and may exclude Borrower and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Borrower;

(b) If Borrower shall for any reason fail to surrender or deliver the Premises or any part thereof after such demand by Lender, Lender may obtain a judgment or decree conferring upon Lender the right to immediate possession or requiring Borrower to deliver immediate possession of the Premises to

Lender. Borrower will pay to Lender, upon demand, all expenses of obtaining such judgment or decree, including reasonable compensation to Lender, its attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Secured Indebtedness and shall be secured by this Mortgage;

(c) Upon every such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Premises and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Premises insured; (iii) manage and operate the Premises and exercise all of the rights and powers of Borrower to the same extent as Borrower could in its own name or otherwise act with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest. Lender may collect and receive all the rents, issues, profits and revenues from the Premises, including those past due as well as those accruing thereafter, and, after deducting (A) all expenses of taking, holding, managing and operating the Premises (including compensation for the services of all persons employed by such purposes); (B) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (C) the cost of such insurance; (D) such taxes, assessments and other similar charges as Lender may at its option pay; (E) other proper charges upon the Premises or any part thereof; and (F) the reasonable compensation, expenses and disbursements of the attorneys and agents of Lender, Lender shall apply the remainder of the monies and proceeds so received by Lender, first, to the payment of accrued interest; second, to the payment of deposits required in Section 1.05 and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal. Anything in this Section 2.03 to the contrary notwithstanding, Lender shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as a result of any exercise by Lender of its rights under this Mortgage, and Lender shall be liable to account only for the rents, incomes, issues and profits actually received by Lender;

(d) Whenever all such interest, deposits and principal installments and other sums due under any of the terms, covenants, conditions and agreements of this Mortgage shall have been paid and all Events of Default shall have been cured, Lender shall surrender possession of the Premises to Borrower, its successors and assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

2.04 **Performance by Lender**. Upon the occurrence of an Event of Default in the payment, performance or observance of any term, covenant or condition of this Mortgage, Lender may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Lender in connection therewith, with interest thereon at the Default Rate provided in the Note or at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Lender. Lender shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Lender is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Borrower or any person in possession holder under Borrower. Notwithstanding anything to the contrary herein, Lender shall have no obligation, explicit or implied to pay, perform, or observe any term, covenant, or condition.

2.05 **Receiver**. If any Event of Default shall have occurred and be continuing, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the occupancy or value of any security for the Secured Indebtedness or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Premises and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Land is situated. Borrower will pay unto Lender upon demand all expenses, including reasonable receiver's fees, reasonable attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Section 2.05, and upon any

Borrower's failure to pay the same, any such amounts shall be added to the Secured Indebtedness and shall be secured by this Mortgage.

2.06 **Lender's Power of Enforcement and Power of Sale.**

(a) In an Event of Default shall have occurred and be continuing, Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term thereof or any other right, power or remedy hereunder, (ii) to foreclose this Mortgage and to sell the Premises, as an entirety or in separate lots or parcels, as provided by applicable law, and (iii) to pursue any other remedy available to it, all as Lender shall deem most effectual for such purposes. Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine.

(b) If an Event of Default shall have occurred, Lender may sell the Premises at public outcry to the highest bidder for cash in front of the Court House door in the county where the property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county, and, upon payment of the purchase money, Lender or any person conducting the sale for Lender is authorized to execute to the purchaser at said sale a deed to the premises so purchased. Lender may bid at said sale and purchase said premises, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Premises may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner Lender may elect.

2.07 **Purchase by Lender.** Upon any foreclosure sale or sale of all or any portion of the Premises under the power herein granted, Lender may bid for and purchase the Premises and shall be entitled to apply all or any part of the Secured Indebtedness as a credit to the purchase price.

2.08 **Application of Proceeds of Sale.** In the event of a foreclosure or other sale of all or any portion of the Premises, the proceeds of said sale shall be applied, first, to the expenses of such sale and of all proceedings in connection therewith, including reasonable attorneys' fees (attorneys' fees and expenses shall become absolutely due and payable whenever foreclosure is commenced); then to insurance premiums, liens, assessments, taxes and charges including utility charges advanced by Lender hereunder, and interest thereon; then to payment of the Secured Indebtedness and accrued interest thereon, in such order of priority as Lender shall determine, in its sole discretion; and finally the remainder, if any, shall be paid to Borrower, or to the person or entity lawfully entitled thereto.

2.09 **Borrower as Tenant Holding Over.** In the event of any such foreclosure sale or sale under the powers herein granted, Borrower (if Borrower shall remain in possession) shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily disposed according to provisions of law applicable to tenants holding over.

2.10 **Waiver of Appraisement, Valuation, Etc.** Borrower agrees, to the full extent permitted by law, that in case of a default on the part of Borrower hereunder, neither Borrower nor anyone claiming through or under Borrower will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Premises, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and Borrower, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Mortgage marshaled upon any foreclosure or sale under the power herein granted.

2.11 **Waiver of Homestead**. Borrower hereby waives and renounces all homestead and exemption rights provided for by the Constitution of the laws of the United States and of any state, in and to the Premises and against the collection of the Secured Indebtedness, or any part thereof.

2.12 **Discontinuance of Proceedings**. In case Lender shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then in every such case, Borrower and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceedings had occurred.

2.13 **Remedies Not Exclusive**. Lender shall be entitled to enforce payment and performance of the Secured Indebtedness and to exercise all rights and powers under this Mortgage or under any other of the Loan Documents or other agreement or under any laws now or hereafter in force, notwithstanding that some or all of the Secured Indebtedness may now or hereafter be otherwise secured, whether by mortgages, deeds of trust, deeds to secure debt, pledges, liens, assignments or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner effect Lender's right to realize upon or enforce any other security now or hereafter held by Lender, it being agreed that Lender shall be entitled to enforce this Mortgage and any other security now or hereafter held by Lender in such order and manner as it or either of them may in their absolute discretion determine. No right or remedy herein conferred upon or reserved to Lender is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Lender or to which it otherwise may be entitled, may be exercised concurrently or independently, from time to time and as often as may be deemed expedient by Lender, and either of them may pursue inconsistent remedies.

2.14 **Waivers**. After consulting with and considering the advice of independent legal counsel selected by Borrower, Borrower makes the following arrangements, waivers and relinquishments knowingly and as a material inducement to Lender in making the Loan.

(a) No delay or omission by Lender or by any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver expressed or implied by Lender to or of any breach or default by Borrower in the performance of the obligations of Borrower hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Borrower hereunder. Failure on the part of Lender to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies of Lender hereunder.

(b) No act or omission by Lender shall release, discharge, modify, change or otherwise affect the original liability under the Note or this Mortgage or any other obligation of Borrower or any subsequent purchaser of the Premises or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then existing or of any subsequent default, nor alter the lien of this Mortgage, except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, Lender may (i) grant forbearance or an extension of time for payment of all or any portion of the Secured Indebtedness; (ii) take other or additional security for the payment of any of the Secured Indebtedness; (iii) waive or fail to exercise any right granted herein or in the Note; (iv) release any part of the Premises from the security interest or lien of this Mortgage or otherwise change any of the terms, covenants, conditions or agreements of the Note or this Mortgage; (v) consent to the filing of any map, plat or replat affecting the Premises; (vi) consent to the granting of any easement or other right affecting the Premises; (vii) make or consent to any agreement subordinating the security title or lien hereof, or (viii) take or omit to take any action whatsoever with respect to the Note, this Mortgage, the Premises or any document or instrument evidencing, securing or in any way related to the Secured Indebtedness, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power or privilege or affecting the lien of this Mortgage. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the Secured Indebtedness, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings.

(c) Borrower waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner, in any particular order, or in any particular State or other jurisdiction. To the fullest extent that Borrower may do so, Borrower agrees that Borrower will not at any time insist upon, plead, claim, or take the benefit or advantage of any law now or hereafter in force providing for any valuation, appraisement, stay of execution or extension, and Borrower, for Borrower, Borrower's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Premises, to the extent permitted by law, hereby waives and releases all rights of valuation, appraisement, marshaling, stay of execution, and extension. Borrower further agrees that if any law referred to in this paragraph and now in force, of which Borrower, Borrower's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this paragraph, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this paragraph. Borrower expressly waives and relinquishes any and all rights and remedies that Borrower may have or be able to assert by reason of the laws of the State of jurisdiction pertaining to the rights and remedies of sureties.

(d) Borrower, and by acceptance hereof Lender, hereby mutually waive any right to a trial by jury on any claim, counterclaim, setoff, demand, action or cause of action (a) arising out of or in any way pertaining or relating to this Mortgage, any other Loan Document, or any other instrument, document or agreement executed or delivered in connection herewith or therewith, or (b) in any way connected with or pertaining or relating to or incidental to any dealings of the parties hereto with respect to this Mortgage, any other Loan Document, or any other instrument, document or agreement executed or delivered in connection herewith or therewith or in connection with any transactions related thereto or contemplated thereby or the exercise or either party's rights and remedies thereunder, in all of the foregoing cases whether now existing or hereafter arising, and whether sounding in contract, tort or otherwise. Borrower and Lender agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and bargained agreement between the parties irrevocably to waive trial by jury, and that any dispute or controversy whatsoever between them shall instead be tried in a court of competent jurisdiction by a judge sitting without a jury. Borrower hereby certifies that no representative or agent of Lender, including Lender's counsel, has represented, expressly or otherwise, that Lender would not, in the event of such dispute or controversy, seek to enforce the provisions of this paragraph, and Borrower acknowledges that Lender has, in part, been induced to make the Loan to Borrower in reliance on the provisions of this paragraph.

2.15 **Suits to Protect the Premises.** Lender shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Premises by any acts which may be unlawful or constitute a default under this Mortgage; (b) to preserve or protect its interest in the Premises and in the rents, issues, profits and revenues arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Lender.

2.16 **Proofs of Claim**. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, its creditors or its property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by Borrower under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrower hereunder after such date.

ARTICLE III

3.01 **Successors and Assigns**. This Mortgage shall inure to the benefit of and be binding upon Borrower and Lender and their respective heirs, executors, legal representatives, successors, successors-in-title, and assigns. Whenever a reference is made in this Mortgage to "Borrower" or "Lender", such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors, successors-in-title and assigns of Borrower or Lender, as the case may be, but shall not imply any permission to make or permit any transfer which is otherwise prohibited.

3.02 **Terminology**. All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to Articles, Sections or subparagraphs shall refer to the corresponding Articles, Sections or subparagraphs of this Mortgage unless specific reference is made to Articles, Sections or subparagraphs of another document or instrument.

3.03 **Severability; Complete Agreement**. If any provision of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Mortgage, the Note and the instruments executed in connection herewith constitute the full and complete agreement of the parties and supersede all prior negotiations, correspondence, and memoranda relating to the subject matter hereof, and this Mortgage may not be amended except by a writing signed by the parties hereto.

3.04 **Limitation of Interest**. It is the intent of Borrower and Lender in the execution of this Mortgage and all other Loan Documents to contract in strict compliance with the usury laws governing the Loan evidenced by the Note. In furtherance thereof, Lender and Borrower stipulate and agree that none of the terms and provisions contained in the Loan Documents shall ever be construed to create a contract for the use, forbearance, or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws governing the Loan evidenced by the Note. Borrower or any guarantor, endorser or other party now or hereafter becoming liable for the payment of the Note shall never be liable for unearned interest on the Note and shall never be required to pay interest on the Note at a rate in excess of the maximum interest that may be lawfully charged under the laws governing the Loan evidenced by the Note, and the provisions of this paragraph shall control over all other provisions of the Note and any other instrument executed in connection herewith which may be in apparent conflict herewith. In the event any holder of the Note shall collect monies that are deemed to constitute interest and that would otherwise increase the effective interest rate on the Note to a rate in excess of that permitted to be charged by the laws governing the Loan evidenced by the Note, all such sums deemed to constitute interest in excess of the legal rate shall be applied to the unpaid principal balance of the Note and if in excess of such balance, shall be immediately returned to Borrower upon such determination.

3.05 **Notices**. All notices and other communications provided for hereunder shall be in writing and be deemed received (a) on the date delivered, if sent by hand delivery (to the person or department if one is specified below), (b) on the date deposited in U.S. mail, certified, with return receipt requested, or (c) on the date deposited with Federal Express or other national overnight carrier, and in each case properly addressed as set forth below. Either party may change its address for receipt notices to another single address within the United States as provided herein. Actual receipt of any notice other than a change of address notice shall not be required if properly sent in accordance with this Section 3.05.

If to the Borrower:

KOO, LLC
3125 Independence Drive
Suite 116
Birmingham, Alabama 35209
Attn: Carter S. Kennedy

If to the Lender:

FIRST COMMERCIAL BANK
800 Shades Creek Parkway
Birmingham, Alabama 35209
Attn: Nelson S. Bean

3.06 **Replacement of Note.** Upon receipt of evidence reasonably satisfactory to Borrower of the loss, theft, destruction or mutilation of the Note, and in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to Borrower or, in the case of any such mutilation, upon surrender and cancellation of the Note, Borrower at Lender's expense will execute and deliver, in lieu thereof, a replacement note, identical in form and substance to such Note and dated as of the date of such Note, and upon such execution and delivery all references in this Mortgage to the Note shall be deemed to refer to such replacement note.

3.07 **Assignment.** This Mortgage is assignable by Lender and any assignment hereof by Lender shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Lender.

3.08 **Time of the Essence.** Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower under this Mortgage, the Note and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Secured Indebtedness.

3.09 **Governing Law.** THE VALIDITY, INTERPRETATION, ENFORCEMENT AND EFFECT OF THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALABAMA. THE LENDER'S PRINCIPAL PLACE OF BUSINESS IS LOCATED IN JEFFERSON COUNTY IN THE STATE OF ALABAMA, AND THE BORROWER AGREES THAT THIS AGREEMENT SHALL BE DELIVERED TO AND HELD BY LENDER AT SUCH PRINCIPAL PLACE OF BUSINESS, AND THE HOLDING OF THIS AGREEMENT BY LENDER THEREAT SHALL CONSTITUTE SUFFICIENT MINIMUM CONTACTS OF BORROWER WITH JEFFERSON COUNTY AND THE STATE OF ALABAMA FOR THE PURPOSE OF CONFERRING JURISDICTION UPON THE FEDERAL AND STATE COURTS PRESIDING IN SUCH COUNTY AND STATE. BORROWER CONSENTS THAT ANY LEGAL ACTION OR PROCEEDING ARISING HEREUNDER MAY BE BROUGHT IN THE CIRCUIT COURT OF LAW; STATE OF ALABAMA, JEFFERSON COUNTY, ALABAMA OR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA AND ASSENTS AND SUBMITS TO THE PERSONAL JURISDICTION OF ANY SUCH COURT IN ANY ACTION OR PROCEEDING INVOLVING THIS AGREEMENT. NOTHING HEREIN SHALL LIMIT THE JURISDICTION OF ANY OTHER COURT.

3.10 **Waiver of Jury Trial**. BORROWER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATED TO THE LOAN, OR (II) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF LENDER AND BORROWER WITH RESPECT TO LOAN DOCUMENTS OR THE LOAN, OR IN CONNECTION WITH THE TRANSACTIONS RELATED HERETO OR CONTEMPLATED HEREBY OR THE EXERCISE OF EITHER

PARTY'S RIGHTS AND REMEDIES HEREUNDER, OR THE CONDUCT OF 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. BORROWER AGREES THAT LENDER MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF BORROWER IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN BORROWER AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

3.11 **Release of Lots from Mortgage**. Provided Borrower is not in default under the terms of this Mortgage, the Notes and/or the Loan Documents, Lender agrees to release lots in the Narrows subdivisions containing a total of 149 existing lots upon the payment to the Lender, of eighty percent (80%) of sales price as set forth in the Development Agreement dated November 22, 2000, entered into between Mortgagor and Thornton Construction Company, Inc., said release payments to be applied to the Term Note, and Lender agrees to release lots in the future subdivisions which will have a total of 388 additional lots upon the payment to the Lender, of eighty percent (80%) of sales price as set forth in the Development Agreement dated November 22, 2000, entered into between Mortgagor and Thornton Construction Company, Inc., said release payments to be applied to the loan designated for the particular subdivision or phase or phases of a particular subdivision.

IN WITNESS WHEREOF, Borrower has executed this instrument, or has caused the same to be properly executed, as of the day and year first above written.

BORROWER:

KOO, LLC, an Alabama Limited Liability Company

By: Carter S. Kennedy [SEAL]
Carter S. Kennedy
Its Manager

By:______________________________[SEAL]
J. L. O'Sullivan, Jr.
Its Manager

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Carter S. Kennedy and I. L. O'Sullivan, Jr., whose names as Managers of **KOO, LLC**, an Alabama Limited Liability Company, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they as such Managers and with full authority, executed the same for and as the act of said limited liability company.

Given under my hand and official seal this 22nd day of November, 2000.

Notary Public - Claude M. Moncus
My Commission Expires: 12/28/03

[NOTARIAL SEAL]

This Instrument Prepared By:

Claude McCain Moncus, Esq.
CORLEY, MONCUS & WARD, P.C.
400 Shades Creek Parkway
Suite 100
Birmingham, Alabama 35209
(205) 879-5959

THE FRANK PEARCE PROPERTY - DEED DESCRIPTION
(Revised Nov. 17, 2000)
(Revised Nov. 21, 2000)
STATE OF ALABAMA
SHELBY COUNTY

The North 1/2 of the SW 1/4 of Section 20, Township 19 South, Range 1 West. Also, approximately one and a half acres of the NW corner of the South half of the SW 1/4 in Section 20, Township 19 South, Range 1 West, with the top of the mountain to be the line in the NW corner, as it existed April 12, 1932.

The SW 1/4 of the NE 1/4, Section 20, Township 19 South, Range 1 West, lying West of new Interstate U.S. Highway 280. LESS AND EXCEPT Old U.S. Highway 280 right of way.

The SE 1/4 of Section 20, Township 19 south, Range 1 West, lying West of Old U.S. Highway 280 right of way. LESS AND EXCEPT that parcel heretofore conveyed to Fred Vogala, as recorded in Deed Book 100 page 198, Probate Office of Shelby County, Alabama, and subsequently conveyed to Ronald Pearce Chesser, as recorded in Real Book 194 page 378 in said Probate Office. ALSO, LESS AND EXCEPT the parcel of Ronald P. Chesser as recorded in Real Book 194 page 382, Probate Office of Shelby County, Alabama, and the parcel of Jerry J. Chesser, as recorded in Real Book 194 page 380, in said Probate Office.

All of the above being situated in Shelby County, Alabama, being more particularly described as follows:

FRANK PEARCE PROPERTY - PARCEL 1 (WEST OF OLD 280)

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

BEGIN at a Paragon Engineering, Inc. iron and cap found at the Southwest corner of the Northwest 1/4 of the Southwest 1/4 of said Section 20; thence run in a Northerly direction along the West line of said Section on a bearing of N 00°16'29" W a distance of 1343.85 feet to a found Paragon Engineering, Inc. rebar and cap at the Northwest corner of said 1/4-1/4 Section; thence turn an angle to the right and run in an Easterly direction along the North line of the Southwest 1/4 of said Section 20 on a bearing of N 89°16'06" E a distance of 2653.78 feet to the Northeast corner of said Southwest 1/4; thence turn an angle to the left and run in a Northerly direction along the West line of the Southwest 1/4 of the Northeast 1/4 of said Section 20 on a bearing of N 00°17'11" W a distance of 1330.88 feet to the Northwest corner of said 1/4-1/4; thence turn an angle to the right and run in an Easterly direction along the North line of said 1/4-1/4 on a bearing of N 89°32'53" E a distance of 679.11 feet to the Westerly right-of-way line of Old Hwy. 280; thence turn an angle to the right and run in a Southeasterly direction along said right-of-way on a bearing of S 41°19'48" E a distance of 164.93 feet to a point, said point being the beginning

EXHIBIT A

of a curve to the right; thence continue along said right-of-way and along the arc of said curve, having a radius of 534.98 feet, a central angle of 47°22'00", an arc length of 442.27 feet with a chord bearing of S 17°38'48" E to a point; thence continue tangent to last described curve in a Southerly direction along said right-of-way on a bearing of S 06°02'12" E a distance of 66.50 feet to a point, said point being at the beginning of a curve to the left; thence continue along said right-of-way and along the arc of said curve, said curve having a radius of 399.26 feet, a central angle of 74°01'00", an arc length of 515.78 feet, a chord bearing of S 30°58'18" E to a point; thence continue tangent to last described curve along said right-of-way in a Southeasterly direction a bearing of S 67°58'48" E a distance of 102.50 feet to a point, said point being the beginning of a curve to the right; thence continue along the arc of said curve in a Southeasterly direction along said right-of-way, said curve having a radius of 915.10 feet, a central angle of 5°25'06", an arc length of 86.54 feet, and a chord bearing of S 65°16'15" E to a point on the East line of the Southwest 1/4 of the Northeast 1/4 of said Section; thence turn an angle to the right and run in a Southerly direction along the East line of said Southwest 1/4 of the Northeast 1/4 on a bearing of S 00°17'33" E a distance of 233.00 feet to the Southeast corner of said 1/4-1/4; thence turn an angle to the left and run in an Easterly direction along the South line of the Southeast 1/4 of the Northeast 1/4 of said Section 20 on a bearing of N 89°16'06" E a distance of 282.70 feet to a point, said point being on the Westerly right-of-way of said Old Hwy. 280, said point also being on a curve to the right; thence run along said right-of-way and along the arc of said curve, said curve having a radius of 915.10 feet, a central angle of 8°05'34", an arc length of 129.25 feet, and a chord bearing of S 35°30'35" E to a point; thence continue tangent to the last described curve in a Southeasterly direction along said right-of-way on a bearing of S 31°27'48" E a distance of 816.70 feet to a point, said point being the beginning of a curve to the right; thence continue along said right-of-way and along the arc of said curve, having a radius of 676.70 feet, a central angle of 19°19'07", an arc length of 228.17 feet, on a chord bearing of S 21°48'15" E to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 37°31'30" W a distance of 330.04 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 33°51'13" W a distance of 185.20 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 30°41'09" W a distance of 323.03 feet to a point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of S 40°03'35" E a distance of 264.00 feet to a point, said point being on the Westerly right-of-way of Old Hwy. 280; thence turn an angle to the right and run in a Southwesterly direction along said right-of-way on a bearing of S 28°22'12" W a distance of 841.99 feet to a point, said point being on the South line of said Section 20; thence turn an angle to the right and run in a Westerly direction along said South line, on a bearing of S 88°42'32" W a distance of 1482.94 feet to a point, said point being the Southwest corner of the Southwest 1/4 of the Southeast 1/4 of said Section 20; thence turn an angle to the right and run in a Northerly direction along the West line of said 1/4-1/4 Section on a bearing of N 00°17'11" W a distance of 1330.88 feet to a point, said point being the Northwest corner of said 1/4-1/4

Section; thence turn an angle to the left and run in a Westerly direction along the South line of the Northeast 1/4 of the Southwest 1/4 and the Northwest 1/4 of the Southwest 1/4 on a bearing of S 88°59'19" W a distance of 2315.85 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 55°20'53" W a distance of 409.91 feet to a point on the West line of said Section 20; thence turn an angle to the right and run in a Northerly direction on a bearing of N 00°16'29" W a distance of 227.09 feet to the POINT OF BEGINNING; containing 225.5234 acres, more or less.

AND

FRANK PEARCE PROPERTY - PARCEL 2 (EAST OF OLD 280)

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the Southwest 1/4 of the Northeast 1/4 of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the Northwest corner of said Southwest 1/4 of the Northeast 1/4 of said Section 20; thence run in an Easterly direction on a bearing of N 89°32'53" E a distance of 784.92 feet to the POINT OF BEGINNING of the parcel herein described, said point also being on the Easterly right-of-way of Old Hwy. 280; thence continue along said North line in the same direction as last described course on a bearing of N 89°32'53" E a distance of 191.23 feet to a point, said point being on the Westerly right-of-way of new U.S. Hwy. 280; thence turn an angle to the right and run in a Southeasterly direction along said right-of-way on a bearing of S 31°35'26" E a distance of 674.84 feet to a point, said point being on the East line of the Southwest 1/4 of the Northeast 1/4 of said Section 20; thence turn an angle to the right and run in a Southerly direction along said East line on a bearing of S 00°17'33" E a distance of 424.39 feet to a point, said point being on the Northeasterly right-of-way of Old Hwy. 280, said point also being on a curve to the left; thence turn an angle to the right and run along said right-of-way and along the arc of said curve, having a radius of 995.10 feet, a central angle of 03°01'21", an arc length of 52.49 feet, and a chord bearing of N 66°28'08" W to a point; thence continue tangent to last described curve in a Northwesterly direction and along said right-of-way on a bearing of N 67°58'48" W a distance of 102.50 feet to a point, said point being on a curve to the right; thence continue along said right-of-way and along the arc of said curve, having a radius of 319.26 feet, a central angle of 74°01'00", an arc length of 412.43 feet, and a chord bearing of N 30°58'18" W to a point; thence continue tangent to last described curve and along said right-of-way in a Northeasterly direction on a bearing of N 06°02'12" E a distance of 66.50 feet to a point, said point being the beginning of a curve to the left; thence continue along said right-of-way and along the arc of said curve, having a radius of 614.98 feet, a central angle of 47°22'00", an arc length of 508.41 feet and a chord bearing of N 17°38'48" W; thence continue tangent to last described curve and along said right-of-way in a Northwesterly direction on a bearing of N 41°19'48" W a distance of

95.68 feet to the POINT OF BEGINNING; said parcel containing 5.3433 acres, more or less.

Total Gross Area for Frank Pearce Property is 230.8667 Acres, more or less.

This includes Lots 3,17,18,19,20,21,22,24,25,26,28,29,32,33,34,35,36,37, 38,39,40,41,42,43,44,45,46,53,68,69,71,72,73,and 74 of NARROWS POINT SECTOR as recorded in Map Book 26 at Pages 81 A & B in the Office of the Judge of Probate, Shelby County, Alabama, and all that part of Lots 1,2,40,41, and 42 of THE AMENDED MAP OF NARROWS CREEK as recorded in Map Book 27 at Page 81 in the Office of the Judge of Probate, Shelby County, Alabama which lie within the Frank Pearce Property.

LESS AND EXCEPT THE FOLLOWING:

"SPRAYFIELDS" PARCEL (1-B)

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the South 1/2 of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

BEGIN at the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of said Section 20; thence run in a Northerly direction along the East line of said Northeast 1/4 of Southwest 1/4 a distance of 100.01 feet to a point; thence run in a Westerly direction parallel to the South line of said Northeast 1/4 of the Southeast 1/4 on a bearing of S 88°59'19" W a distance of 1709.14 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of N 59°40'43" E a distance of 1723.36 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 67°14'58" E a distance of 943.74 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 62°21'16" E a distance of 303.13 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 86°29'43" E a distance of 511.53 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 56°11'26" E a distance of 270.23 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 40°17'32" E a distance of 255.94 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 55°57'48" W a distance of 390.61 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 36°32'04" W a distance of 282.19 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 82°04'23" W a distance of 433.21 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 34°04'52" W a distance of 366.81 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 14°07'32" W a distance of 211.93 feet to a point; thence turn an angle to the right and run in a

Northwesterly direction on a bearing of N 65°33'23" W a distance of 212.58 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 47°13'37" W a distance of 468.26 feet to a point; thence turn an angle to the right and run in a Northerly direction on a bearing of N 00°17'11" W a distance of 587.33 feet to a point; thence turn an angle to the left and run in a Westerly direction on a bearing of N 88°59'19" W a distance of 50.00 feet to a point; thence turn an angle to the left and run in a Southerly direction on a line that is 50.00 feet East of and parallel to the West line of the Southwest 1/4 of Southeast 1/4 of said Section 20 on a bearing of S 00°17'11" E a distance of 1430.65 feet to a point on the South line of said Section 20; thence turn an angle to the right and run in a Westerly direction along said South line on a bearing of S 88°42'32" W a distance of 50.01 feet to a point, being the Southwest corner of said Southwest 1/4 of Southeast 1/4; thence turn an angle to the right and run in a Northerly direction along the West line of said Southwest 1/4 of Southeast 1/4 on a bearing of N 00°17'11" W a distance of 1330.88 feet to the POINT OF BEGINNING; said parcel containing 45.2489 acres, more or less.

AND

"HOLDING POND" PARCEL (1-C)

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the South 1/2 of the Southeast 1/4 of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the Southwest corner of the Southwest 1/4 of the Southeast 1/4 of said Section 20; thence run in an Easterly direction along the South line of said Section S8842'32"E a distance of 1125.24 feet to the POINT OF BEGINNING of the parcel herein described; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 38°29'36" W a distance of 654.01 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of N 51°30'24" E a distance of 98.97 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of N 68°09'46" E a distance of 301.28 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 19°58'23" E a distance of 300.00 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 63°38'51" E a distance of 300.00 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 15°26'02" E a distance of 182.97 feet to a point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of S 54°46'57" E a distance of 300.00 feet to a point, said point being on the Westerly right-of-way of Old Hwy. 280; thence turn an angle to the right and run along said right-of-way in a Southwesterly direction on a bearing of S 28°22'12" W a distance of 541.99 feet to a point, said point being on the South line of said Section 20; thence turn an angle to the right and run in a Westerly direction along said Section line on a bearing of S 88°42'32" W a distance of 357.70 feet to the POINT OF BEGINNING; said parcel containing 12.6781 acres, more or less.

AND

"F.PEARCE KEPT" PARCEL (1-D)

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the Southeast 1/4 of the Southeast 1/4 of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the Southwest corner of the Southwest 1/4 of the Southeast 1/4 of said Section 20; thence run in an Easterly direction along the South line of said Section S88°42'32"W a distance of 1482.94 feet to a point on the Westerly right-of-way of Old Hwy. 280; thence turn an angle to the left and run in a Northeasterly direction along said right-of-way on a bearing of N 28°22'12" E a distance of 541.99 feet to the POINT OF BEGINNING of the parcel herein described; thence continue on the same bearing of the last described course along said right-of-way in a Northeasterly direction a distance of 300.00 feet; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 40°03'35" W a distance of 300.00 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 31°15'15" W a distance of 375.00 feet to a point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of S 54°46'57" E a distance of 300.00 feet to the POINT OF BEGINNING; said parcel containing 2.2489 acres, more or less.

AND

Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 23, 27, 30, 31, 47, 48, 49, 50, 51, 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 70, 75, 76, 77, and 78 and all dedicated public road Rights-of-Way of NARROWS POINT SECTOR - PHASE 1, as recorded in Map Book 26, Page 81A & B, Office of the Judge of Probate, Shelby County, Alabama.

HARRY PEARCE PROPERTY -- DEED DESCRIPTION
(Revised Nov. 9, 2000)
(Revised Nov. 17, 2000)

PARCEL 1

STATE OF ALABAMA
SHELBY COUNTY

The NW 1/4 of Section 20, Township 19 South, Range 1 West, LESS AND EXCEPT a 300 foot by 300 foot parcel heretofore conveyed to Garry W. Pearce and Priscilla W. Pearce as recorded in Deed Book 319 page 901, Probate Office of Shelby County, Alabama.

and

The NW 1/4 of NE 1/4 of Section 20, Township 19 South, Range 1 West, lying West of New Interstate U.S. 280 Highway right of way, LESS AND EXCEPT Old U.S. Highway 280 right of way; being situated in Shelby County, Alabama.

and

A parcel of land described as being all of the South 760 feet of the SE 1/4 of the SW 1/4 lying West of the Florida Short Route Right of Way as it existed on or about October 24, 1938, and also all of the SW 1/4 of the SE 1/4 lying West of such highway right of way, all in Section 17, Township 19 South, Range 1 West, Shelby County, Alabama.

and

Commence at the NE corner of the NE 1/4 of the NW 1/4 of Section 20, Township 19 South, Range 1 West, and run thence South 580 feet; thence turn at a right angle and go 106 feet to a point on the South side of an unpaved road, which is the point of beginning of the parcel herein described; thence South 300 feet; thence West 300 feet; thence North 300 feet, more or less, to a point on the South side of said unpaved road; thence East along the South side of said unpaved road a distance of 300 feet, more or less, to the point of beginning; being situated in Shelby County, Alabama.

ALSO, an Easement of a uniform width of 20 feet on and along said unpaved road to provide ingress and egress to and from the above described parcel and U.S. Highway 280. Being situated in Shelby County, Alabama.
(This easement is removed, along with the removal of said unpaved road and the replacement of said 300 foot by 300 foot parcel into the overall parcel.)

All being further described in entirety, by metes and bounds, in the following three sub-parcels ("1-A"; "1-B"; and "1-C"):

HARRY PEARCE PROPERTY -- SUB-PARCEL "1-A"

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the SE 1/4 of the SW 1/4 of Section 17, the NW 1/4 and the NW 1/4 of the NE 1/4 of Section 20, all in Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the NW corner of said Section 20; thence run in a Easterly direction along the North line of said section on a bearing of N 89°49'41" E, a distance of 1326.57 feet to a point; thence turn an angle to the left and run North along the West line of the SE 1/4 of the SW 1/4 of said Section 17, on a bearing of N 00°19'23" W, a distance of 774.25 feet to a point; thence turn an angle to the right and run in a Easterly direction on a bearing of N 89°37'31" E, a distance of 661.67 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 31°06'20" E, a distance of 817.60 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 03°29'11" W, a distance of 514.24 feet to a point; thence turn an angle to the left and run in a southeasterly direction, on a bearing of S 09°42'35" E, a distance of 251.14 feet to a point; thence turn an angle to the left and run in an Easterly direction, on a bearing of N 89°56'21" E, a distance of 239.23 feet to a point; thence turn an angle to the right and run in a Southerly direction on a bearing of S 00°17'11" E, a distance of 566.47 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 65°54'11" W, a distance of 141.71 feet to a point; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 85°15'24" W, a distance of 65.94 to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 63°19'44" W, a distance of 77.29 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 13°07'55" W, a distance of 133.95 feet to a point; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 67°48'10" W, a distance of 57.64 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 47°54'54" W, a distance of 60.43 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 28°01'50" W, a distance of 166.51 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 55°29'42" W, a distance of 130.64 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 85°57'41" W, a distance of 223.81 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 80°43'32" W, a distance of 125.14 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 03°30'06" W, a distance of 123.59 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 54°18'49" W, a distance of 118.77 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 35°14'31" W, a distance of 333.52 feet to a-point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of S 39°44'55" E, a distance of 76.28 feet to a point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of S 85°42'57" E, a distance of 81.18 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 56°36'26" E, a distance of 72.21 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 44°27'49" E, a distance of 171.87 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of N 83°54'20" E, a distance of 254.26 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 72°23'08" E, a distance of 116.67 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 85°09'13" E, a distance of 304.81 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 64°04'13" E, a distance of 81.11 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 71°40'42"

E, a distance of 181.73 feet to a point said point being on the East line of the NW 1/4 of said Section 20; thence turn an angle to the right and run in a Southerly direction along said East line on a bearing of S 00°17'11" E, a distance of 1074.15 feet to a point said point being at the Southeast corner of said NW 1/4; thence turn an angle to the right and run in a Westerly direction along South line of said NW 1/4 on a bearing of S 89°16'06" W, a distance of 2653.78 feet to a point; said point being on the West line of said Section 20, thence turn an angle to the right and run in a Northerly direction along said West line on a bearing of N 00°16'29" W, a distance of 2687.70 Feet to the POINT OF BEGINNING; said parcel containing 164.257 acres, more or less.

AND

HARRY PEARCE PROPERTY -- SUB-PARCEL "1-B"

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the SE 1/4 of the SW 1/4 and the SW 1/4 of the SE 1/4 of Section 17, the NW 1/4 and the NW 1/4 of the NE 1/4 of Section 20, all in Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the NW corner of said Section 20; thence run in a Easterly direction along the North line of said section on a bearing of N 89°49'41" E, a distance of 1326.57 feet to a point; thence turn an angle and run to the North along the West line of the SE 1/4 of the SW 1/4 of said Section 17, on a bearing of N 00°19'23" W, a distance of 774.25 feet to a point; thence turn an angle to the right and run in a Easterly direction on a bearing of N 89°37'31" E, a distance of 661.67 feet to a point; said point being the POINT OF BEGINNING of the parcel herein described; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 31°06'20" E, a distance of 817.60 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 03°29'11" W, a distance of 514.24 feet to a point; thence turn an angle to the left and run in a southeasterly direction, on a bearing of S 09°42'35" E, a distance of 251.14 feet to a point; thence turn an angle to the left and run in an Easterly direction, on a bearing of N 89°56'21" E, a distance of 239.23 feet to a point, thence turn an angle to the right and run in a Southerly direction on a bearing of S 00°17'11" E, a distance of 566.47 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 65°54'11" W, a distance of 141.71 feet to a point; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 85°15'24" W, a distance of 65.94 to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 63°19'44" W, a distance of 77.29 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 13°07'55" W, a distance of 133.95 feet to a point; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 67°48'10" W, a distance of 57.64 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 47°54'54" W, a distance of 60.43 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 28°01'50" W, a distance of 166.51 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 55°29'42" W, a distance of 130.64 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 85°57'41" W, a distance of 223.81 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 80°43'32" W, a distance of 125.14 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 03°30'06" W, a distance of 123.59 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 54°18'49" W, a distance of 118.77 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 35°14'31" W, a distance of 333.52 feet to a point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of S 39°44'55" E, a distance of 76.28 feet to a point; thence turn an angle to the left and run in a Southeasterly direction on a bearing of S 85°42'57" E, a distance of 81.18 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 56°36'26" E, a distance of 72.21 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 44°27'49" E, a distance of 171.87 feet to a point; thence turn an angle to the right and run in a Northeasterly direction on a bearing of N 83°54'20" E, a distance of 254.26 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 72°23'08" E, a distance of 116.67 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 85°09'13" E, a distance of 304.81 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 64°04'13" E, a distance of 81.11 feet to a point; thence turn an angle to the left and run in a Northeasterly direction on a bearing of N 71°40'42" E, a distance of 181.73 feet to a point said point being on the East line of the NW 1/4 of said Section 20; thence turn an angle to the left and run in a Northerly direction along said East line on a bearing of N 00°17'11" W, a distance of 256.73 feet to a point said point being at the Southwest corner of the NW 1/4 of the NE 1/4 of said Section 20; thence turn an angle to the right and run in an Easterly direction along South line of said 1/4-1/4 on a bearing of N 89°32'53" E, a distance of 676.80 feet to a point; said point being on the Southwest right-of-way of Old Highway 280 line; thence turn an angle to the left and run in a Northerly direction along said right-of-way line on a bearing of N 40°54'11" W, a distance of 292.30 feet to a point; said point being the beginning of a curve to the right; thence continue along said right-of-way and along the arc of said curve, having a radius of 756.86 feet, a central angle of 52°11'31", and a chord bearing of N 14°48'26" W, an arc distance of 689.44 feet to a point; thence turn an angle to the left and continue along said right-of-way in a Northwesterly direction perpendicular from last said curve on a bearing of N 78°42'40" W, a distance of 20.00 feet to a point; thence turn an angle to the right and continue along said right-of-way in a Northeasterly direction on a bearing of N 11°17'20" E, a distance of 84.60 feet to a point, said point being at the intersection of Old Highway 280 right-of-way with New U.S. Highway 280 right-of-way; thence turn an angle to the left and continue along said right-of-way in a Northwesterly direction, on a bearing of N 30°55'48" W, a distance of 357.09 feet to a point; thence turn an angle to the right and continue along said right-of-way, in a Northwesterly direction, on a bearing of N 08°48'29" W, a distance of 271.15 feet to a point; thence turn an angle to the left and continue along said right-of-way, in a Northwesterly direction, on a bearing of N 31°35'26" W, a distance of 135.65 feet to a point, point being the beginning of a curve to the right; thence continue along said right-of-way, along the arc of said curve, having a radius of 3424.04 feet, a central angle of 8°42'39", and a chord bearing of N 27°24'08" W, an arc distance of 520.56 feet to a point; thence turn an angle to the left, and leaving said right-of-way, in a Westerly direction, on a bearing of S 89°37'31" W, a distance of 452.63 feet to the POINT OF BEGINNING; said parcel containing 32.467 acres, more or less.

AND

HARRY PEARCE PROPERTY -- SUB-PARCEL "1-C"

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the NW 1/4 of NE 1/4 of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the NW corner of said Section 20; thence run in a Easterly direction on a bearing of N 89°49'41" E, a distance of 1326.57 feet to a point; thence turn an angle to the left and run in a Northerly direction on a bearing of N 00°19'23" W, a distance of 774.25 feet to a point; thence turn an angle to the right and run in a Easterly direction on a bearing of N 89°37'31" E, a distance of 661.67 feet to a point; thence turn an angle to the right and run in a Southeasterly direction on a bearing of S 31°06'20" E, a distance of 817.60 feet to a point; thence turn an angle to the right and run in a Southwesterly direction on a bearing of S 03°29'11" W, a distance of 514.24 feet to a point; thence turn an angle to the left and run in a southeasterly direction, on a bearing of S 09°42'35" E, a distance of 251.14 feet to a point; thence turn an angle to the left and run in an Easterly direction, on a bearing of N 89°56'21" E, a distance of 239.23 feet to a point; thence turn an angle to the right and run in a Southerly direction on a bearing of S 00°17'11" E, a distance of 644.83 feet to a point, said point being at the SW corner of the NW 1/4 of the NE 1/4 of said Section 20; thence turn an angle to the left and run in a Easterly direction along the South line of said 1/4-1/4 on a bearing of N 89°32'53" E, a distance of 781.93 feet to the POINT OF BEGINNING of the parcel herein described, said point also being on the Northeasterly right-of-way of County Highway #280, (often referred to as Old 280); thence continue in the same direction of the last described course on a bearing of N 89°32'53" E, a distance of 195.13 feet to a point; said point being on the Southwesterly right-of-way of U.S. Highway 280, (often referred to as New 280); thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 31°35'26" W, along said right-of-way, a distance of 313.87 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N 09°47'21" W, continuing along said right-of-way, a distance of 107.70 feet to a point; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 31°35'26" W, continuing along said right-of-way, a distance of 500.00 feet to a point; thence turn an angle to the left and run in a Northwesterly direction on a bearing of N 53°22'41" W, continuing along said right-of-way, a distance of 160.72 feet to a point, said point being at the intersection of right-of-ways of New 280 and Old 280; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S 11°17'20" W, along the Southeasterly right-of-way of said Old 280, a distance of 49.60 feet to a point, said point being also being the beginning of a curve to the left; thence run along the arc of said curve having a radius of 676.86 feet, a central angle of 52°11'31", and a chord bearing of S 14°48'26" E, an arc distance of 616.56 feet to a point; thence continue tangent to last described course, along said right-of-way on a bearing of S 40°54'11" E, a distance of 360.51 feet to the POINT OF BEGINNING; said parcel containing 4.826 acres more or less.

Total Gross Area for Harry Pearce Property is 201.55 Acres, more or less.

This includes Lots 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21, 22,23,24,25,26,27,28,29,30,35,36,37,38,39,40,41,42,43,44,45,46,49,50,51,52, 53,54,55,56,57,58,59,60,61,62,63,64,65,66,67,68,69,70,71,72,73,74,75,76,77, 78,79,80,81,82 of THE AMENDED MAP OF NARROWS REACH as recorded in Map Book 27 at Pages 11 A & B in The Office of the Judge of Probate, Shelby County, Alabama and all of that part of Lots 1,2,3,4,5,6,9,10,11,12,13,14,15,16,17, 18,19,20,21,22,23,24,25,26,27,28,30,31,32,33,34,35,36,37,38,39,40, and 41 of THE AMENDED MAP OF NARROWS CREEK as recorded in Map Book 27 at Page 81 in the Office of the Judge of Probate, Shelby County, Alabama that lie within the Harry Pearce Property.

LESS AND EXCEPT THE FOLLOWING:

"MEDICAL CARE FACILITY" PARCEL

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the SE 1/4 of the SW 1/4 of Section 17, and the NE 1/4 of the NW 1/4 of Section 20, all in Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the NW corner of said Section 20; thence run in an Easterly direction along the North line of said section on a bearing of N 89°49'41"E a distance of 1326.57 feet to the POINT OF BEGINNING; thence turn an angle and run to the North along the West line of the SE 1/4 of the SW 1/4 of said Section 17, on a bearing of N 00°19'23" W, a distance of 774.25 feet to a point; thence turn an angle to the right and run in a Easterly direction on a bearing of N 89°37'31" E, a distance of 1114.30 feet to a point; said point being on the Westerly Right-of-Way of U. S. Hwy 280 and being on a curve to the left; thence turn an angle to the right and run in a Southeasterly direction , along said right-of-way and along the arc of said curve, having a radius of 3424.04 feet, a central angle of 02°08'26" and a chord bearing of S 24°07'02" E, an arc distance of 127.93 feet to a point, thence turn an angle to the right and, leaving said right-of-way, run in a Southwesterly direction, on a bearing of S 75°03'29" W a distance of 388.88 feet to a point; thence turn an angle to the left and run in a Southeasterly direction, on a bearing of S 31°06'16" E a distance of 145.01 feet to a point; thence turn an angle to the right and run in a Southwesterly direction, on a bearing of S 56°14'08" W a distance of 601.06 feet to a point; thence turn an angle to the left and run in a Southwesterly direction, on a bearing of S 23°37'55" W a distance of 145.76 feet to a point, said point being on a curve to the right; thence turn an angle to the right and run in a Southwesterly direction along the arc of said curve, having a radius of 570.00 feet, a central angle of 19°05'26", and a chord bearing of S 75°41'44" W, an arc distance of 189.92 feet to a point; thence run tangent to last described curve, in a Southwesterly direction on a bearing of S 85°14'26" W a distance of 105.33 feet to a point, said point being the beginning of a curve to the left; thence run in a Southwesterly direction, along the arc of said curve, having a radius of 500.00 feet, a central angle of 01°41'00", and a chord bearing of S 84°23'57" W, an arc distance of 14.69 feet to a point; thence turn an angle to the right and run in a Northerly direction, on a bearing of N 00°16'50" W a distance of 84.13 feet to the point of beginning. Said parcel contains 13.55 acres, more or less.

AND

NATURE WALK PARCEL

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the North half of Section 20, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the centerline of the intersection of NARROWS DRIVE and NARROWS WAY, according to the record map of THE NARROWS COMMERCIAL SUBDIVSION - SECTOR 1, as recorded in Map Book 27, at Page 8 in the office of the Judge of Probate of Shelby County, Alabama; thence run in a Southwesterly direction, along the centerline of said NARROWS DRIVE, on a bearing of S59^09'45"W, a distance of 225.37 feet to a point; thence turn a deflection angle to the left and run in a Southeasterly direction on a bearing of S30^50'15"E, a distance of 30.00 feet to a point on the Southeasterly right-of-way of said NARROWS DRIVE, said point being the POINT OF BEGINNING of the parcel herein described; thence turn an angle to the left, and run in a Northeasterly direction, along said right-of-way, on a bearing of N59^09'45"E, a distance of 175.37 feet to a point, said point being the beginning of a curve to the right; thence run along the arc of said curve, having a central angle of 90^00'00" and a radius of 25.00 feet, continuing along right-of-way, in a Northeasterly, to Easterly, to Southeasterly direction, a distance of 39.27 feet to a point; thence continue tangent to last described course, along the right-of-way of NARROWS WAY, on a bearing of S30^50'15"E, a distance of 112.37 feet to a point, said point being the beginning of a curve to the right: thence continue along said curve, having a central angle of 18^18'54" and a radius of 433.53 feet, continuing along said right-of-way, an arc distance of 138.59 feet to a point; thence continue tangent to last described course, along said right-of-way, in a Southeasterly direction on a bearing of S12^31'21"E, a distance of 414.35 feet to a point; thence turn an angle to the right, and leaving said right-of-way, run in a Westerly direction on a bearing of S89^02'36"W, a distance of 90.89 feet to a point; thence turn an angle to the left and run in a Southerly direction, on a bearing of S00^17'28"E, a distance of 54.02 feet to a point, thence turn an angle to the right and run in a Westerly direction on a bearing of S88^28'38"W, a distance of 635.24 feet to a point; thence turn an angle to the left and run in a Southwesterly direction on a bearing of S71^35'05"W, a distance of 356.58 feet to a point; thence turn an angle to the right and run in a Northwesterly direction on a bearing of N08^12'16"W, a distance of 313.13 feet to a point, said point being on the proposed right-of-way of the extension of NARROWS DRIVE, thence turn an angle to the right and run in a Northeasterly direction on a bearing of N81^47'44"E, a distance of 254.51 feet to a point, said point being the beginning of a curve to the left; thence run along the arc of said curve, having a central angle of 39^11'08" and a radius of 280.00 feet, in a Northeasterly direction, an arc distance of 191.49 feet to a point; thence continue tangent to last described course, in a Northeasterly direction on a bearing of N42^36'36"E, a distance of 265.83 feet to a point, said point being the beginning of a curve to the right; thence run along the arc of said curve, having a central angle of 16^33"09" and a radius of 570.00 feet, in a Northeasterly direction, an arc distance of 164.66 feet to the POINT OF BEGINNING, said parcel containing 10.72 Acres, more or less.

AND

Lots 7,8, and 29 and all dedicated public road Rights-of-Way of NARROWS CREEK SECTOR, as recorded in Map Book 27, Page 34, Office of the Judge of Probate, Shelby County, Alabama,

AND

Lots 31, 32, 33, 34, 47, 48, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92 and all dedicated road Rights-of-Way of THE AMENDED MAP OF NARROWS REACH SECTOR, as recorded in Map Book 27, Page 11 A & B, Office of the Judge of Probate, Shelby County, Alabama,

AND

Lots 1, 3, 4, and 5 and all dedicated public road Rights-of-Way of THE NARROWS COMMERCIAL SUBDIVISION - SECTOR 1 as recorded in Map Book 27, Page 8, Office of the Judge of Probate, Shelby County, Alabama,

AND

Lot 2 and all dedicated public road Rights-of-Way of THE NARROWS COMMERCIAL SUBDIVISION - SECTOR 2 as recorded in Map Book 27, Page 73, in the Office of the Judge of Probate, Shelby County, Alabama.

Inst # 2000-40519

11/22/2000-40519
04:04 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
034 MMB 14813.00