

300.00
29.00
271.00



20060104000003960 1/7 \$329.00
Shelby Cnty Judge of Probate, AL
01/04/2006 08:46:38AM FILED/CERT

Space Above This Line For Recording Data

This instrument was prepared by Beverly Billingsley, CapitalSouth Bank, PO Box 59587, Birmingham, Alabama 35209

MODIFICATION OF MORTGAGE

DATE AND PARTIES. The date of this Real Estate Modification (Modification) is November 5, 2005. The parties and their addresses are:

MORTGAGOR:

WEATHERLY UTILITY SERVICES, LLC

A Limited Liability Company

PO BOX 43388

BIRMINGHAM, Alabama 35243

LENDER:

CAPITALSOUTH BANK

COMMERCIAL LOAN DEPARTMENT

Organized and existing under the laws of Alabama

2340 Woodcrest Place

Birmingham, Alabama 35209

1. BACKGROUND. Mortgagor and Lender entered into a security instrument dated 10/29/2004 and recorded on 11/12/2004 (Security Instrument). The Security Instrument was recorded in the records of SHELBY County, Alabama at INSTR#20041112000323020 and covered the following described Property:

SEE ATTACHED EXHIBIT "A"

BANK OF ALABAMA AND CAPITALSOUTH BANK ARE ONE IN THE SAME.

THIS MORTGAGE IS TO AMEND AND MODIFY THAT CERTAIN MORTGAGE DATED 10/29/04 AND RECORDED ON 11/12/2004 IN INSTR#20041112000623020. NOW TO INCREASE LOAN AMOUNT FROM \$1,000,000.00 TO \$1,200,000.00. TAXES BEING PAID ON \$200,000.00.

The property is located in SHELBY County at WEATHERLY CLUB DRIVE, PELHAM, Alabama 35243.

2. MODIFICATION. For value received, Mortgagor and Lender agree to modify the Security Instrument as provided for in this Modification.

The Security Instrument is modified as follows:

A. Maximum Obligation Limit. The maximum obligation provision of the Security Instrument is modified to read:

(1) Maximum Obligation Limit. The total principal amount secured by this Security Instrument at any one time will not exceed \$1,200,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

B. Secured Debt. The secured debt provision of the Security Instrument is modified to read:

(1) Secured Debts. This Security Instrument will secure the following Secured Debts:

(a) Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A renewal note or other agreement, No. 63653, dated November 5, 2005, from Mortgagor to Lender, with a maximum credit limit of \$1,200,000.00. One or more of the debts secured by this Security Instrument contains a future advance provision.

(b) All Debts. All present and future debts from Mortgagor to Lender, even if this Security Instrument is not specifically referenced, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Security Instrument, each agrees that it will secure debts incurred either individually or with others who may not sign this Security Instrument. Nothing in this Security Instrument constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing. In the event that Lender fails to provide any required notice of the right of rescission, Lender waives any subsequent security interest in the Mortgagor's principal dwelling that is created by this Security Instrument. This Security Instrument will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. This Security Instrument will not secure any debt for which a security interest is created in "margin stock" and Lender does not obtain a "statement of purpose," as defined and required by federal law governing securities.

(c) Sums Advanced. All sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

3. WARRANTY OF TITLE. Mortgagor warrants that Mortgagor continues to be lawfully seized of the estate conveyed by the Security Instrument and has the right to grant, bargain, convey, sell and mortgage with the power of sale the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

4. CONTINUATION OF TERMS. Except as specifically amended in this Modification, all of the terms of the Security Instrument shall remain in full force and effect.

SIGNATURES. By signing under seal, Mortgagor agrees to the terms and covenants contained in this Modification. Mortgagor also acknowledges receipt of a copy of this Modification.

MORTGAGOR:

WEATHERLY UTILITY SERVICES, LLC

By  (Seal)
EDWARD R. BECKER, MEMBER

By  (Seal)
JAMES E. MULVANEY, JR., MEMBER

By CMC SERVICES, LLC, MEMBER

By  (Seal)
CHRISTOPHER W. MATTHEWS, MEMBER

By  (Seal)
J. STEVEN MOBLEY, MEMBER



20060104000003960 2/7 \$329.00
Shelby Cnty Judge of Probate, AL
01/04/2006 08:46:38AM FILED/CERT

LENDER:

CapitalSouth Bank
Commercial Loan Department

By [Signature] (Seal)
Mike Moers, Vice President

ACKNOWLEDGMENT.



20060104000003960 3/7 \$329.00
Shelby Cnty Judge of Probate, AL
01/04/2006 08:46:38AM FILED/CERT

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that EDWARD R. BECKER, whose name as MEMBER OF WEATHERLY UTILITY SERVICES, L.L.C., a limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said document, he, as such officer and with full authority, executed the same for and as the act of said corporation as managing member of said limited liability company.

Given under my hand and official seal this 5TH, day of November, 2005.

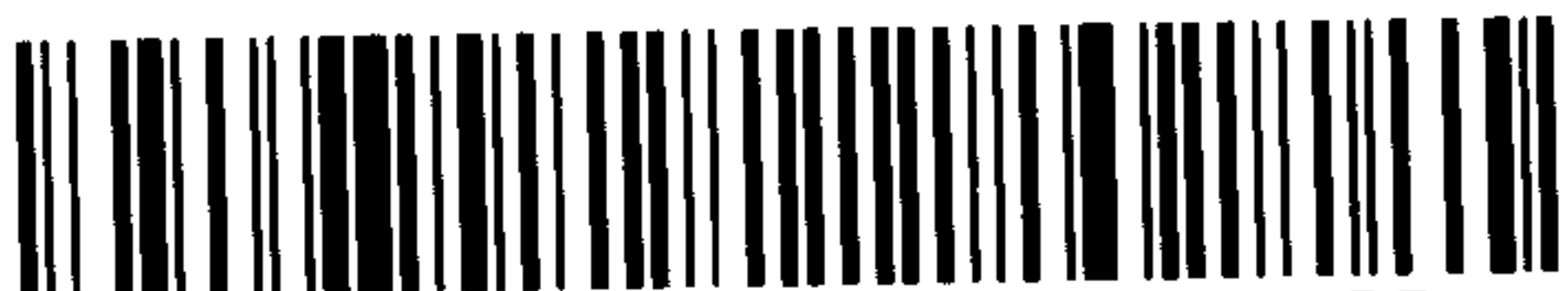
Linda K. Roberts
Notary Public
My Commissions Expires: 3-29-09

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that JAMES E MULVANEY, JR, whose name as MEMBER OF WEATHERLY UTILITY SERVICES, L.L.C., a limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said document, he, as such officer and with full authority, executed the same for and as the act of said corporation as managing member of said limited liability company.

Given under my hand and official seal this 5TH, day of November, 2005.

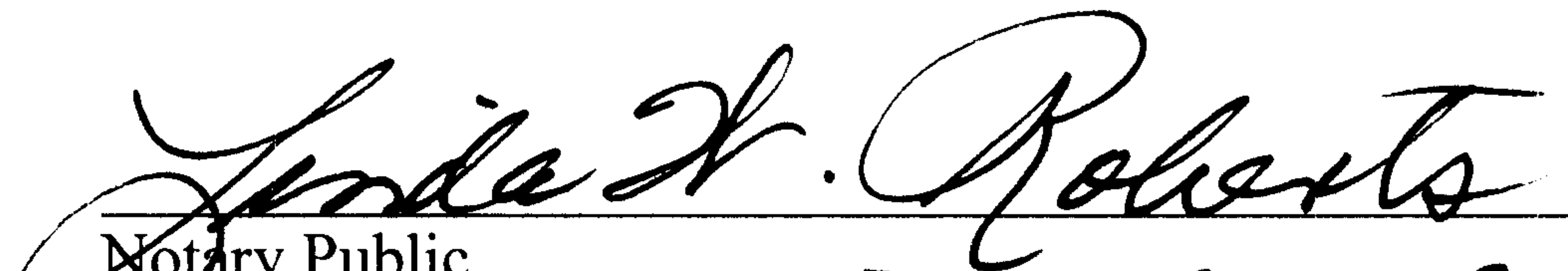
Ann Z. Fortner
Notary Public
My Commissions Expires: _____
Notary Public, State of Alabama at Large
My Commission Expires: Sept 28, 2007
~~Bonded thru Notary Public Underwriters~~


20060104000003960 4/7 \$329.00
Shelby Cnty Judge of Probate, AL
01/04/2006 08:46:38AM FILED/CERT

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that CHRISTOPHER W MATTHEWS, whose name as MEMBER OF CMC SERVICES, L.L.C., MEMBER OF WEATHERLY UTILITY SERVICES, L.L.C., a limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said document, he, as such officer and with full authority, executed the same for and as the act of said corporation as managing member of said limited liability company.


Given under my hand and official seal this 5TH, day of November, 2005.

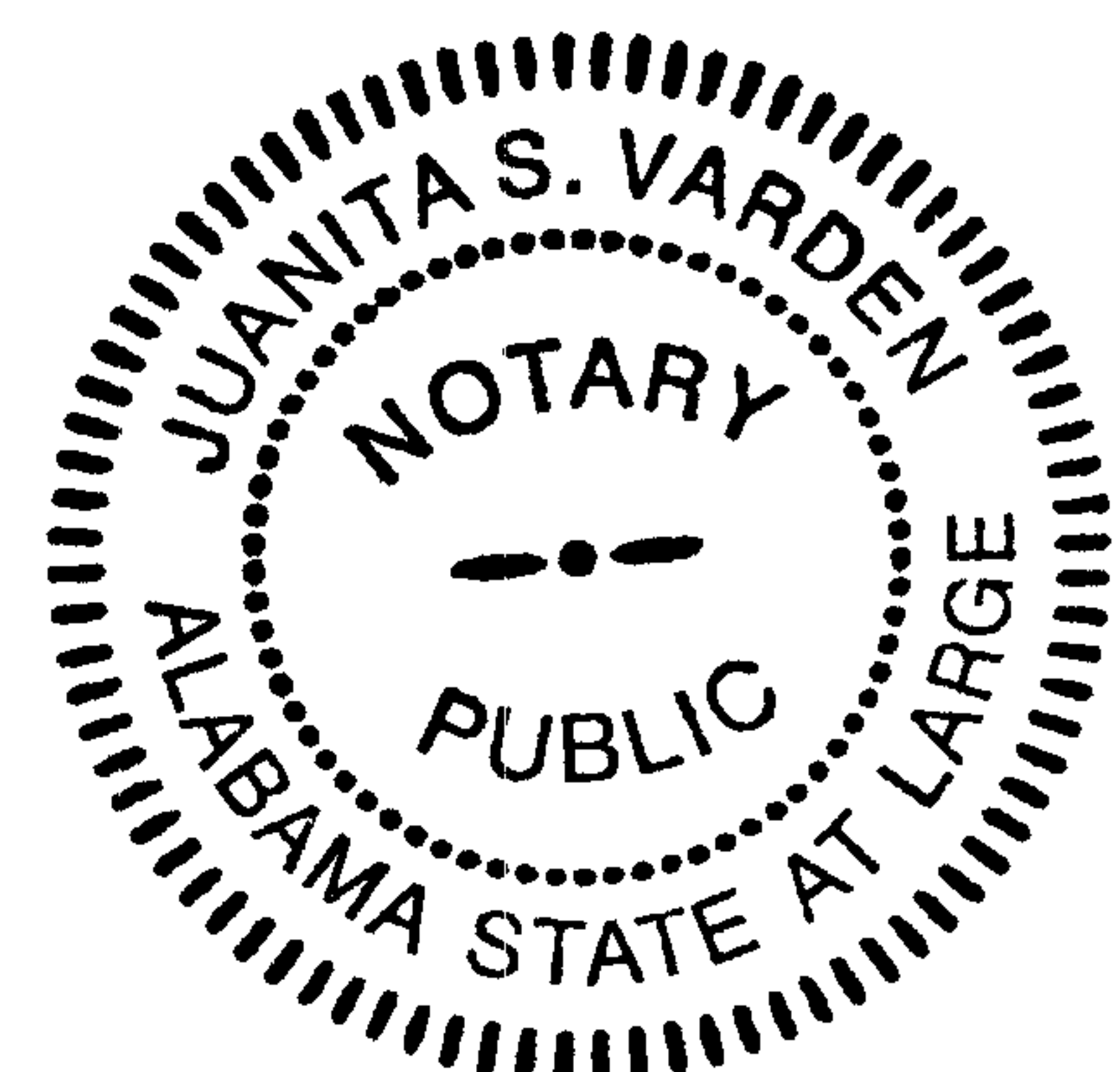

Notary Public
My Commissions Expires: 3-29-09


STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that Mike Moers, whose name as Vice President of CapitalSouth Bank, Woodcrest Office, a corporation, is/are signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said document, he/she, as such officer and with full authority, executed the same for and as the act of said corporation.

Given under my hand and official seal this 5TH, day of December, 2005


Notary Public
My Commissions Expires: 8-16-2006

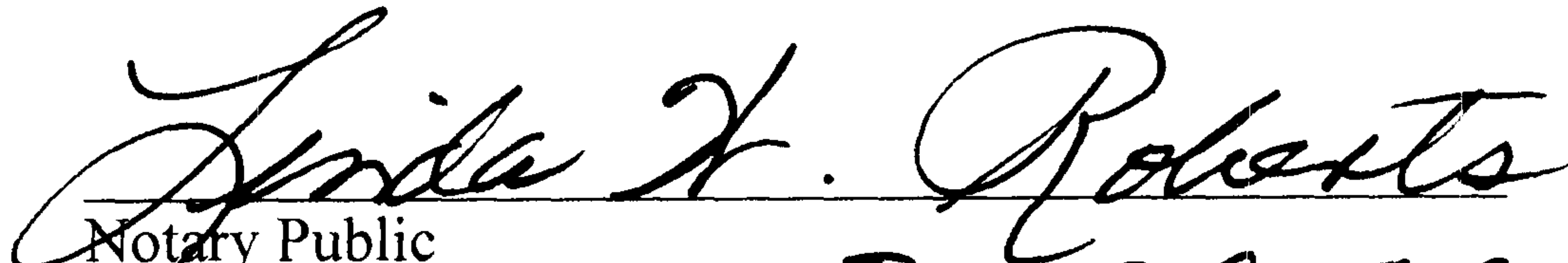


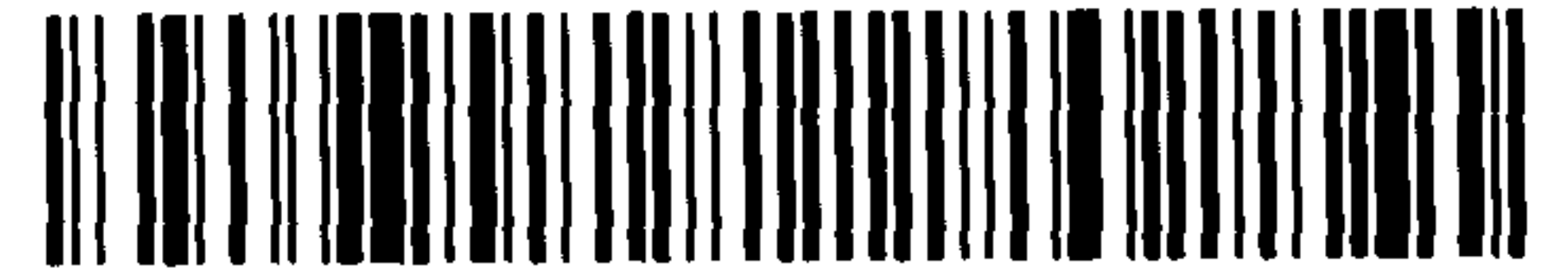

20060104000003960 5/7 \$329.00
Shelby Cnty Judge of Probate, AL
01/04/2006 08:46:38AM FILED/CERT

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that J STEVEN MOBLEY, whose name as MEMBER OF WEATHERLY UTILITY SERVICES, L.L.C., a limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said document, he, as such officer and with full authority, executed the same for and as the act of said corporation as managing member of said limited liability company.

Given under my hand and official seal this 5TH, day of November, 2005.


Notary Public
My Commissions Expires: 3-29-09



20060104000003960 6/7 \$329.00
Shelby Cnty Judge of Probate, AL
01/04/2006 08:46:38AM FILED/CERT

EXHIBIT "A"

Part of Section 31 and Section 32, Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Beginning at an existing 3" open top pipe being the locally accepted Southeast corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 32, Township 20 South, Range 2 West, Shelby County, Alabama, run in a Westerly direction along the South line of said SW $\frac{1}{4}$ of NW $\frac{1}{4}$ for a distance of 1338.58 feet to an existing open top iron pipe being the locally accepted Southwest corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 32; thence turn an angle to the left of $91^{\circ}47'05''$ and run in a Southerly direction for a distance of 140.25 feet to an existing iron rebar; thence turn an angle to the right of $91^{\circ}59'56''$ and run in a Westerly direction for a distance of 99.28 feet to a point on a curve, said curve being concave in a Southeasterly direction and having a central angle of $49^{\circ}38'38''$ and a radius of 639.13 feet; thence turn an angle to the right (90° to tangent) and run in a Northerly and Northeasterly direction along the arc of said curve for a distance of 553.77 feet to a point of compound curve, said newest curve being concave in a Southeasterly direction and having a central angle of $20^{\circ}13'34''$ and a radius of 604.44 feet; thence turn an angle to the right and run in a Northeasterly direction along the arc of said curve for a distance of 213.37 feet to the point of ending of said curve; thence run in a Northeasterly direction along a line tangent to the end of said curve for a distance of 827.97 feet to the point of beginning of a new curve, said latest curve being concave in a Northwesterly direction and having a central angle of $19^{\circ}32'42''$ and a radius of 1440.28 feet; thence turn an angle to the left and run in a Northeasterly direction along the arc of said curve for a distance of 491.31 feet to the point of ending of said curve; thence run in a Northeasterly direction along a line tangent to the end of said curve for a distance of 508.82 feet to the point of beginning of another curve, said latest curve being concave in a Southeasterly direction and having a central angle of $14^{\circ}08'13''$ and a radius of 220.0 feet; thence turn an angle to the right and run in a Northeasterly direction along the arc of said curve for a distance of 54.28 feet; thence turn an angle to the right ($120^{\circ}42'39''$ from the chord of last mentioned curve) and run in a Southerly direction for a distance of 1331.55 feet to an existing 3" open top iron pipe; thence turn an angle to the right of $91^{\circ}55'43''$ and run in a Westerly direction along the South line of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 32 for a distance of 658.21 feet, more or less, to the point of beginning.

Less and except any part of subject property lying within a road right of way.



20060104000003960 7/7 \$329.00
Shelby Cnty Judge of Probate, AL
01/04/2006 08:46:38AM FILED/CERT