

This instrument was prepared by:

*Dwight L. Mixson, Jr.
Burr & Forman LLP
Suite 3400
420 North 20th Street
Birmingham, Alabama 35203
(205) 251-3000*

MEMORANDUM OF AGREEMENT AND MORTGAGE

THIS MEMORANDUM OF AGREEMENT AND MORTGAGE (this "Memorandum") executed as of the 7th day of May, 2008, by and between **SBE PROPERTIES LLC**, an Alabama limited liability company ("Grantor") and **THOMAS ALLAN SMITH** and **KATHY V. SMITH** ("Grantee").

AGREEMENT

Grantor will acquire and become the owner of certain land situated in an unincorporated area of Shelby County, Alabama (the "Property") as generally described in Exhibit A and depicted in Exhibit B. The Property will be acquired from Frontier Bank and The Bankers Bank (the "Banks") who acquired the Property by Auctioneer's Deed recorded as Instrument Number 20070824000401150 dated August 20, 2007, pursuant to a foreclosure sale conducted August 17, 2007. The Grantor has entered into a Purchase and Sale Agreement dated May 7, 2008 (the "Purchase and Sale Agreement") with Grantee providing for the sale to Grantee of approximately 20 acres as generally depicted as Lot 12 in Exhibit B (the "Designated Lot").

NOW, THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee mutually desire to enter into this Memorandum which may be recorded at Grantee's option and at Grantee's expense in order to evidence the existence of the Purchase and Sale Agreement which, among other provisions, contains the following terms:

1. The Purchase and Sale Agreement provides for the sale by Grantor and the purchase by Grantee of the Designated Lot (as the same may be modified as set forth in the Purchase and Sale Agreement) subject to and in accordance with the terms of the Purchase and Sale Agreement.

2. Under certain circumstances more particularly set forth in paragraph 16 of the Purchase and Sale Agreement, the Grantor has agreed to refund a certain deposit to Grantee, with interest. In order to secure the contingent obligation to do so as set forth in the Purchase and Sale Agreement, Grantor hereby grants, bargains, sells, conveys and mortgages to Grantee (as a mortgage only and not as a deed) Grantor's rights in and to the Designated Lot, together with all appurtenances. Upon a default by Grantor pursuant to paragraph 16 of the Purchase and Sale Agreement and failure of Grantor to timely cure the same following notice as provided therein,

this mortgage shall be subject to foreclosure by power of sale or by judicial foreclosure, at Grantee's option, in accordance with the provisions of Alabama law.

3. This Memorandum will automatically terminate and be of no further force and effect January 31, 2009, unless prior to such date the same is extended by a written notice that is signed by Grantee that (a) specifically references this Memorandum, (b) identifies the Designated Lot, and (c) states that Grantor has not as of the date of such notice conveyed the Designated Lot to Grantee as required by the Purchase and Sale Agreement, and the same is recorded on or before January 31, 2009 in the Probate Office of Shelby County, Alabama.

4. Any notice or correspondence to the Grantee with respect to this Memorandum shall be given to Grantee at: Thomas Allan Smith, 65 Baron Drive, Chelsea, AL 35403.

Nothing herein shall be deemed to amend, modify or supplement the provisions of the Purchase and Sale Agreement.

* * *

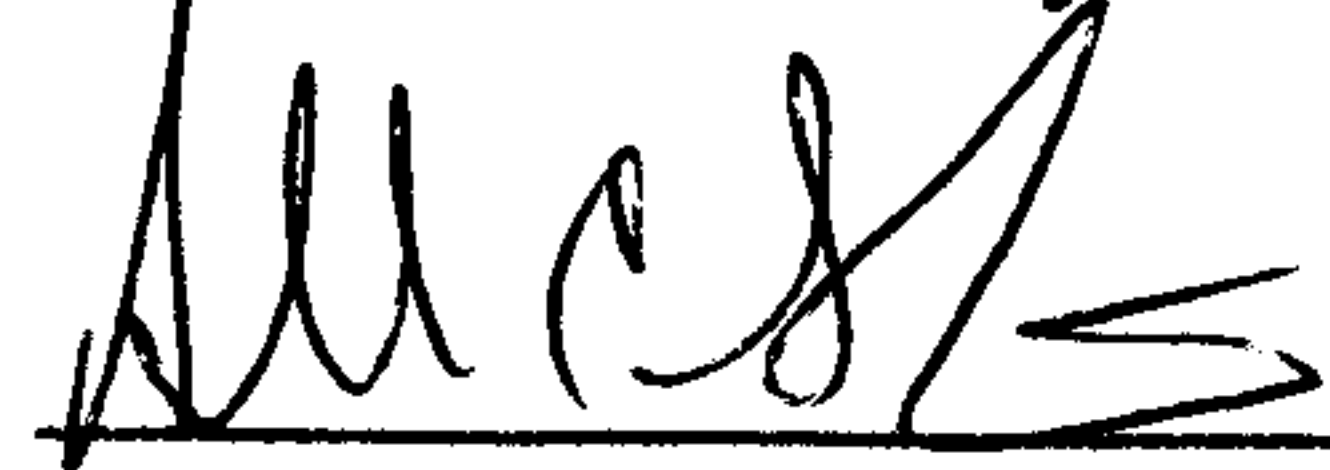


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IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed as of the day and year first above written.

GRANTOR:

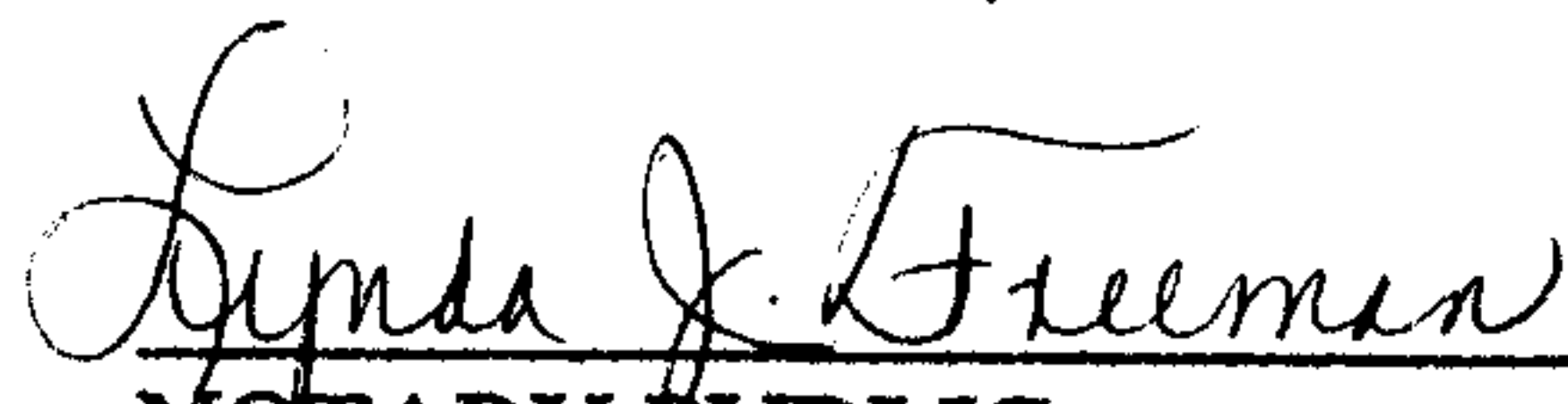
SBE PROPERTIES LLC,
an Alabama limited liability company

BY: 
Allen Shirley
Its Manager

STATE OF ALABAMA)
COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Allen Shirley, whose name as Manager of SBE Properties LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal, this 7th day of May, 2008.


NOTARY PUBLIC
My Commission Expires: 7/5/09

[NOTARY SEAL]



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GRANTEE:

[ENTITY]

a _____

BY: _____

Its _____

[INDIVIDUAL]

Thomas Allan Smith

[FOR ENTITY]

STATE OF ALABAMA)

COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of _____, a _____, 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 such instrument, he, as such _____ and with full authority, executed the same voluntarily for and as the act of said _____.

Given under my hand and seal, this _____ day of _____, 2008.

[NOTARY SEAL]

NOTARY PUBLIC

My Commission Expires: _____

[FOR INDIVIDUAL]

STATE OF ALABAMA)

COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Thomas Allan Smith, whose name 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 such instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal, this 7th day of May, 2008.

[NOTARY SEAL]

166215572

Lynnda J. Freeman
NOTARY PUBLIC

My Commission Expires: 7/5/09

Memorandum of Agreement - Signature Page
SBE Properties

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EXHIBIT A

Township 20 South, Range 1 West, Shelby County, Alabama:

Section 29:

The East one-half of the Northwest $\frac{1}{4}$; the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; the North one-half of the Southwest $\frac{1}{4}$; the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$.

Section 30:

The South one-half of the Southwest $\frac{1}{4}$; the East one-half of the Southeast $\frac{1}{4}$; the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$.

Section 31:

The Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$.

Township 20 South, Range 2 West, Shelby County, Alabama:

Section 23:

The Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$.

Section 24:

The Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$; the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$; the South one-half of the Southwest $\frac{1}{4}$; the West one-half of the Southeast $\frac{1}{4}$.

Section 25:

Tract I: The Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; the South one-half of the Northwest $\frac{1}{4}$; the Southwest $\frac{1}{4}$; the West one-half of the Southeast $\frac{1}{4}$; the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$;

Tract II: A part of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ described as being a 6 acre block in the Northwest corner of $\frac{1}{4}$ - $\frac{1}{4}$;

Tract III: A part of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ described as follows:

Commencing at the Southeast corner of said $\frac{1}{4}$ - $\frac{1}{4}$ and run North for 150 yards (450 feet) to a road; thence run Westerly along the road to C. L. Mooney's land; thence South to the Southwest corner of said $\frac{1}{4}$ - $\frac{1}{4}$; thence East to the Southeast corner of said $\frac{1}{4}$ - $\frac{1}{4}$ and the point of beginning.

Section 26:

Tract I: All that part of the Northeast $\frac{1}{4}$ and all that part of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ which lies South of the following described line to wit:

Commencing where the Clear Prong of Yellow Leaf Creek is intersected by the North and South median line of said Section and run in a straight line to the point where said creek is intersected by the East boundary of said Section;

Tract II: The West one-half, EXCEPT the South one-half of the South one-half of the Southwest $\frac{1}{4}$;

Tract III: The Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, EXCEPT the South one-half of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ and LESS AND EXCEPT the following described parcel from the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ and the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$:

Commence at the Southwest corner of said Section 26 and proceed North 02°32'48" West along the West

boundary line of said Section for a distance of 688.38 feet; thence run North 88°38'46" East for a distance of 2,268.45 feet to the point of beginning; thence continue North 88°38'46" East for a distance of 840.0 feet; thence run North 55°15'57" West for 91.32 feet; thence run North 33°12'32" West for a distance of 180.70 feet; thence run South 88°38'46" West for a distance of 770.85 feet; thence run South 01°21'14" East for a distance of 207.30 feet back to the point of beginning;

Tract IV: Ten acres evenly off the West side of the Southeast ¼ of the Southeast ¼, LESS AND EXCEPT, the South one-half of the Southeast ¼ of the Southeast ¼.

Section 36:

The Northeast ¼.

LESS AND EXCEPT any portion of subject property lying within a public right of way.



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EXHIBIT B

Subject Property
(Designated Lot)

