

20081219000471860 1/7 \$30.00  
Shelby Cnty Judge of Probate, AL  
12/19/2008 04:16:24PM FILED/CERT



20081219001663170 1/7  
Bk: LR200813 Pg:4894  
Jefferson County, Alabama  
I certify this instrument filed on  
12/19/2008 02:28:23 PM D  
Judge of Probate- Alan L. King

SEND TAX NOTICES TO:  
RCG LV Riverside Parc, L.P.  
c/o RCG Longview Realty Services, LLC  
One Galleria Blvd, Suite 901  
Metairie, Louisiana 70001  
Attn: Ralph L. Godwin, Jr.

Cross Reference to Grantor's Vesting Deed:  
Jefferson County, AL - 200314 / 8768  
Shelby County, AL - 20030926000649860

STATE OF ALABAMA       )  
JEFFERSON COUNTY       )

### STATUTORY WARRANTY DEED

THIS INSTRUMENT was executed and delivered as of December 19<sup>th</sup> 2008 (herein the "Effective Date") by **CMS/RIVERSIDE PARC, L.P.**, a Delaware limited partnership (herein the "Grantor"), to **RCG LV RIVERSIDE PARC, L.P.**, a Delaware limited partnership (herein the "Grantee"), for the purposes hereinafter described.


### RECITALS:

A. The Grantor holds fee title in and to that certain tract of real property located in Jefferson County and Shelby County, Alabama, more particularly described on Exhibit A attached hereto and incorporated herein by reference (collectively, herein the "Subject Property").

B. The Grantor has agreed to convey the Subject Property to the Grantee for the consideration hereinafter recited.

NOW, THEREFORE, in consideration of (1) the premises recited above, (2) the execution of that certain Consent and Assumption Agreement with Limited Release of even date herewith, by and among Grantor; Grantee; Jack Fiorella III; RCG Longview Equity Fund, L.P.; RCG Longview Equity Fund PA PSERS, L.P.; and Wells Fargo Bank, N.A., as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2005-CIBC13, for the assumption by Grantee of a loan in the principal amount of Twenty Million and No/100 Dollars (\$20,000,000.00), which is secured by that certain Mortgage and Security Agreement encumbering the Subject Property and recorded in the Probate Office of Jefferson County as Instrument No. 200511/8159 and in the Probate Office of Shelby County as Instrument No. 20050823000433340, (3) the sum of Seven Million and No/100 Dollars (\$7,000,000.00) paid by the Grantee, and (4) other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Grantor does by these presents GRANT, BARGAIN, SELL and CONVEY the Subject Property to the Grantee, together with all of the rights, tenements, hereditaments, and appurtenances thereto belonging or in any way appertaining.

TO HAVE AND TO HOLD the Subject Property, together with all and singular the rights, members and appurtenances thereof to the same being, belonging or in any way appertaining, to the use and benefit of the Grantee and its successors and assigns, forever. Except for the matters set forth on Exhibit B attached hereto and incorporated by reference, which are accepted and acknowledged by the Grantee through its acceptance of this Statutory Warranty Deed, the

  
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Grantor shall warrant and forever defend title to the Subject Property from and against the claims of all persons claiming by, through or under Grantor, but not further or otherwise.

[SIGNATURE AND ACKNOWLEDGMENT APPEAR ON THE FOLLOWING PAGE]

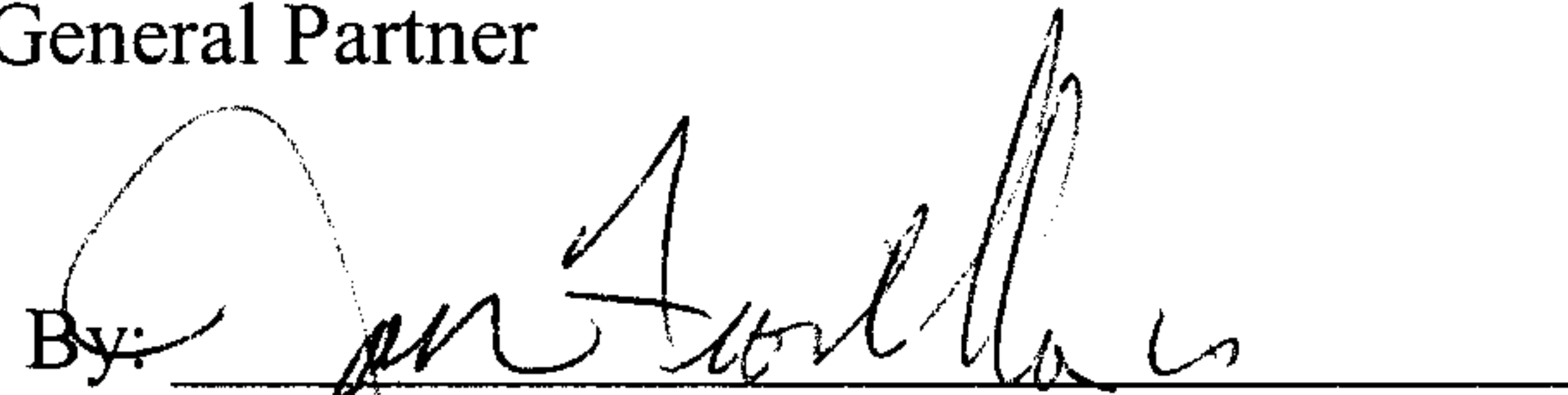
IN WITNESS WHEREOF, the Grantor has caused this Statutory Warranty Deed to be executed and delivered as of the Effective Date.

**GRANTOR:**

**CMS/RIVERSIDE PARC, L.P.,** a Delaware  
limited partnership

By: ERI Riverside Parc II, Inc., an Alabama  
corporation

Its: General Partner


By:   
Name: Jack Fiorella III  
Its: President

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Jack Fiorella III, whose name as President of ERI Riverside Parc II, Inc., an Alabama corporation, the General Partner of CMS/Riverside Parc, L.P., a Delaware limited partnership, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of ERI Riverside Parc II, Inc., on behalf of CMS/Riverside Parc, L.P.

Given under my hand and official seal this 21<sup>st</sup> day of November, 2008.

[SEAL]


  
Notary Public  
My Commission Expires: 06-03-2012

Notary Public, Alabama, State at Large  
My Commission Expires June 3, 2012

Prepared by:  
Jeffrey T. Powell, Esq.  
Walston, Wells & Birchall, LLP  
1819 Fifth Avenue North, Suite 1100  
Birmingham, AL 35203  
(205) 244-5200



**EXHIBIT A**

  
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All that certain land situated in the County of Jefferson, Alabama and County of Shelby, Alabama, and being more particularly described as follows:

**PHASE I:**

**PARCEL I:**

Lot 15, Cahaba Park South, 1<sup>st</sup> Addition as recorded in Map Book 153, page 49, in the Probate Office of Jefferson County, Alabama; being situated in Jefferson County, Alabama.

**PARCEL II:**

Lot B, Cahaba Park South, 1<sup>st</sup> Addition, Resurvey No. 1 as recorded in Map Book 159, page 15, in the Probate Office of Jefferson County, Alabama, being situated in Jefferson County, Alabama.

**PARCEL III: (Signage Easement)**

A non-exclusive easement to construct and maintain signage on a structure not exceeding fourteen feet in height and eight feet in width on the 10' by 10' easement for signage in the Southwestern corner of Lot 13-D, as shown on Resurvey No. 2 of Cahaba Park South, recorded in Map Book 13, page 57, in the Probate Office of Shelby County, Alabama.

**PHASE II:**

**PARCEL IV:**

Lot A, Cahaba Park South, 1<sup>st</sup> Addition Resurvey No. 1 as recorded in Map Book 159, page 15, in the Probate Office of Jefferson County, Alabama.

**PARCEL V:**

A 30.00 foot wide easement for ingress and egress across Parcel I (also described in Lot 15, according to the plat of Cahaba Park South 1<sup>st</sup> Addition), 15.00 feet each side of the following described centerline, situated in the Southwest Quarter of the Southwest Quarter of Section 25, Township 18 South, Range 2 West, Jefferson County, Alabama.

Commence at the Southeast corner of said Southwest Quarter of the Southwest Quarter; thence West along the South line of said Southwest Quarter of the Southwest Quarter a distance of 350.21 feet to the East right of way line of Cahaba Park Circle said point being the P.C. (point of curve) of a curve to the left having a central angle of 69 degrees 38 minutes 34 seconds and a radius of 195.00 feet; thence turn 90 degrees 00 minutes to the right (angle measured to tangent) and run Northwesterly and along the arc of said curve a distance of 237.02 feet to a point on said right of way of said Cahaba Park Circle, said point being the point of beginning of said centerline of said easement; thence turn 90 degrees 00 minutes to the P.C. (point of curve) of a curve to the right having a central angle of 18 degrees 46 minutes 09 seconds and a radius of 118.77 feet; thence turn 109 degrees 38 minutes 13 seconds to the left (angle measured to tangent) and run Westerly and along the arc of said curve and said centerline of an easement a distance of 38.91 feet to the P.T. (point of tangent); thence continue Westerly

*[Exhibit A continued on the following page]*

**Exhibit A - Continued**

and tangent to said curve a distance of 35.13 feet to the P.C. (point of curve) of a curve to the right having a central angle of 30 degrees 22 minutes 29 seconds and a radius of 75.00 feet; thence Northwesterly and along the arc of said centerline a distance of 39.76 feet to the P.T. (point of tangent); thence continue Northwesterly and tangent to said curve a distance of 129.03 feet to a point; thence turn 44 degrees 58 minutes 22 seconds to the left and run Westerly a distance of 43.35 feet to a point on the Westerly line of Lot 15, Cahaba Park South 1<sup>st</sup> Addition and end of said centerline; being situated in Jefferson County, Alabama.

**OTHER INTERESTS:**

**PARCEL VI:**

Detention pond drainage access easement as set forth in that certain Agreement dated August 7, 1985, by and among Investment Southeastern, Ltd., Kovach-Eddleman Properties, and 280 Associates, Ltd.; as recorded in Real 2748, Page 377, in the Probate Office of Jefferson County, Alabama, and as further recorded in Real 38, Page 71 in the Probate Office of Shelby County, Alabama.

**PARCEL VII:**

Non-exclusive access easement as set forth in that certain Reciprocal Easement Agreement dated August 7, 1985, by and among Investment Southeastern, Ltd., Kovach-Eddleman Properties, and 280 Associates, Ltd.; as recorded in Real 2748, Page 384, in the Probate Office of Jefferson County, Alabama, and as further recorded in Real 38, Page 59, in the Probate Office of Shelby County, Alabama.



**Exhibit B**

1. Taxes and assessments for the year 2009 and subsequent years, not yet due and payable.
2. 35 foot building line, as shown by map recorded in Map Book 159, page 15, and by map recorded in Map Book 153, page 49 in the Probate Office of Jefferson County, Alabama (the "Jefferson Probate Office"), as shown on the survey dated February 1999 and last revised on August 22, 2008, prepared by Jon P. Strength, Registered Surveyor, Gonzalez-Strength & Associates, Inc. as Job No. 25967 (the "Survey") (Parcels I, II and IV).
3. 15 foot easement along North, East and West and 20 foot sanitary sewer easement, as shown by map recorded in Map Book 159, page 15, in the Jefferson Probate Office, as shown on the Survey (Parcel IV).
4. 15 foot Utility easement along East side of lot, as shown on the recorded Map of Cahaba Park South, 1<sup>st</sup> Addition in Map Book 153, page 49, as recorded in the Jefferson Probate Office, as shown on the Survey (Parcel I).
5. 30 foot easement for ingress and egress traversing a southwest portion of the subject property as shown by map recorded in Map Book 159, page 15, in the Jefferson Probate Office, as shown on the Survey (Parcel IV).
6. Restrictions and covenants as contained in Covenant and Agreement recorded in Real 2602, page 506; amended by Real 2694, page 853, and Real 2756, page 661, re-filed in Real 2897, page 702 in the Jefferson Probate Office (Parcels I, II & IV).
7. Agreement between Investment Southeastern, Ltd., a Georgia limited partnership, and Kovach-Eddleman Properties, an Alabama general partnership, and 280 Associates, Ltd., an Alabama limited partnership, as set forth in Real 2748, page 377, as recorded in the Jefferson Probate Office, and Real 38, page 71, as recorded in the Probate Office of Shelby County, Alabama (the "Shelby Probate Office") (Parcels I, II & IV). Note: The subject property is included in property described in Exhibit "C" to such documents.
8. Reciprocal Easement Agreement, as set forth in Real 2748, page 384, as recorded in the Jefferson Probate Office, and Real 38, page 59, as recorded in the Shelby Probate Office, and as shown on the Survey (Parcels I, II and IV). Note: The subject property is included in property described in Exhibit "C" to the foregoing documents.
9. Rights of way in favor of Alabama Power Company, as set forth in Real 3329, page 366, as recorded in the Jefferson Probate Office, as shown on the Survey (Parcel IV).
10. Restrictions, covenants and conditions as to Signage Easement as set forth in Real 248, page 45, Real 248, page 62, Real 248, page 69 and Real 309, page 715, as recorded in the Shelby Probate Office (Parcel III).
11. Right of way in favor of Alabama Power Company, as set forth in Real 284, page 169, as recorded in the Shelby Probate Office, as shown on the Survey (Parcel IV).



12. The rights of upstream and downstream riparian owners with respect to any body of water which may lie adjacent to, and/or traversing through, the subject property and as set out and delineated on the Survey (Parcels I, II and IV).
13. The rights of tenants in possession, as tenants only, under prior unrecorded residential apartment leases.
14. Oil, Gas and Sulphur and rights relating thereto, as reserved in Volume 3597, page 112, as recorded in the Jefferson Probate Office (Parcels I, II & IV).
15. Permanent Right-of-Way Deed for Sanitary Sewer Pipelines and Lift Station, as recorded in Instrument No. 200511/8139 in the Jefferson Probate Office.
16. Mortgage and Security Agreement dated August 22, 2005, from CMS/Riverside Parc, L.P., a Delaware limited partnership, to JPMorgan Chase Bank, N.A. in the original principal amount of \$20,000,000.00 and recorded August 23, 2005, in the Jefferson Probate Office as Instrument No. 200511/8159 and the Shelby Probate Office as Instrument No. 20050823000433340. Assigned to Wells Fargo Bank, N.A., as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Pass-Through Certificates, Series 2005-CIBC13 by Assignment of Mortgage and Security Agreement and Assignment of Leases and Rents, dated November 29, 2005 and recorded March 11, 2006 in the Jefferson Probate Office as Instrument No. LR200605, Page 437 and on August 22, 2006 in the Shelby Probate Office as Instrument No. 20060822000410380.
17. Assignment of Leases and Rents dated August 22, 2005, from CMS/Riverside Parc, L.P., a Delaware limited partnership, to JPMorgan Chase Bank, N.A., recorded August 23, 2005, in the Jefferson Probate Office as Instrument No. 200511/8163 and the Shelby Probate Office as Instrument No. 20050823000433350. Assigned to Wells Fargo Bank, N.A., as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Pass-Through Certificates, Series 2005-CIBC13 by Assignment of Mortgage and Security Agreement and Assignment of Leases and Rents, dated November 29, 2005 and recorded March 11, 2006 in the Jefferson Probate Office as Instrument No. LR200605, Page 437 and on August 22, 2006 in the Shelby Probate Office as Instrument No. 20060822000410380.
18. UCC Financing Statement dated August 22, 2005, from CMS/Riverside Parc, L.P., a Delaware limited partnership to JPMorgan Chase Bank, N.A., recorded August 23, 2005, in the Jefferson Probate Office as Instrument No. 200511/8165 and the Shelby Probate Office as Instrument No. 20050823000433360. Assigned to Wells Fargo Bank, N.A., as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Pass-Through Certificates, Series 2005-CIBC13, recorded March 11, 2006 in the Jefferson Probate Office as Instrument No. LR200605, Page 440 and on August 22, 2006 in the Shelby Probate Office as Instrument No. 20060822000410430.
19. All matters set forth and depicted on the Survey, including, without limitation, the encroachment of buildings onto a 20 foot sanitary sewer easement.