

Pursuant to § 40-22-2 of the Code of Alabama, the recording tax of \$30,000 on the maximum principal indebtedness of the Mortgage was paid to the Office of the Judge of Probate of St. Clair County, Alabama, upon the original recordation of the Mortgage.

THIS DOCUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:

Thomas G. Amason III
Balch & Bingham LLP
P.O. Box 306
Birmingham, Alabama 35201
(205) 251-8100

orig. ← 2009 121 6000 454 450
Mort. ① 2009 121 0000 454 460
② 2009 121 0000 454 470
③ 2009 121 0000 454 480
④ 2009 121 0000 454 490
⑤ 2009 121 0000 454 500
⑥ 2009 121 0000 454 510
⑦ 2009 121 0000 454 520
⑧ 2009 121 0000 454 530
⑨ 2009 121 0000 454 540
⑩ 2009 121 0000 454 550
⑪ 2009 121 0000 454 560

STATE OF ALABAMA

COUNTIES OF ST. CLAIR, JEFFERSON, MADISON AND SHELBY

TWELFTH AMENDMENT TO MORTGAGE

AND AMENDMENT TO LOAN DOCUMENTS

This Twelfth Amendment to Mortgage (this “**Amendment**”) is made this 29 day of January, 2010, by and between **COMPASS BANK**, an Alabama banking corporation (the “**Lender**”), and **HPH PROPERTIES, LLC**, an Alabama limited liability company (the “**HPH**”), **MMM PROPERTIES, LLC**, an Alabama limited liability company (“**MMM**”) and **BENT RIVER, LLC**, an Alabama limited liability company (“**Bent River**”).

WHEREAS, HPH is the Mortgagor and Borrower under a certain Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated as of June 21, 2007, and recorded in Mortgage Book 2007, Page 38473 in the Probate Office of St. Clair County, Alabama and recorded in the Probate Office of Jefferson County, Alabama in Book LR200802, Page 11489 (Instrument Number 20080207000179770) and recorded in the Probate Office of Madison County, Alabama as Instrument Number 20080220000106100 and recorded in the Probate Office of Shelby County as Instrument Number 20091210000454450 (the “**Mortgage**”). HPH and Lender are party to that certain Promissory Note dated as of June 21, 2007 in the original principal amount of \$20,000,000.00 (as amended, the “**Note**”) and that certain Master Revolving Line Agreement for Construction Financing dated as of June 21, 2007 (as amended, the “**Loan Agreement**”). In addition to the security provided by the Mortgage, the Note and the obligations of the Loan Documents (as defined in the Mortgage) are secured by the Limited Continuing Guaranties (collectively, the “**Guaranties**”) from R. Clark Parker, Alan C. Howard and B. Curtis Harper, Junior (collectively, the “**Guarantors**”) and the Completion Guaranties (the “**Completion Guaranties**”) of Alan C. Howard, Clark Parker, B. Curtis Harper, Jr. and David Bonamy (the “**Completion Guarantors**”).

WHEREAS, Lender, HPH, MMM and Bent River have agreed to amend the Mortgage, the Note and the Loan Agreement as set forth herein.



20100222000051650 1/7 \$42.00
Shelby Cnty Judge of Probate, AL
02/22/2010 10:59:43 AM FILED/CERT

WHEREAS, HPH, MMM and Bent River are hereinafter called the “**Borrower**”, whether one or more.

WHEREAS, Lender and Borrower have agreed to further modify the Loan, and to further amend the Loan Documents as set forth herein. Capitalized terms not defined herein shall have the meaning ascribed to them in the Loan Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual agreements of the parties as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows:

Amendment of Mortgage. The Mortgage is hereby amended as follows.

1. The real property described on Exhibit A of this Amendment shall be added to Exhibit A of the Mortgage.
4. The permitted exceptions referenced on Exhibit B of this Amendment shall be added to Exhibit B of the Mortgage.
5. It is intent of the Borrower to hereby grant, bargain, sell, alien and convey unto the Lender, its successors and assigns, the land, real estate, estates, buildings, improvements, fixtures, furniture, and personal property described on Exhibit A to the Mortgage as amended hereby and as further amended.
6. Each of MMM, HPH and Bent River agree and understand that all of the indebtedness evidenced by the Note, the Other Indebtedness, and the performance of the terms of the Loan Documents is secured by the Mortgaged Property, as amended hereby.
7. It is expressly understood and agreed that any officer, member or manager of any one or more of HPH, MMM and Bent River is and shall be authorized to request advances for and on behalf of one or more of the Borrower and the Borrower shall be jointly and severally liable for, inter alia, (i) all advances made to or on behalf of any one or more of the Borrower and (ii) all other advances and amounts, interest, charges and expenses due under or in connection with the Mortgage or any of the other Loan Documents.
8. The Mortgage (as amended by this Amendment and as it may be further amended with or without record notice of such amendment) shall continue to secure the indebtedness described in the Mortgage, with the same priority of lien as the Mortgage as originally recorded. The execution and delivery of this Amendment, or of any subsequent amendment of the Mortgage, shall not impair, reduce or subordinate, in whole or in part, the priority of the Mortgage.
9. Except as modified herein, all other terms and conditions of the Mortgage shall remain in full force and effect.

[Signatures appear on following page.]

IN WITNESS WHEREOF, Borrower and Lender have caused this Amendment to be executed as of the day and year first set forth above.

LENDER:

WITNESS:

COMPASS BANK,
an Alabama banking corporation

Katie Gifford

By: [Signature]
Its: SE VICE President

BORROWER:

WITNESS:

HPH PROPERTIES, LLC,
an Alabama limited liability company

Ashley Ray

By: [Signature]
Its: Managing member

WITNESS:

MMM PROPERTIES, LLC,
an Alabama limited liability company

Ashley Ray

By: [Signature]
Its: Managing member

WITNESS:

BENT RIVER, LLC,
an Alabama limited liability company

Ashley Ray

By: [Signature]
Its: Member



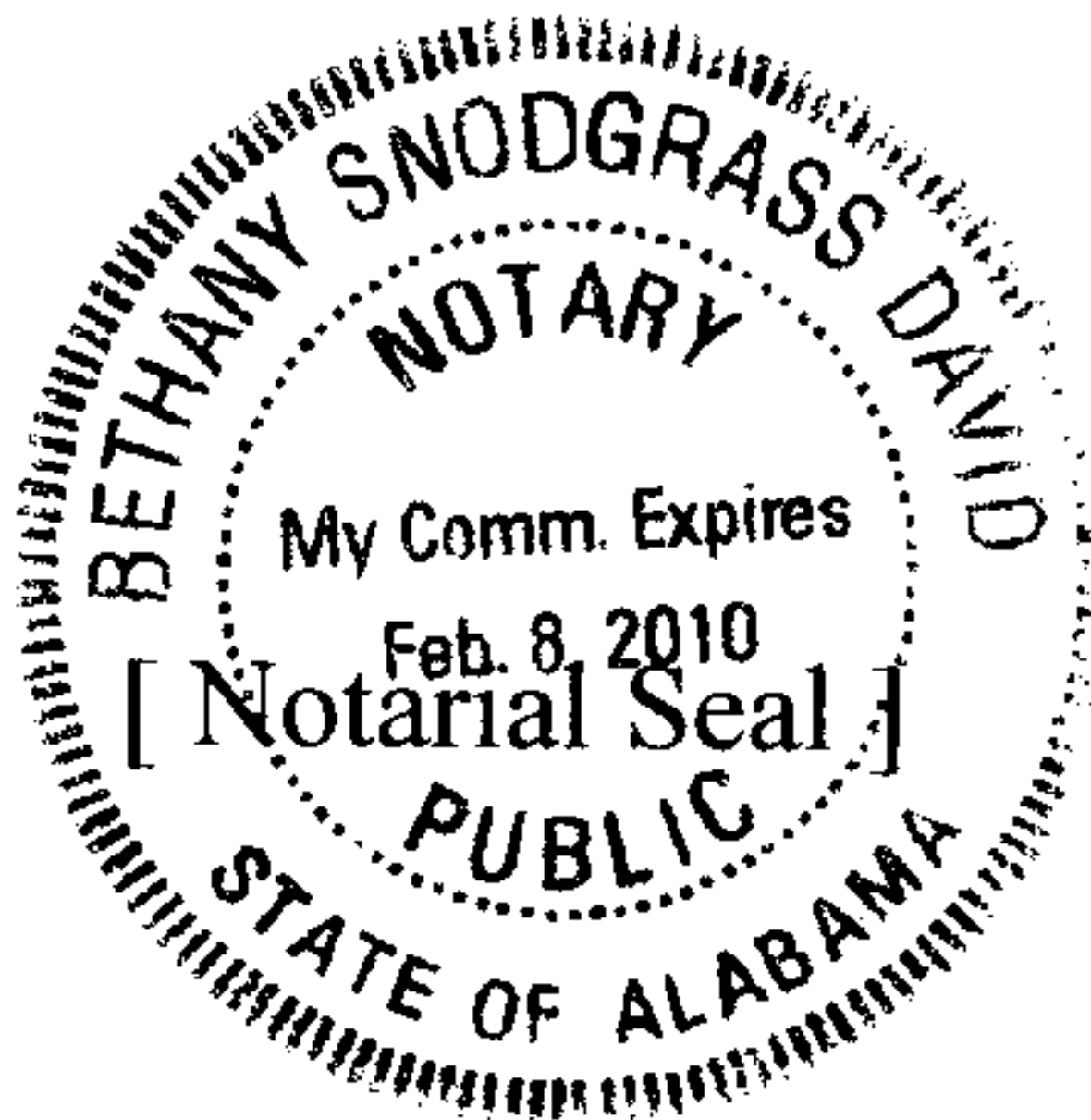
20100222000051650 3/7 \$42.00
Shelby Cnty Judge of Probate, AL
02/22/2010 10:59:43 AM FILED/CERT

STATE OF ALABAMA

COUNTY OF Shelby

I, Bethany Snodgrass David, a notary public in and for said county in said state, hereby certify that Alan Howard, whose name as Member of HPH 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 Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 29 day of January, 2010.



Bethany Snodgrass David
Notary Public

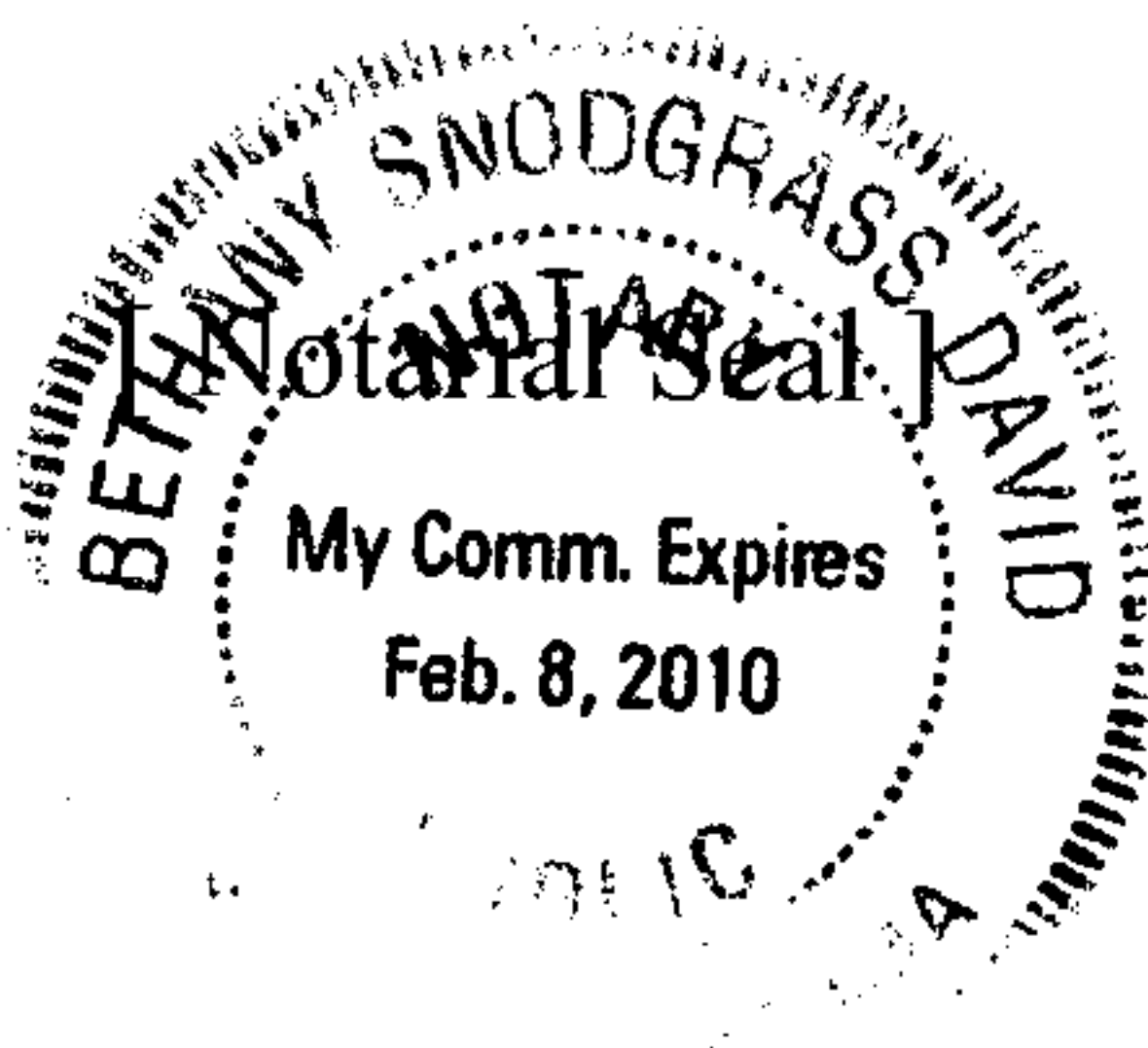
My Commission Expires: February 8, 2010

STATE OF ALABAMA

COUNTY OF Shelby

I, Bethany Snodgrass David, a notary public in and for said county in said state, hereby certify that Alan Howard, whose name as Member of MMM 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 Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 29 day of January, 2010.



Bethany Snodgrass David
Notary Public

My Commission Expires: February 8, 2010



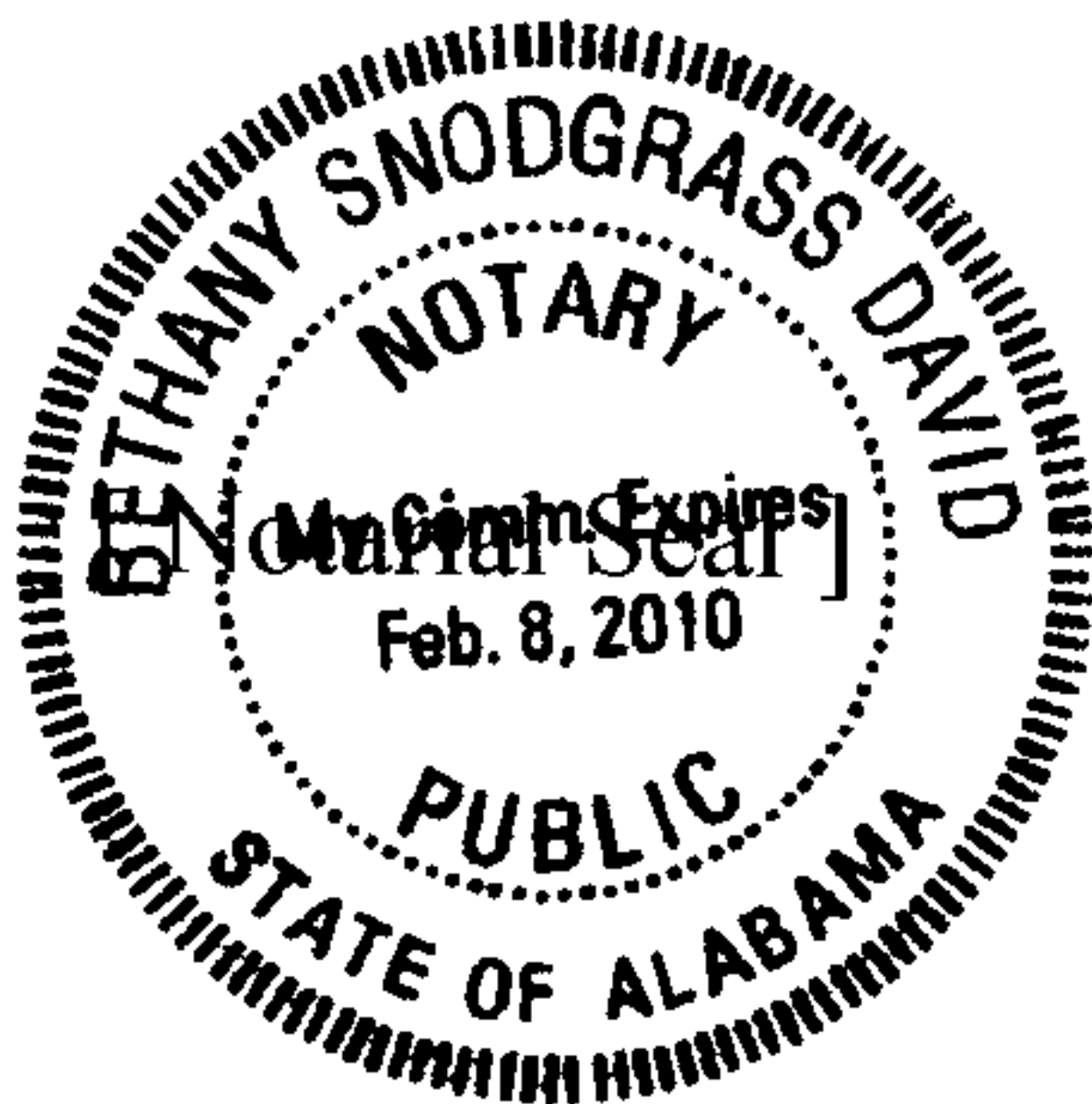
20100222000051650 4/7 \$42.00
Shelby Cnty Judge of Probate, AL
02/22/2010 10:59:43 AM FILED/CERT

STATE OF ALABAMA

COUNTY OF Shelby

I, Bethany Snodgrass David, a notary public in and for said county in said state, hereby certify that Alan Howard, whose name as Member of BENT RIVER, 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 Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 29 day of January, 2010.



Bethany Snodgrass David
Notary Public

My Commission Expires: February 8, 2010

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, April C Price, a notary public in and for said county in said state, hereby certify that Ben Hendrix, whose name as Senior Vice President of **COMPASS BANK**, an Alabama banking corporation, 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, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 29th day of January, 2010.

April C Price
Notary Public

[Notarial Seal]

My Commission Expires: 11/20/2011



20100222000051650 5/7 \$42.00
Shelby Cnty Judge of Probate, AL
02/22/2010 10:59:43 AM FILED/CERT

EXHIBIT A

DESCRIPTION OF MORTGAGED PROPERTY

IV. Shelby County:

Lot 53, according to the Final Plat for Bent River - Phase IV, as recorded in Map Book 41, Page 64 A & B, in the Probate Office of Shelby County, Alabama.



20100222000051650 6/7 \$42.00
Shelby Cnty Judge of Probate, AL
02/22/2010 10:59:43 AM FILED/CERT

EXHIBIT B

PERMITTED EXCEPTIONS

Lot 53, according to the Final Plat for Bent River - Phase IV, as recorded in Map Book 41, Page 64 A & B, in the Probate Office of Shelby County, Alabama is subject to the following "Permitted Exceptions":

Easement(s) and Building Line(s) as shown on recorded plat, in Map Book 41, page 64 in the Probate Office of Shelby County, Alabama.

Sewer and Utility Easement as set forth in Instrument No. 2003-71329 in the Probate Office of Shelby County, Alabama.

Rights of utilities in and to that certain parcel of land which is a vacated right of way as set forth in Instrument No. 20050330000145520 and Instrument No. 20050208000064200 in the Probate Office of Shelby County, Alabama.

Restrictions as set forth in Book 153, Page 395; Book 160, Page 495; Book 182, Page 1; Misc. 2, Page 298; Misc Book 16, Page 768; Book 3, Page 717; Book 5, Page 815; Deed Book 277, Page 204 and Misc Book 22, Page 589 in the Probate Office of Shelby County, Alabama.

Right of way granted to Alabama Power Company as set forth in Book 114, Page 134; Instrument No. 200406/4814 (Jefferson County); Deed Book 225, Page 979; Deed Book 129, Page 572; Deed Book 216, Page 103 and Deed Book 219, Page 734 in the Probate Office of Shelby County, Alabama.

Right of way granted to South Central Bell Telephone Company as set forth in Deed Book 320, Page 928 in the Probate Office of Shelby County, Alabama.

Agreement with Plantation Pipeline as set forth in Deed Book 145, Page 275 in the Probate Office of Shelby County, Alabama.

Right of way granted to Shelby County as set forth in Deed Book 177, Page 38 in the Probate Office of Shelby County, Alabama.

Easement with Restrictive Covenants granted to Alabama Power Company as set forth in Book LR200812, Page 1625 in the Probate Office of Jefferson County, Alabama.

Right of way granted to Jefferson County as set forth in Instrument No. 20080725000301320 in the Probate Office of Shelby County, Alabama.



20100222000051650 7/7 \$42.00
Shelby Cnty Judge of Probate, AL
02/22/2010 10:59:43 AM FILED/CERT