

Prepared by: Frederick S. Armstrong  
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
One Financial Center  
Boston, MA 02111

## PARTIAL RELEASE OF RESTRICTIVE COVENANT

This **PARTIAL RELEASE OF RESTRICTIVE COVENANT** (this "Release") is made this 11 day of May, 2010 by **Jerry W. Huff and Martha Huff** as joint tenants with right of survivorship (the "Huffs"); **Alejandro Chavez**, individually ("Chavez"); **National Retail Properties, LP**, a Delaware limited partnership ("National Retail"); all to be indexed as both Grantor and Grantee. **The Pantry, Inc.**, a Delaware corporation ("The Pantry"), joins this Release solely to evidence its consent hereto.

### RECITALS:

A. By Deed dated May 6, 1999 recorded with the Shelby County, Alabama, Judge of Probate (the "Land Records") as Instrument Number 1999-19807, Jerry W. Huff ("Jerry Huff") became the owner of that certain parcel of real property described therein (the "Original Parcel").

B. By Deed (the "Chavez Deed") dated April 30, 2007 recorded with the Land Records as Instrument Number 20070504000207590, Jerry Huff conveyed to Chavez a portion of the Original Parcel described on Exhibit "A" hereto and made a part hereof (the "Chavez Parcel"); the Chavez Deed conveyed the Chavez Parcel subject to the restrictions set forth in the DRC, as defined below.

C. The Original Parcel, less the Chavez Parcel and another portion of the Original Parcel conveyed to Arcwall, LLC by deed dated February 15, 2007 recorded with the Land Records as Instrument Number 20070222000080700, is hereinafter referred to as the "Huff Parcel".

D. By Declaration of Restrictive Covenant (the "DRC") made by Jerry Huff and Jerry's Kwikshop of Columbiana, Inc., dated March 26, 2007, and recorded with the Land Records as Instrument Number 20070410000165050, Jerry Huff agreed to restrict the future use of the Chavez Parcel and the portion of the Huff Parcel described on Exhibit "B" hereto and made a part hereof, as set forth in Section 1 of the DRC (the "DRC Restriction").

E. The DRC Restriction runs in favor of the parcel located at 21195 Highway 25, Columbiana, Alabama (the "Benefitted Parcel"). The Benefitted Parcel was conveyed to National Retail by Deed dated January 18, 2007 and recorded with the Land Records as Instrument Number 20070125000039620. The Benefitted Parcel was leased to The Pantry by a Lease Agreement dated January 18, 2007, a Memorandum of which is recorded with the Land Records as Instrument Number 20070125000039630.

F. By Deed by and between Jerry Huff, as grantor, and the Huffs as joint tenants with right of survivorship, as grantee, dated February 21, 2010, and recorded with the Land Records as Instrument Number 20100421000122230, Jerry Huff conveyed the Huff Parcel subject to the restrictions set forth in the DRC.

G. The parties hereto, in order to facilitate the development of the Huff Parcel and the Chavez Parcel (collectively, the "Parcels"), desire to release and declare unenforceable those particular restrictions affecting the Parcels that may, directly or indirectly, affect the use of the Parcels for the purposes of building and operating a drug store and/or pharmacy, such as those owned and operated by CVS Caremark Corporation ("CVS") or one of its subsidiaries or affiliates, or their successors or assigns, in



exchange for a lump sum cash payment in the amount of Forty Thousand (\$40,000.00) Dollars payable to The Pantry at the time of the closing of the conveyance of the Parcels to CVS or one of its subsidiaries or affiliates, and subject to those conditions listed below.

**RELEASE:**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. The parties hereby release and declare unenforceable the portions of the DRC Restriction which would prohibit the use of the Parcels for the operation of a drug store and/or pharmacy which engages in the retail sale of cigarettes, but not the sale of any alcoholic beverages or beer for off-premises consumption, as follows: the Parcels may be used for the operation of a drug store and/or pharmacy, such as those owned and operated by CVS or one of its subsidiaries or affiliates, or their successors and assigns, including the retail sale of food or food-related products and the retail sale of cigarettes, but not the sale of alcoholic beverages or beer for off-premises consumption (a "Drug Store"). The use of the Parcels for the operation of a Drug Store shall not be considered to have terminated unless and until such use has been abandoned for a continuous period of twelve (12) months or more by some reason other than a force majeure event. The parties hereby agree to relinquish all of their respective rights and privileges of enforcement of the DRC Restriction (excluding the retail sale of alcoholic beverages, including beer, for off-premises consumption, the retail sale of gasoline, and the operation of a car wash or convenience store) against the owner(s) of the Parcels so long as the Parcels are used for the operation of a Drug Store as described above. Notwithstanding the foregoing sentence, the operation of a Drug Store as described above shall not be deemed to be the operation of a "convenience store" as described in the DRC.


2. This Agreement represents the entire understanding of the parties with respect to the matters set forth herein and all prior agreements and representations are superseded hereby.

3. The parties agree that this Release may not be modified or amended, in whole or in part, or terminated, unless by written consent of the parties hereto (or their successors and/or assigns) and all record owners of the Parcels, which consent shall be evidenced by a document that has been fully executed and acknowledged by all such parties and recorded in the Land Records.

4. This Release shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns and the successors, grantees, heirs, and personal representatives of the owners of the Parcels and the Benefitted Parcel.

**IN WITNESS WHEREOF**, the parties have executed this Release as of the date first set forth above.

*(Signature pages follow)*

  
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Shelby Cnty Judge of Probate, AL  
05/19/2010 12:28:01 PM FILED/CERT

Jerry W. Huff  
Jerry W. Huff

Martha Huff  
Martha Huff

STATE OF ALABAMA )

COUNTY OF SHELBY )

I, James H. Strickland, Jr., a Notary Public in and for said county in said state, hereby certify that **Jerry W. Huff**, 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 the instrument, he executed the same voluntarily.

Given under my hand this 26<sup>th</sup> day of April, 2010.

James H. Strickland, Jr.  
Notary Public  
My commission expires: May 14, 2011

[NOTARIAL SEAL]

STATE OF ALABAMA )


COUNTY OF SHELBY )

I, James H. Strickland, Jr., a Notary Public in and for said county in said state, hereby certify that **Martha Huff**, 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 the instrument, she executed the same voluntarily.

Given under my hand this 26<sup>th</sup> day of April, 2010.

James H. Strickland, Jr.  
Notary Public  
My commission expires: May 14, 2011

[NOTARIAL SEAL]

  
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Shelby Cnty Judge of Probate, AL  
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Alejandro Chavez  
Alejandro Chavez

STATE OF ALABAMA )

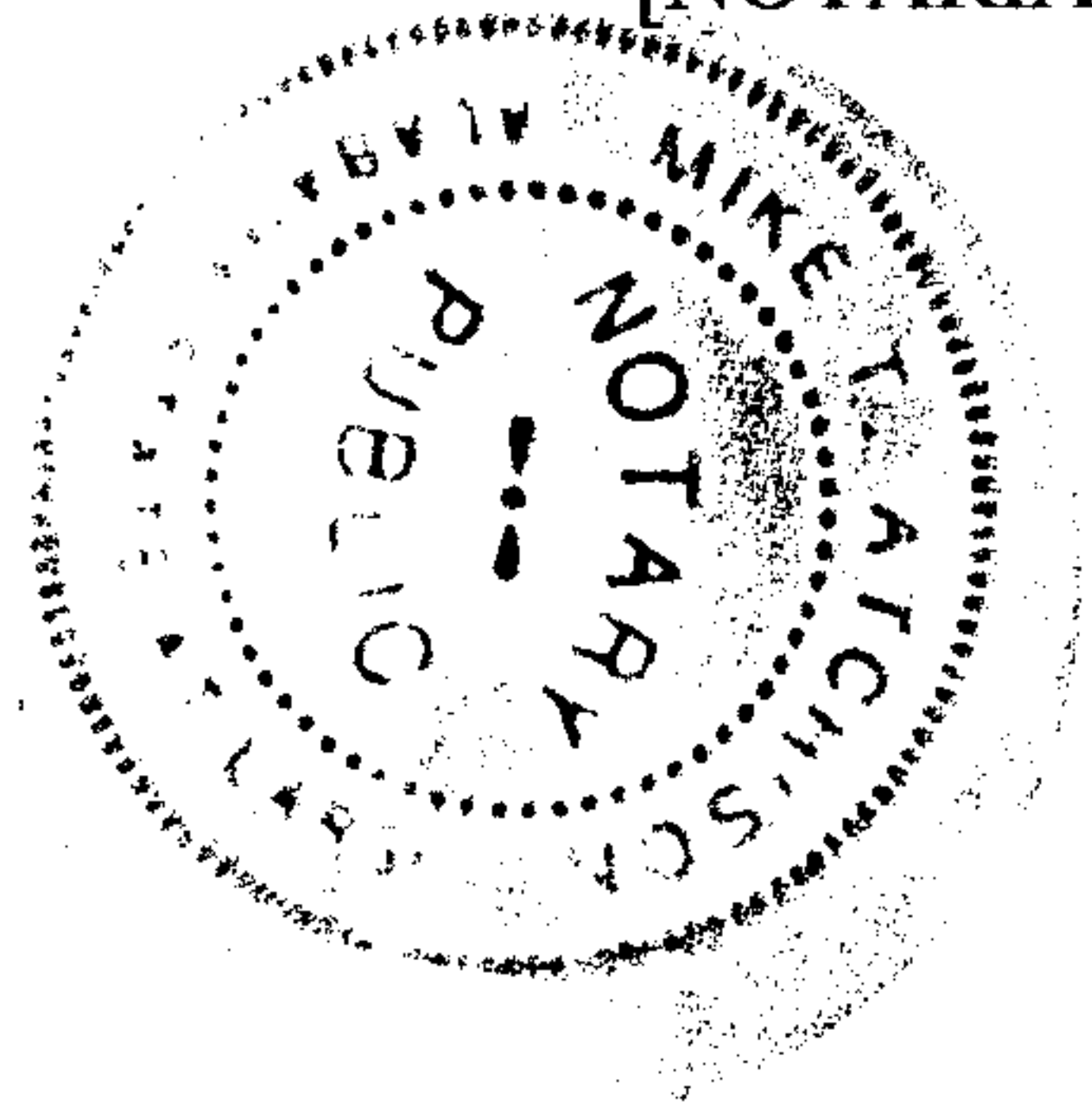
COUNTY OF Shelby )

I, Mike T. Atchison, a Notary Public in and for said county in said state, hereby certify that **Alejandro Chavez**, 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 the instrument, he executed the same voluntarily.

Given under my hand this 27th day of April, 2010

Mike T. Atchison  
Notary Public  
My commission expires: 11-16-12

[NOTARIAL SEAL]



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**National Retail Properties, LP,** <sup>W</sup> <sup>K8</sup>  
a Delaware limited partnership

By: NNN GP Corp., a Delaware corporation,  
as General Partner

By: *Paul E. Bayer*  
Name: Paul E. Bayer  
Title: Executive Vice President

STATE OF FLORIDA )


COUNTY OF ORANGE )

I, **Kella Schaible**, a Notary Public in and for said county in said state, hereby certify that **Paul E. Bayer**, as Executive Vice President of NNN GP Corp., a Delaware corporation, as General Partner of **National Retail Properties, LP**, a Delaware limited partnership, 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 the instrument, and with full authority, executed the same voluntarily for and as the act of said limited partnership.

Given under my hand this 10<sup>th</sup> day of May, 2010.

[NOTARIAL SEAL] 

*Kella Schaible*  
Notary Public  
My commission expires: \_\_\_\_\_

  
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The Pantry, Inc., as tenant of the Benefitted Parcel, hereby consents to the partial release of the Declaration of Restrictive Covenant as described above.

**The Pantry, Inc.**, a Delaware corporation

By: Brian Schenk  
Name: Brian Schenk  
Title: Vice President, Real Estate

STATE OF North Carolina )

COUNTY OF Wake )

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Brian Schenk, whose name as Vice President, Real Estate of **The Pantry, Inc.**, a Delaware 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 the instrument, he/she, as such Vice President, Real Estate and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 11 day of May, 2010.

Rachel R. Solomon  
Notary Public Rachel R. Solomon  
My commission expires: 10-19-10

[NOTARIAL SEAL]



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**Exhibit A**

**Chavez Parcel Description**

**A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, BEING THE SAME LAND DESCRIBED IN A DEED TO JERRY HUFF, RECORDED IN INSTRUMENT NUMBER 1999-19807, OF THE REAL PROPERTY RECORDS OF SHELBY COUNTY, ALABAMA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;**

**COMMENCING AT A 2" IRON PIPE, FOUND AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26;**

**THENCE S 89°18'00" W, ALONG THE NORTH LINE OF SAID SIXTEENTH SECTION, A DISTANCE OF 154.95 FEET TO THE POINT OF BEGINNING;**

**THENCE S 03°59'34" E, A DISTANCE OF 93.84 FEET TO A POINT;**

**THENCE N 64°15'03" W, A DISTANCE OF 142.75 FEET TO POINT ON THE WEST RIGHT-OF-WAY OF STATE HIGHWAY NO. 25;**

**THENCE N 25°41'20" E, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 106.12 FEET TO A POINT;**

**THENCE S 76°46'02" E, A DISTANCE OF 74.28 FEET TO A POINT;**

**THENCE S 03°59'34" E, A DISTANCE OF 47.95 FEET TO THE POINT OF BEGINNING. THE HEREIN DESCRIBED PARCEL CONTAINS 0.291 ACRES OF LAND.**


**SUBJECT TO PARTS OF THE FOLLOWING EASEMENT;**

**AN EASEMENT IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, BEING ACROSS THE LAND DESCRIBED IN A DEED TO JERRY HUFF, RECORDED IN INSTRUMENT NUMBER 1999-19807, OF THE REAL PROPERTY RECORDS OF SHELBY COUNTY, ALABAMA.**

**SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;**

**COMMENCING AT A 2" IRON PIPE, FOUND AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26;**

**THENCE S 89°18'00" W, ALONG THE NORTH LINE OF SAID SIXTEENTH SECTION, A DISTANCE OF 147.25 FEET TO THE POINT OF BEGINNING;**

  
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THENCE S 03°59'34" E, A DISTANCE OF 39.23 FEET TO A POINT;

THENCE S 25°33'55" W, A DISTANCE OF 50.85 FEET TO A POINT ON THE SOUTH LINE OF THE ABOVE DESCRIBED PARCEL;

THENCE N 64°15'03" W, ALONG SAID SOUTH LINE, A DISTANCE OF 15.00 FEET TO POINT;

THENCE N 25°33'55" E, A DISTANCE OF 46.84 FEET TO A POINT;

THENCE N 03°59'34" W, A DISTANCE OF 59.76 FEET TO A POINT;

THENCE N 76°46'02" W, A DISTANCE OF 79.91 FEET, TO A POINT ON THE WEST RIGHT-OF-WAY OF STATE HIGHWAY NO. 25;

THENCE N 25°41'20" E, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 15.36 FEET TO A POINT;

THENCE S 76°46'02" E, A DISTANCE OF 87.65 FEET TO A POINT;

THENCE S 03°59'34" E, A DISTANCE OF 35.54 FEET TO THE POINT OF BEGINNING.



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**Exhibit B**

**Huff Parcel (Portion) Description**

**A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, BEING THE SAME LAND DESCRIBED IN A DEED TO JERRY HUFF, RECORDED IN INSTRUMENT NUMBER 1999-19807, OF THE REAL PROPERTY RECORDS OF SHELBY COUNTY, ALABAMA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT A 2" IRON PIPE, FOUND AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26;**

**THENCE S 89°18'00" W, ALONG THE NORTH LINE OF SAID SIXTEENTH SECTION, A DISTANCE OF 9.20 FEET TO THE POINT OF BEGINNING;**

**THENCE N 01°19'03" W, A DISTANCE OF 215.25 FEET TO AN IRON, FOUND WITH A CAP STAMPED "PARAGON ENG.", ON THE SOUTH RIGHT-OF-WAY OF HIGHWAY 70;**

**THENCE S 89°02'33" W, ALONG THE SOUTH RIGHT-OF-WAY OF HIGHWAY 70, A DISTANCE OF 51.85 FEET TO RAIL ROAD SPIKE, FOUND ON THE RIGHT-OF-WAY FLARE OF HIGHWAY 70 AND STATE HIGHWAY NO. 25;**

**THENCE S 57°18'07" W, ALONG SAID RIGHT-OF-WAY FLARE, A DISTANCE OF 157.27 FEET TO A POINT;**

**THENCE S 25°41'20" W, ALONG THE EAST RIGHT-OF-WAY OF STATE HIGHWAY NO. 25, A DISTANCE OF 73.73 FEET TO A POINT;**

**THENCE S 76°46'02" E, A DISTANCE OF 74.28 FEET TO A POINT;**


**THENCE S 03°59'34" E, A DISTANCE OF 152.50 FEET TO A POINT;**

**THENCE S 00°57'30" E, A DISTANCE OF 10.96 FEET TO AN IRON, FOUND WITH A CAP STAMPED "PARAGON ENG.";**

**THENCE N 85°38'07" E, A DISTANCE OF 141.14 FEET TO A POINT;**

**THENCE N 01°19'03" W, A DISTANCE OF 106.33 FEET TO THE POINT OF BEGINNING. THE HEREIN DESCRIBED PARCEL CONTAINS 1.136 ACRES OF LAND.**

**SUBJECT TO THE FOLLOWING EASEMENT:**

  
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AN EASEMENT IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, BEING ACROSS THE LAND DESCRIBED IN A DEED TO JERRY HUFF, RECORDED IN INSTRUMENT NUMBER 1999-19807, OF THE REAL PROPERTY RECORDS OF SHELBY COUNTY, ALABAMA. SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A 2" IRON PIPE, FOUND AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26;

THENCE S 89°18'00" W, ALONG THE NORTH LINE OF SAID SIXTEENTH SECTION, A DISTANCE OF 9.20 FEET TO THE POINT OF BEGINNING;

THENCE N 01°19'03" W, A DISTANCE OF 215.25 FEET TO AN IRON, FOUND WITH A CAP STAMPED "PARAGON ENG.", ON THE SOUTH RIGHT-OF-WAY OF HIGHWAY 70;

THENCE S 89°02'33" W, ALONG THE SOUTH RIGHT-OF-WAY OF HIGHWAY 70, A DISTANCE OF 51.85 FEET TO RAIL ROAD SPIKE, FOUND ON THE RIGHT-OF-WAY FLARE OF HIGHWAY 70 AND STATE HIGHWAY NO. 25;

THENCE S 57°18'07" W, ALONG SAID RIGHT-OF-WAY FLARE, A DISTANCE OF 28.51 FEET TO A POINT;

THENCE N 89°02'33" E, A DISTANCE OF 61.19 FEET TO A POINT;

THENCE S 01°19'03" E, A DISTANCE OF 307.47 FEET TO A POINT ON THE SOUTH LINE OF THE ABOVE DESCRIBED PARCEL;

THENCE N 03°59'34" E, A DISTANCE OF 152.50 FEET TO A POINT;


THENCE N 85°38'07" E, A DISTANCE OF 15.02 FEET TO A POINT;

THENCE N 01°19'03" W, A DISTANCE OF 106.33 FEET TO THE POINT OF BEGINNING.

SUBJECT TO THE PARTS OF THE FOLLOWING EASEMENT;

AN EASEMENT IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, BEING ACROSS THE LAND DESCRIBED IN A DEED TO JERRY HUFF, RECORDED IN INSTRUMENT NUMBER 1999-19807, OF THE REAL PROPERTY RECORDS OF SHELBY COUNTY, ALABAMA. SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A 2" IRON PIPE, FOUND AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26;

  
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THENCE S 89°18'00" W, ALONG THE NORTH LINE OF SAID SIXTEENTH SECTION, A DISTANCE OF 147.25 FEET TO THE POINT OF BEGINNING;

THENCE S 03°59'34" E, A DISTANCE OF 39.23 FEET TO A POINT;

THENCE S 25°33'55" W, A DISTANCE OF 50.85 FEET TO A POINT;

THENCE N 64°15'03" W, ALONG SAID SOUTH LINE, A DISTANCE OF 15.00 FEET TO POINT;

THENCE N 25°33'55" E, A DISTANCE OF 46.84 FEET TO A POINT;

THENCE N 03°59'34" W, A DISTANCE OF 59.76 FEET TO A POINT;

THENCE N 76°46'02" W, A DISTANCE OF 79.91 FEET, TO A POINT ON THE WEST RIGHT-OF-WAY OF STATE HIGHWAY NO. 25;

THENCE N 25°, 41'20" E, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 15.36 FEET TO A POINT;

THENCE S 76°46'02" E, A DISTANCE OF 87.65 FEET TO A POINT;

THENCE S 03°59'34" E, A DISTANCE OF 35.54 FEET TO THE POINT OF BEGINNING.

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