

500.00 Consideration

1057657



20110610000171460 1/9 \$36.50  
Shelby Cnty Judge of Probate, AL  
06/10/2011 11:04:00 AM FILED/CERT

Shelby County, AL 06/10/2011  
State of Alabama  
Deed Tax: \$.50

---

After recording return to:  
NANCY C. DRUMMOND, ESQUIRE  
4000 Eagle Point Corporate Drive, Suite 180  
Birmingham, Alabama 35242

**DECLARATION OF ACCESS EASEMENT**

**THIS DECLARATION OF ACCESS EASEMENT** (this "Declaration"), made, entered into, dedicated and declared, as of the 3rd day of June, 2011 (the "Effective Date"), by **CHELSEA-SELIG, LLC**, an Alabama limited liability company (the "Declarant").

**STATEMENT OF FACTS.**

**WHEREAS**, Declarant is the owner of certain parcels of real property consisting of Lot 1 and Lot 2 as depicted on the site plan (the "Site Plan"), annexed hereto as **Exhibit "A"**, located in the City of Chelsea, Shelby County, Alabama (collectively, the "Shopping Center"), and as more particularly described on **Exhibit "B"**, annexed hereto; and

**WHEREAS**, Declarant is also the owner of those outparcels lying adjacent to the Shopping Center and labeled as Outparcels #3, #4, #5 and #7 on **Exhibit "A"** (collectively, the "Outparcels"); and

**WHEREAS**, Declarant desires to benefit the **Shopping Center** and the **Outparcels** by burdening **Outparcel #4** for the use, benefit and enjoyment of Declarant and all subsequent owners of fee simple title in and to the Shopping Center and the other **Outparcels**; and

**WHEREAS**, Declarant contemplates that in the future some or all of the other **Outparcels** may be improved, sold or encumbered by mortgages; and

**WHEREAS**, Declarant desires to grant, declare and create an easement for vehicular and pedestrian ingress and egress (the "Access Easement"), as hatched on **Exhibit "A"**, but not parking and as explicitly set forth in this Declaration in order to facilitate an integrated shopping facility and provide for the joint use of curb cuts and driveway areas on and connecting **Outparcel #4**, the other **Outparcels** and the **Shopping Center**, the joint right of vehicular and pedestrian access to, and ingress and egress over, across and between, **Outparcel #4**, the other **Outparcels** and the **Shopping Center**. The Access Easement is more particularly described on **Exhibit "C"** annexed hereto.

**NOW, THEREFORE**, for and in consideration of the benefits accruing to the **Shopping Center**, and the **Outparcels**, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant does hereby subject the **Shopping Center** and the **Outparcels** to the

following easement, covenanting and agreeing that the **Shopping Center** and the **Outparcels** shall be owned, held, leased, transferred, sold, conveyed, occupied, used and mortgaged subject to the terms of this Declaration and in accordance with the following easement:

### **1. PURPOSES.**

The purposes of this Declaration are (a) to ensure the orderly and attractive development and use of the **Shopping Center**, (b) to provide for the orderly and effective construction, installation and maintenance of certain common facilities, and (c) in general, to preserve the aesthetic appearance and economic value of the **Shopping Center** and all improvements constructed on the **Shopping Center** or any portion thereof from time to time. The easement is not intended to, or shall, encroach upon or unreasonably interfere with the use or enjoyment of the **Shopping Center**.

### **2. RUN WITH THE LAND.**

This Declaration and all of the provisions hereof are and shall be a contract respecting land and real covenants running with and appurtenant to the **Shopping Center** and the **Outparcels**, and shall burden and bind the fee simple estate of **Outparcel #4** for the duration of this Declaration, and shall constitute benefits and burdens in accordance with the terms hereof. To that end, this Declaration shall be deemed incorporated in all deeds, leases and conveyances of all or any portion of the **Shopping Center** and the **Outparcels** hereinafter made by Declarant and all owners. Every owner, including every mortgagee, acquiring or holding any interest or estate in the **Shopping Center** and the **Outparcels** or any portion thereof shall take or hold such interest or estate, or the security interest with respect thereto, subject to and with notice of the terms and provisions of this Declaration; and in accepting such interest or estate or security interest with respect to the **Shopping Center** and the **Outparcels** or any portion thereof, such owner shall be bound by and deemed to have assented to this Declaration and all of the terms and provisions hereof regardless of whether (a) the instrument of conveyance refers to this Declaration, or (b) such owner has signed any consent or otherwise consented to this Declaration. The responsibility for the performance of any duty or obligation under this Declaration shall be incidental to the respective ownership of all or any portion of the **Shopping Center** and the **Outparcels**, and shall pass concurrently with the conveyance of the **Shopping Center** and the **Outparcels**, but only as to the portion of the **Shopping Center** and the **Outparcels** owned by an owner. Additionally, the owners may, in their respective discretions, grant the benefit of this Declaration to their respective Mortgagees, tenants, subtenants, guests, licensees, invitees, patrons, employees, customers, agents, independent contractors, contractors and subcontractors of any tier and kind. The Easement shall be unaffected by any change in ownership or use of the **Shopping Center** and the **Outparcels** or any portion thereof, or any demolition, reconstruction, expansion or any other circumstances.

### **3. ACCESS EASEMENT.**

Declarant, as owner of the and the **Shopping Center** and the **Outparcels**, hereby establishes the non-exclusive and perpetual Access Easement on, over and across **Outparcel #4** and on, over and across such driveways as are now or hereafter located on the **Shopping Center** and the **Outparcels**, all for the benefit and use of the **Shopping Center** and the **Outparcels** and the owners, as herein provided. All means of both pedestrian and vehicular ingress and egress on, over and across the Access Easement shall remain free and unimpeded, and the parking of vehicles of any nature in the Access Easement is specifically prohibited. The Access Easement shall function and operate so as to allow the proper usage of the Access Easement for the purposes set forth herein, and the Access Easement shall not prohibit the completion and maintenance of improvements on the **Shopping Center** and **Outparcel #4**, any portion thereof provided that such improvements do not impede the full beneficial usage of the Access Easement.

### **4. GENERAL PROVISIONS.**

**4.1 Amendment.** This Declaration may be amended only as set forth in this Subsection 4.1, and if this Declaration is so amended, such amendment shall be binding upon all owners then or thereafter having or

acquiring any interest in all or any portion of the **Shopping Center** and the **Outparcels**. All amendments to this Declaration shall be in writing and shall only be effective when recorded in the records of the Clerk of Court of Shelby County, Alabama, and neither this Declaration nor any amendment to this Declaration may be changed, waived, discharged or terminated except by instrument signed and delivered by all of the then owners of the **Shopping Center** and the **Outparcels**.

**4.2 Recording and Filing.** A counterpart of this Declaration shall be recorded in the Records, or in such other office as may at the time be provided by the law of the State of Alabama as the proper place for recordation thereof.

**4.3 Waiver.** No consent, acquiescence, abandonment or waiver, express or implied, by any owner to or of any default in the performance of any obligation under this Declaration shall be deemed or construed to be a consent, acquiescence, abandonment or waiver to or of any other default under this Declaration.

**4.4 Interpretation.** In all cases, the covenants and provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant, will best effect the general plan of development and maintenance for the **Shopping Center** and the **Outparcels**. The covenants and provisions shall be liberally interpreted, and if necessary, shall be so extended or enlarged by implication as to make them fully effective.

**4.5 Governing Law.** This Declaration shall be interpreted, construed and enforced in accordance with the laws of the State of Alabama.

**4.6 Severability.** In the event that any provision of this Declaration or the application thereof to any Party or circumstance shall be invalid or unenforceable to any extent, the remainder of this Declaration and the application of such provision to any other Party or circumstance shall not be affected thereby and shall be enforced to the fullest extent permitted by Laws.

**4.7 Headings and Terminology.** The headings contained in this Declaration are for convenience and reference only and in no way define, affect or limit the scope or content of this Declaration. All personal pronouns, if any, used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural; and the plural shall include the singular. All references in this Declaration to any Section or any Subsection shall refer to the corresponding Section or Subsection of this Declaration unless specific reference is made to the articles, paragraphs, sections, subsections or subdivisions of another document or instrument.

**4.8 Maintenance.** For purposes of this Access Easement, the term Maintenance shall mean the performance of all activities necessary or incidental to accomplish the purposes stated in this Declaration, including, without limitation, the right to enter all or any portion of the **Shopping Center** or **Outparcels** for the construction, repair, replacement, cleaning, maintenance and operation of the Access Easement. Maintenance includes, without limitation, collectively, keeping the areas of the Access Easement free of all obstructions at all times, except in the event of emergencies; sweeping, cleaning and removing all trash, debris and snow; emptying all trash from receptacles; landscaping maintenance, mowing, irrigation, fertilization, strawing, planting, replanting and replacing flowers, trees, shrubs and grass; resurfacing, patching, sealcoating, repairing, replacement and striping of paved surfaces; maintenance and illumination of traffic control devices, signs and other markings; maintenance and illumination of lights and light standards; and all other functions necessary or desirable for the proper maintenance, upkeep and operation of the Access Easement.

**4.9 Maintenance of Access Easement.** The owner of **Outparcel #4** shall perform all necessary maintenance to such portion or portions of the Access Easement, and if the owner of **Outparcel #4** fails to do so within a reasonable time, then the owners of the Shopping Center shall perform said maintenance. Maintenance performed shall be sufficient to keep such portion or portions of the Access Easement usable, in good condition and in a good state of repair, and shall include rebuilding as necessary. The rights under this Declaration shall

include the right to perform maintenance, including, without limitation, the right of reasonable access, ingress and egress to, from, on, over and under the **Shopping Center** and the **Outparcels** for the purpose of installing, servicing and providing maintenance for and to the Access Easement. The owners of the **Shopping Center** and the **Outparcels** shall cooperate fully with each other in good faith in all regards to insure the proper use and enjoyment of the Access Easement. Maintenance shall be performed expeditiously in a first-class workmanlike manner, and the owner performing maintenance shall promptly pay all costs associated therewith and shall not allow any lien or encumbrance to affect or encumber the **Shopping Center** or any of the **Outparcels** as a result thereof, and maintenance shall be carried out in such manner as to cause the least amount as may be reasonably possible, of interruption or inconvenience to any business operations conducted on the **Shopping Center** or the **Outparcels** or to the use of any of the Access Easement. The owner so obligated to perform such maintenance shall indemnify and hold harmless all of the other owners from and against any and all losses, damages and expenses, including reasonable attorney's fees and costs, arising out of or related to such maintenance. Promptly upon completion of any maintenance, the area affected thereby shall be promptly restored by the owner performing the maintenance to substantially the same condition as existed prior to the effectuation of such maintenance.

**4.10 Expense of Obligations.** Wherever this Declaration imposes any obligation upon an owner of the **Shopping Center** or **Outparcel #4**, such owner may cause such obligation to be performed by an agent or independent contractor, but such owner shall be responsible for the performance of such obligation, which performance shall be at the equal expense of the owners of the **Shopping Center** and **Outparcel #4**.

**4.11 Time of Essence.** Time is of the essence of this Declaration.

**4.12 Entire Agreement.** This Declaration contains the sole and entire agreement of Declarant with respect to the matters contemplated hereunder, and no representation, inducement, promise or agreement, oral or written, not incorporated herein shall be of any force or effect.

IN WITNESS WHEREOF, Declarant has executed and delivered this Declaration under seal as of the day and year first written.

**"DECLARANT"**

**CHELSEA-SELIG, LLC,**  
an Alabama limited liability company

By: **SELIG ENTERPRISES, INC.,**  
a Georgia corporation, its Manager

By:  (L.S.)  
William J. Dawkins,  
Senior Vice President and Secretary

(CORPORATE SEAL)

**STATE OF GEORGIA**

**COUNTY OF FULTON**

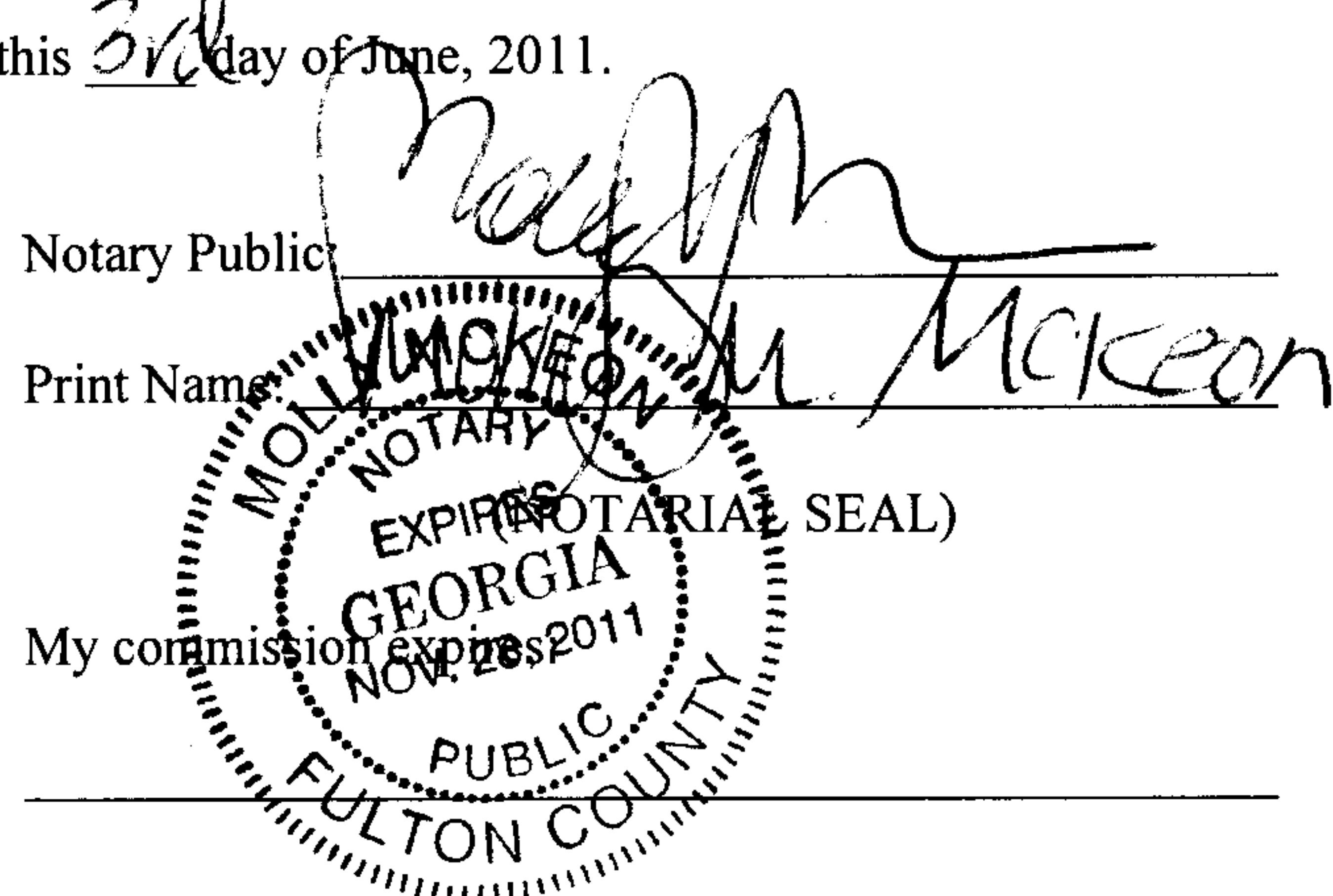
I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that **William J. Dawkins**, whose name as Senior Vice President and Secretary of **Selig Enterprises, Inc.**, a Georgia corporation, as Manager of **Chelsea-Selig, LLC**, an Alabama limited liability company, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as Manager of said limited liability company as aforesaid.

GIVEN under my hand and official seal this 3rd day of June, 2011.

Notary Public

Print Name

My commission expires



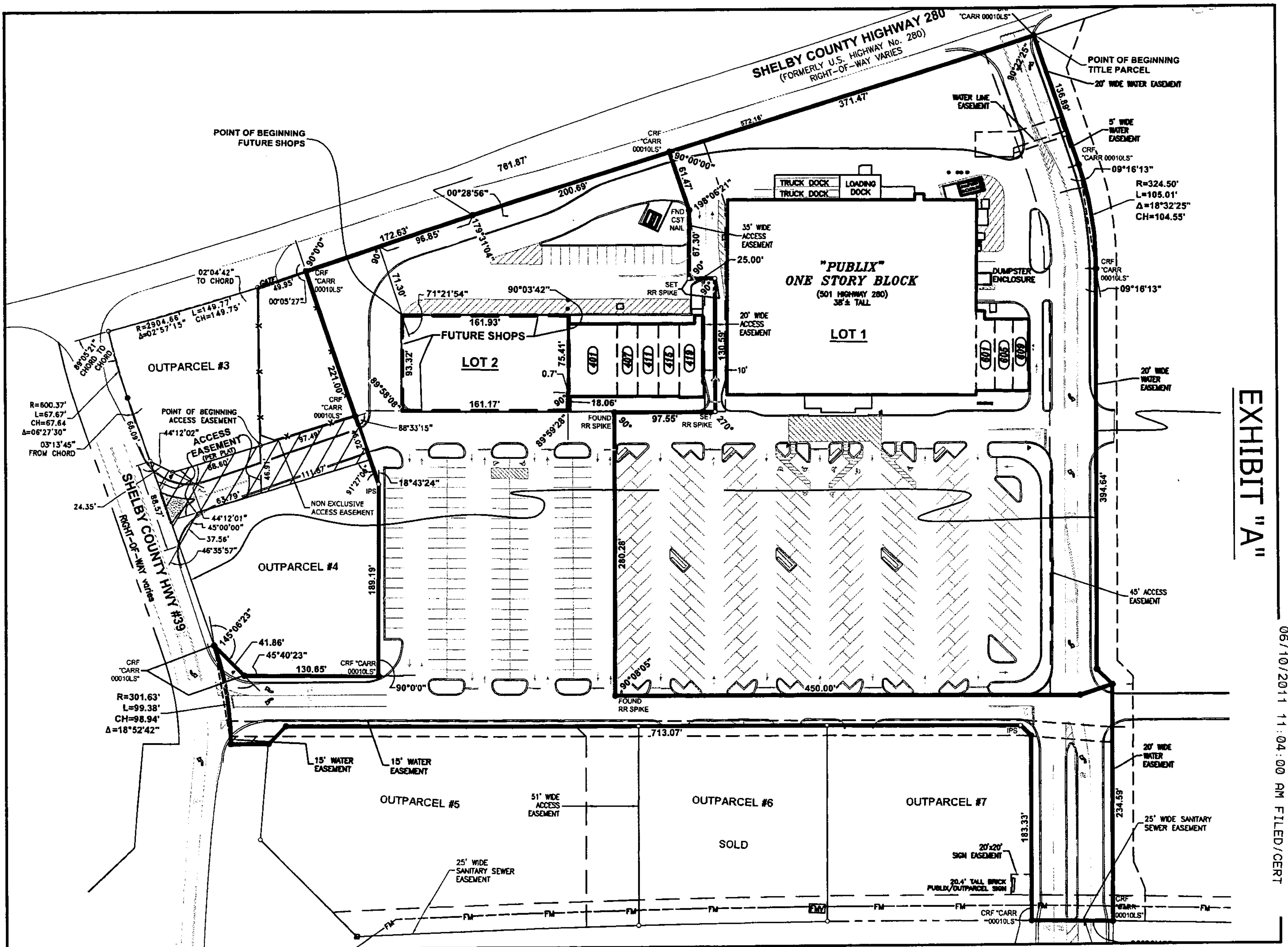
**EXHIBIT "A"**

**SITE PLAN**



20110610000171460 6/9 \$36.50  
Shelby Cnty Judge of Probate, AL  
06/10/2011 11:04:00 AM FILED/CERT

See attached Site Plan



**EXHIBIT "B"**  
**Shopping Center**

  
20110610000171460 8/9 \$36.50  
Shelby Cnty Judge of Probate, AL  
06/10/2011 11:04:00 AM FILED/CERT

**Lots 1 and 2, Chelsea Crossroads**

A parcel of land lying in the South Half of the Northeast Quarter of Section 26, Township 19 South, Range 1 West, Shelby County, Alabama, said parcel being more particularly described as follows:

Commence at the Southeast corner of the Northeast Quarter of the Northeast Quarter of Section 26, Township 19 South, Range 1 West, Shelby County, Alabama, thence run northerly along the east line of said quarter-quarter section for **290.04** feet to a point on the southerly right-of-way line of Shelby County Highway No. 280; thence turn a deflection angle left of **109°01'18"** and run southwesterly along said road right-of-way for **981.06** feet to a point; thence turn a deflection angle right of **00°07'16"** and run southwesterly along said road right-of-way for **189.71** feet to the **Point of Beginning** of the herein described parcel of land; thence turn a deflection angle left of **90°22'25"** and proceed southeasterly for **136.89** feet to a point at the beginning of a curve to the right, said curve having a central angle of **18°32'25"**, a chord length of **104.55** feet and a radius of **324.50** feet; thence turn a deflection angle right of **09°16'13"** to the chord of said curve and run southeasterly along the arc of said curve for **105.01** feet to a point; thence turn a deflection angle right of **09°16'13"** from the last described curve chord and run southerly and tangent to the last described curve for **394.64** feet to a point; thence turn a deflection angle left of **44°57'46"** and run southeasterly for **21.21** feet to a point; thence turn a deflection angle right of **44°57'46"** and run southerly for **234.59** feet to a point on the northerly right-of-way line of US Highway 280, said point also being the beginning of a curve to the left, said curve having a central angle of **00°23'24"**, a chord length of **79.02** feet and a radius of **11609.16** feet; thence turn a deflection angle right of **90°38'18"** to the chord of said curve and run westerly along said road right-of-way and along the arc of said curve for **79.02** feet to a point; thence turn a deflection angle right of **89°21'42"** from the last described curve chord and run northerly for **183.33** feet to a point; thence turn a deflection angle left of **44°57'46"** and run northwesterly for **14.15** feet to a point; thence turn a deflection angle left of **44°57'46"** and run westerly for **713.07** feet to a point; thence turn a deflection angle left of **45°00'00"** and run southwesterly for **24.62** feet to a point on the easterly right-of-way line of Shelby County Highway 39; thence turn a deflection angle right of **44°36'35"** and run westerly along said road right-of-way for **36.40** feet to a point at the beginning of a curve to the left, said curve having a central angle of **18°52'42"**, a chord length of **98.94** feet and a radius of **301.63** feet; thence turn a deflection angle right of **80°57'25"** to the chord of said curve and run northwesterly along said road right-of-way and along the arc of said curve for **99.38** feet to a point; thence turn a deflection angle right of **145°06'23"** from the last described curve chord and run southeasterly for **41.86** feet to a point; thence turn a deflection angle left of **45°40'23"** and run easterly for **130.65** feet to a point; thence turn a deflection angle left of **90°00'00"** and run northerly for **189.19** feet to a point; thence turn a deflection angle left of **18°43'24"** and run northwesterly for **221.00** feet to a point on the southerly right-of-way line of Shelby County Highway No. 280; thence turn a deflection angle right of **90°00'00"** and run northeasterly along said road right-of-way for **172.63** feet to a point; thence turn a deflection angle right of **00°28'56"** and run northeasterly along said road right-of-way for **572.16** feet to the Point of Beginning.

Said parcel contains 436,422.1 Square Feet, more or less.

20110610000171460 9/9 \$36.50  
Shelby Cnty Judge of Probate, AL  
06/10/2011 11:04:00 AM FILED/CERT

**EXHIBIT "C"**

**ACCESS EASEMENT LEGAL DESCRIPTION**

A parcel of land lying in the East Half of the Northeast Quarter of Section 26, Township 19 South, Range 1 West, Shelby County, Alabama, said parcel being more particularly described as follows:

**Commence** at the Southeast corner of the Northeast Quarter of the Northeast Quarter of Section 26, Township 19 South, Range 1 West, Shelby County, Alabama, and thence run northerly along the east line of said quarter-quarter section for **290.04** feet to a point on the southerly right-of-way line of Shelby County Highway No. 280; thence turn a deflection angle left of **109°01'18"** and run southwesterly along said road right-of-way for **981.06** feet to a point; thence turn a deflection angle right of **00°07'16"** and run southwesterly along said road right-of-way for **761.87** feet to a point; thence turn a deflection angle left of **00°28'56"** and run southwesterly and along said road right-of-way for **172.63** feet to a point; thence turn a deflection angle right of **00°05'27"** and run southwesterly and along said road right-of-way for **49.95** feet to the point of beginning of a non-tangent curve to the right, said curve having a central angle of **02°57'15"**, a chord length of **149.75** feet and a radius of **2904.66** feet; thence turn a deflection angle right of **02°04'42"** to the chord of said curve and run southwesterly along the arc of said curve and along said road right-of-way for **149.77** feet to a point on the easterly right-of-way of Shelby County Highway No. 39, said point being the end of said curve and the point of beginning of a curve to the left, said curve a central angle of **06°27'30"**, a chord length of **67.64** feet and a radius of **600.37** feet; thence turn a deflection angle left from the chord of the last described curve to the chord of present curve of **89°05'21"** and run southeasterly along said curve and said road right-of-way for **67.67** feet to a point; thence turn a deflection angle left from the chord of the last described curve of **03°13'45"** and run southeasterly and tangent to the last described curve and along said road right-of-way for **66.09** feet to the most northwest corner of Lot 4, being the **Point of Beginning** of the herein described easement, also being the northerly line of an existing access easement, of *Chelsea Crossroads* as recorded in Map Book 41, Page 109 A&B in the Office of the Judge of Probate of Shelby County, Alabama; thence turn a deflection angle left of **44°12'02"** and run southeasterly and along the northerly line of said Lot 4 and said access easement for **24.35** feet to a point; thence turn a deflection angle left of **44°12'01"** and run northeasterly and along said Lot 4 and said access easement for **88.60** feet; thence continue northeasterly and along said Lot 4 for **97.49** feet to a point on the easterly line of said Lot 4; thence turn a deflection angle right of **88°33'15"** and run southeasterly and said Lot 4 for **45.02** feet to a point; thence turn a deflection angle right of **91°27'00"** and run southwesterly for **111.87** feet along the easterly extension of the southerly line of the Access Easement platted thereon in Lot 4 of the aforesaid Chelsea Crossroads; thence continue southwesterly **63.79** feet along the southerly line of the Access Easement platted thereon in Lot 4 of the aforesaid Chelsea Crossroads; thence continue southwesterly left **45°00'00"** a distance of **37.56** feet along the southerly line of the Access Easement platted thereon in Lot 4 of the aforesaid Chelsea Crossroads to the easterly right-of-way of Shelby County Highway No. 39; thence turn a deflection angle right for **46°35'57"** and run northerly along the easterly line of said existing Shelby County Highway No. 39 for **88.57** feet to the **Point of Beginning**.