

STATE OF ALABAMA  
COUNTY OF SHELBY

### ACCOMMODATION AGREEMENT

This Agreement is made and entered this 3rd day of April, 2012, by and between the City of Calera, Alabama (hereinafter referenced as the "City"), the Industrial Development Board of The City of Calera (hereinafter referenced as the "IDB"), Davis Brothers Properties, an Alabama General Partnership (hereinafter referenced as the "Company") and Gary M. Davis (also known as G. M. Davis), Jeffrey L. Davis (also known as J. L. Davis), Gail E. Davis and Kathy Davis (hereinafter collectively referred to as "Davis").

Whereas, the City, the IDB and the Company have entered, or will enter, into a real estate sales contract to purchase certain real property which is contiguous to the North boundary of the property owned by Davis; and

Whereas, said real property (hereinafter referenced as the "Premises") shall be equally divided into three separate parties, with the City, the IDB and the Company to each receive the conveyance of one-third of the Premises, more or less; and

Whereas, the City, the IDB and the Company have entered, or will enter into an Agreement of Contiguous Property Owners and, within Sections 6 and 7 of said Agreement, provisions are made for certain access and easement rights regarding certain real property, identified by the Shelby County Tax Assessor's Parcel Identification Numbers: 532040001002.000 and 53204010001002.001; and

Whereas, Gary M. Davis and Jeffrey L. Davis own the westernmost parcel hereinabove identified, and Gary M. Davis, Gail E. Davis, Jeffrey L. Davis and Kathy Davis own the easternmost parcel hereinabove identified; and

Whereas, Davis now finds it to be beneficial to Davis to enter into an Accommodation Agreement to supplement and accommodate the Company's separate Agreement with the City and the IDB, by providing assurance of means of access across the properties owned by Davis, or either of them;

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, warranties and agreements contained herein, which each of the parties deem to

constitute good, valuable and sufficient consideration, the Parties do hereby agree as follows:

1. The recitals set forth herein shall not be construed by the parties as mere recitals but shall constitute an integral part of this Agreement.

**2. RAIL ACCESS:** Davis currently owns real property identified by the Shelby County Tax Assessor's Parcel Identification Numbers: 352040001002.000 and 352040001002.001, which has access to railroad tracks operated by Norfolk Southern Corp. and Alabama Highway No. 25. Upon written request by the City or the IDB, Davis will provide railway access to the City or the IDB, at no charge to either entity, in the event that a railway spur can be extended at or near the west or east boundary lines of said real properties. Provided, however, in the event that a railway spur is required to traverse said property owned by Davis, the Party requesting same, whether the City or the IDB, shall bear and pay the expense of the development of such spur and railway access. Davis shall be required, under such circumstances, to grant the City or the IDB a written easement for the development of such spur and/or railway access to traverse said real property. In the event that the City or the IDB requests a railway spur and/or railway access from Davis, and same cannot be located along the west or east boundary lines of said parcels owned by Davis, the requesting Party, whether the City or the IDB, shall pay said property owners the fair market value of the easement located on property used to develop said spur and/or railway access. Said access shall constitute an easement for ingress, egress, utilities and drainage, and shall be no less than sixty (60) feet in width. Prior to the development of any spur or railway access route, Davis' written approval must be first obtained.

**3. Grant of Easement:** At such time as the City and/or the IDB determine that either of said entities shall be in need of an easement for ingress, egress, utilities and drainage, Davis shall grant an easement which is a minimum of sixty (60) feet in width, to the City and/or the IDB, at or near the eastern boundary line of said property which Davis owns adjacent to Alabama Highway No. 25, from the North right of way line of said Highway No. 25 to the South boundary line of the Premises (as defined within the Agreement of Contiguous Property Owners). Said easement shall be granted for the



purposes hereinabove referenced, and shall be at no additional cost or consideration from the City or the IDB to Davis.

**4. Notices:** Any Notices to be given hereunder by either Party to the other shall be affected, in writing, by personal delivery or certified mail, postage prepaid, with return receipt requested. Mail notices shall be addressed to the Parties, and unless the Parties are notified in writing of the new address of any Party hereto, notices shall be mailed to the following address:

To the City: City of Calera  
ATTN: Mayor Jon Graham  
9758 Hwy 25  
Calera AL 35040

With copy to: Frank C. Ellis, Jr., Esq.  
P.O. Box 587  
Columbiana AL 35051

To the IDB: The Industrial Development Board  
of The City of Calera  
P O Box 180  
Calera AL 35040

With copy to: Mitchell A. Spears, Esq.  
P O Box 119  
Montevallo AL 35115

To the Company: Mike Davis or  
Jeff Davis  
8809 Hwy 25  
Calera AL 35040

**5. Entire Agreement:** This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the issues and terms addressed within the body of this Agreement, and same contains all of the promises, covenants and agreements between the Parties.

**6. Law Governing Agreement:** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

**7. Default and Expenses:** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reimbursement of reasonable attorney's fees, costs from any defaulting Party and any other relief to which the prevailing Party may be entitled.

**8. Construction:** The terms of this Agreement shall not be more strictly construed against the Party whose counsel drafted the Agreement, than same is construed against any other Party hereto.



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**9. Severance of Terms:** In the event that any term or provision of this Agreement is unenforceable, such term or provision shall be construed to be a nullity, and the balance of the terms and provisions of this Agreement shall be enforceable.

**10. Binding Affect:** The terms and provisions of this Agreement shall be binding upon each Party, as well as their respective heirs, agents, members, managers, directors, officers, shareholders, owners, partners, successors or assigns.

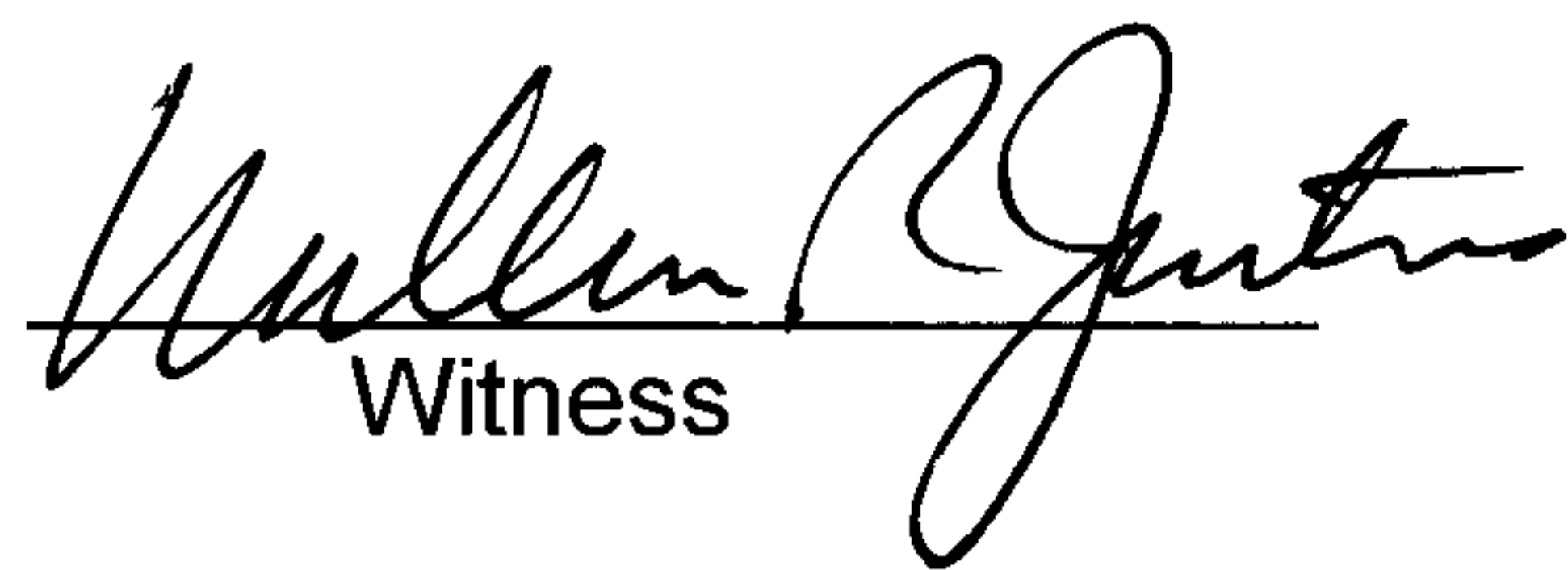
**11. Authority:** Each Party to this Agreement hereby represents, acknowledges and confirms, by and through its authorized signatory, that said Party has the appropriate lawful authority to enter into this Agreement, and has fulfilled any and all lawful requirements and any and all organizational or internal requirements necessary to authorize said Party's execution of this Agreement.


**12. Recordation of Agreement:** As it is the case that this Agreement regulates and reflects upon certain rights and obligations which each of the Parties have in relation to the Premises, the original of this Agreement shall be recorded in the Probate Office, Shelby County, Alabama.

**13. Effective Date:** The Effective Date of this Agreement shall be the day upon which same is executed by the last Party to execute same.


In witness whereof, the Parties have set their hands and seals this 3rd day of April, 2012.

City of Calera

  
Witness

  
By: Jon Graham  
Its: Mayor

\_\_\_\_\_  
Witness

  
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*Mullen R. Gentry*  
Witness

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The Industrial Development Board  
of The City of Calera

*W. M. Schroeder*  
By: William M. Schroeder  
Its: Chairman

Davis Brothers Properties  
An Alabama General Partnership

*G. M. Davis*  
By: G. M. Davis  
Its: General Partner

*J. L. Davis*  
By: J. L. Davis  
Its: General Partner


*Gary M. Davis*  
By: Gary M. Davis (Individually)

*Jeffrey L. Davis*  
By: Jeffrey L. Davis (Individually)

*Gail E. Davis*  
By: Gail E. Davis (Individually)

*Kathy Davis*  
By: Kathy Davis (Individually)

This Instrument Prepared By:  
Mitchell A. Spears  
P.O. Box 119  
Montevallo, AL 35115  
205-665-5076

  
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