


This instrument prepared by:

Ray D. Gibbons, Esq.
Gibbons Graham LLC
100 Corporate Parkway, Suite 125
Birmingham, Alabama 35242


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Shelby Cnty Judge of Probate, AL
04/25/2012 12:20:27 PM FILED/CEPT

LEASEHOLD MORTGAGE / MORTGAGE AND SECURITY AGREEMENT

THIS LEASEHOLD MORTGAGE / MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made and entered into as of April 9, 2012, by **HIGGINBOTHAM OIL COMPANY, INC.**, an Alabama corporation (successor by merger to Sunny Stores, Inc.), having an address of 555 Castlebridge Lane, Birmingham, Alabama 35243, Attention: Mr. Burnie A. Higginbotham, Jr. ("Higginbotham Oil"), **BURNIE ARNOLD HIGGINBOTHAM** and his wife **VIOLA E. HIGGINBOTHAM**, both individual residents of the State of Alabama, having an address of P.O. Box 1807, Pelham, Alabama 35124 (hereinafter referred to collectively as the "Mortgagors" and each singularly as a "Mortgagor"), in favor of **SERVISFIRST BANK**, an Alabama banking corporation, having an address of 850 Shades Creek Parkway, Suite 200, Birmingham, Alabama 35209, Attention: Mr. Stephen Davis (the "Bank"). Any capitalized term used herein but not defined shall have the meaning ascribed to such term in that certain Credit Agreement of even date herewith among Mortgagors, Higginbotham Enterprises, Inc. and Bank (as amended from time to time, the "Credit Agreement").

WITNESSETH:

WHEREAS, Higginbotham Oil and Higginbotham Enterprises, Inc., an Alabama corporation (together with Higginbotham Oil, hereinafter referred to collectively as the "Borrowers"), are justly indebted to Bank in the principal amount of Six Million Five Hundred Thirty-Seven Thousand Six Hundred Eighty-Eight and 41/100 Dollars (\$6,537,688.41), or such portion thereof as has been disbursed from time to time under the provisions of the Credit Agreement and the other Loan Documents, such indebtedness being evidenced by the Notes and the 2008 Letter of Credit, and payable to Bank with interest thereon as provided for in the Credit Agreement and the other Loan Documents; and

WHEREAS, Mortgagors desire to secure the Obligations, including, but not limited to, the obligations to pay the principal of and interest on the Notes and the 2008 Letter of Credit in accordance with the respective terms thereof or of the Credit Agreement and the other Loan Documents, including any and all extensions, modifications, and renewals thereof and substitutions therefor.

NOW, THEREFORE, for and in consideration of Bank making the Loans and to secure the prompt payment and performance of the Obligations, each Mortgagor does hereby irrevocably CONVEY, WARRANT, GRANT, BARGAIN, SELL, ASSIGN, TRANSFER, PLEDGE and set over unto Bank, and the successors and assigns of Bank, all of such Mortgagor's right, title and interest of whatever kind, nature or description, whether now existing

or hereafter arising, and wherever located (hereinafter referred to as a "Mortgagor's Interest") in and to all of the following described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances and appurtenances, whether now owned or hereafter acquired, and including replacements and additions thereto (herein referred to collectively as the "Mortgaged Property"):

(a) All those certain tracts, pieces or parcels of land, and interests in land, located in the Counties of Jefferson, Shelby, Talladega and Tuscaloosa in the State of Alabama, and more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "Land");

(b) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to said buildings, structures or improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, vehicles and personal property of every kind and nature whatsoever now or hereafter owned by any Mortgagor and located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Mortgaged Property, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing, and all building materials and supplies of every kind now or hereafter placed or located on the Land (collectively the "Improvements"), all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Mortgaged Property as between the parties hereto and all Persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage;

(c) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Mortgaged Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by any Mortgagor;

(d) All rents, issues, profits, revenues and proceeds from any sale or other disposition of the Mortgaged Property, or any part thereof, from time to time accruing (including without limitation all payments under leases, ground leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits and escrow funds), and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of any Mortgagor of, in and to the same;

(e) All leases presently existing or hereafter made, whether written or verbal, or any letting of, or agreement for the use or occupancy of, any part of the Mortgaged Property, and each modification, extension, renewal and guarantee thereof (collectively, the "Assigned

Leases"), including, without limitation, all the rents, issues, and profits now due and which may hereafter become due under or by virtue of the Assigned Leases, together with all claims and rights to the payment of money at any time arising in connection with any rejection or breach of any of the Assigned Leases under Bankruptcy Law, including without limitation, all rights to recover damages arising out of such breach or rejection, all rights to charges payable by a tenant or trustee in respect of the leased premises following the entry of an order for relief under the Bankruptcy Law in respect of a tenant and all rentals and charges outstanding under the Assigned Lease as of the date of entry of such order for relief;

(f) Higginbotham Oil's leasehold estate and other interests, if any, under that certain Ground Lease dated August 7, 2001 between Andress Company, Inc., as ground lessor, and Higginbotham Oil, as ground lessee, as evidenced by that certain Memorandum of Lease recorded September 12, 2008 as Instrument 20080912000363460 in the Office of the Judge of Probate of Shelby County, Alabama (together with any and all modifications or amendments at any time made thereto, the "Ground Lease"), of whatever kind, nature or description, and all rights, title and interest pertaining thereto; and

(g) All of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of each Mortgagor of, in and to any of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Property and all parts, rights, members and appurtenances thereof, to the use and benefit of Bank and the successors, successors-in-title and assigns of Bank, forever; and each Mortgagor covenants that such Mortgagor is lawfully seized and possessed of such Mortgagor's Interest in the Mortgaged Property as aforesaid and has good right to convey the same, that the same are unencumbered except for those matters expressly set forth in Exhibit A hereto, and each Mortgagor does hereby warrant and will forever defend the title thereto against the claims of all Persons whomsoever, except as to those matters set forth in said Exhibit A.

The Lien of this Mortgage automatically will attach to any further, greater, additional or different estate, rights, titles or interests in or to any of the Mortgaged Property at any time hereafter acquired by any Mortgagor by whatsoever means and without any further action or filing or recording on the part of any Mortgagor or Bank or any other Person.

MORTGAGORS HEREBY COVENANT AND AGREE WITH BANK AS FOLLOWS:

ARTICLE I

1.01 Payment and Performance of Loan Documents. Mortgagors will perform, observe and comply with all the provisions hereof, and of each of the other Loan Documents, including, but not limited to, the due and punctual payment of the principal amount due under the Notes and the 2008 Letter of Credit, together with interest thereon, and all other sums of money required to be paid by Mortgagors pursuant to any one or more of the Loan Documents.

1.02 Security Agreement. With respect to all personal property (the "Personal Property") constituting part of the Mortgaged Property which is subject to the provisions of

Article 9 of the Uniform Commercial Code as enacted in the state wherein the Land is situated (the "UCC"), this Mortgage is hereby made and declared to be a security agreement encumbering each and every item of such Personal Property in compliance with the provisions of the UCC, and each Mortgagor hereby grants to Bank a security interest in said Personal Property. Each Mortgagor authorizes Bank to file a financing statement or statements reciting this Mortgage to be a security agreement affecting all of such Personal Property. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage, or otherwise in respect of an Event of Default, shall be (a) as prescribed herein or in any other Loan Document with respect thereto, or (b) as prescribed by applicable Law, including the UCC, all at Bank's sole election. Each Mortgagor agrees that the filing of such financing statement(s) in the records normally having to do with personal property shall not in any way affect the agreement of Mortgagors and Bank that everything used in connection with the production of income from the Mortgaged Property or adapted for use therein or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings both legal or equitable, shall be regarded as part of the real estate conveyed hereby regardless of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain items capable of being thus identified in an Exhibit to this Mortgage, or (iii) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to (A) the proceeds of any fire and/or hazard insurance policy, or (B) any award in eminent domain proceedings for taking or for loss of value, or (C) any Mortgagor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Bank as determined by this instrument or affect the priority of Bank's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement(s) is solely for the protection of Bank in the event any court shall at any time hold, with respect to the foregoing items (A), (B), or (C), that notice of Bank's priority of interest, to be effective against a particular class of persons, must be filed in the UCC records. This Mortgage may be filed as a financing statement in any office where Bank deems such filing necessary or desirable and Mortgagors will promptly upon demand reimburse Bank for the costs therefor.

1.03 Use of Mortgaged Property. Mortgagors shall at all times operate the Mortgaged Property as convenience stores and office space. Mortgagors shall not be permitted to alter or change the use of the Mortgaged Property without the prior written consent of Bank.

1.04 Conveyance of Mortgaged Property. Except as otherwise expressly permitted by the Credit Agreement, Mortgagors shall not directly or indirectly encumber (by Lien, junior mortgage, or otherwise), pledge, convey, transfer or assign any or all of its interest in the Mortgaged Property without the prior written consent of Bank.

1.05 Acquisition of Collateral. Except as otherwise expressly permitted by the Credit Agreement, Mortgagors shall not acquire any Personal Property subject to any Lien taking precedence over the Lien of this Mortgage.

ARTICLE II

2.01 Events of Default. The term "Event of Default", wherever used in this Mortgage, shall mean an "Event of Default" as defined in the Credit Agreement.

2.02 Rights and Remedies.

(a) If an Event of Default shall have occurred, then in addition to the rights and remedies provided for under any other Loan Document or under applicable Law, then at the option of Bank this Mortgage may be foreclosed in any manner now or hereafter provided by Alabama law, and to the extent provided or allowed by Alabama law, Bank, or its agent, may sell the Mortgaged Property or any part of the Mortgaged Property at one or more public sales before the front or main door of the courthouse of the county or counties, as may be required, in which the Land or any part of the Land is situated, after having first given notice of the time, place and terms of sale at least once a week for three (3) successive weeks preceding the date of such sale in some newspaper published in said county or counties, as may be required. At any such sale, Bank may execute and deliver to the purchaser a conveyance of the Mortgaged Property or any part of the Mortgaged Property. Bank shall have the right to enforce any of its remedies set forth herein without notice to Mortgagors, except for such notice as may be required by law. In the event of any sale under this Mortgage by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceedings or otherwise, the Mortgaged Property may be sold as an entirety or in separate parcels and in such manner or order as Bank in its sole discretion may elect, and if Bank so elects, Bank may sell the personal property covered by this Mortgage at one or more separate sales in any manner permitted by the UCC, and one or more exercises of the powers herein granted shall not extinguish or exhaust such powers, until the entire Mortgaged Property is sold or the Obligations are paid in full. If the Obligations are now or hereafter further secured by any chattel mortgages, pledges, contracts of guaranty, assignments of lease or other security instruments, Bank at its option may exhaust the remedies granted under any of said security instruments or this Mortgage either concurrently or independently, and in such order as Bank may determine.

Said sale may be adjourned by Bank, or its agent, and reset at a later date without additional publication; provided that an announcement to that effect be made at the scheduled place of sale at the time and on the date the sale is originally set.

(b) In the event of any sale of the Mortgaged Property as authorized by this Section, all prerequisites of such sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the non-payment or non-performance of the Obligations or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

2.03 Purchase by Bank. Upon any foreclosure sale or sale of all or any portion of the Mortgaged Property under the power herein granted, Bank may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the Obligations as a credit to the purchase price.

2.04 Mortgagors as Tenants Holding Over. In the event of any such foreclosure sale or sale under the powers herein granted, Mortgagors (if Mortgagors shall remain in possession) and all Persons holding under Mortgagors shall be deemed tenants holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.

2.05 Waiver of Appraisalment, Valuation, Etc. Each Mortgagor agrees, to the full extent permitted by law, that in case of an Event of Default, neither any Mortgagor nor anyone claiming through or under any Mortgagor will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and each Mortgagor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Mortgage marshaled upon any foreclosure or sale under the power herein granted.

2.06 Waiver of Homestead. Each hereby waives and renounces all homestead and exemption rights provided for by the Constitution and the laws of the United States and of any state, in and to the Mortgaged Property as against the collection of the Obligations, or any part thereof.

2.07 Leases. Bank, at its option, is authorized to foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by any Mortgagor, a defense to any proceeding instituted by Bank to collect the sums secured hereby.

2.08 Discontinuance of Proceedings. In case Bank shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Bank, then in every such case, Mortgagors and Bank shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Bank shall continue as if no such proceedings had occurred.

2.09 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Bank by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

2.10 Suits to Protect the Mortgaged Property. Bank shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Lien of this Mortgage; (b) to preserve or protect its interest in the Mortgaged Property and in the Rents; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the

enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Bank.

2.11 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting any Mortgagor, its creditors or its property, Bank, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Bank allowed in such proceedings for the entire amount due and payable by Mortgagors under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Mortgagors hereunder after such date.

ARTICLE III

3.01 Successors and Assigns. This Mortgage shall be binding upon Mortgagors, their respective successors and assigns and subsequent owners of the Mortgaged Property, or any part thereof, and shall inure to the benefit of Bank, its successors and assigns and any holder of the Obligations.

3.02 Applicable Law. This Mortgage shall be interpreted, construed and enforced according to the laws of the State of Alabama.

3.03 Notices. All notices provided for herein shall be given and deemed received when given and received in accordance with the terms of the Credit Agreement.

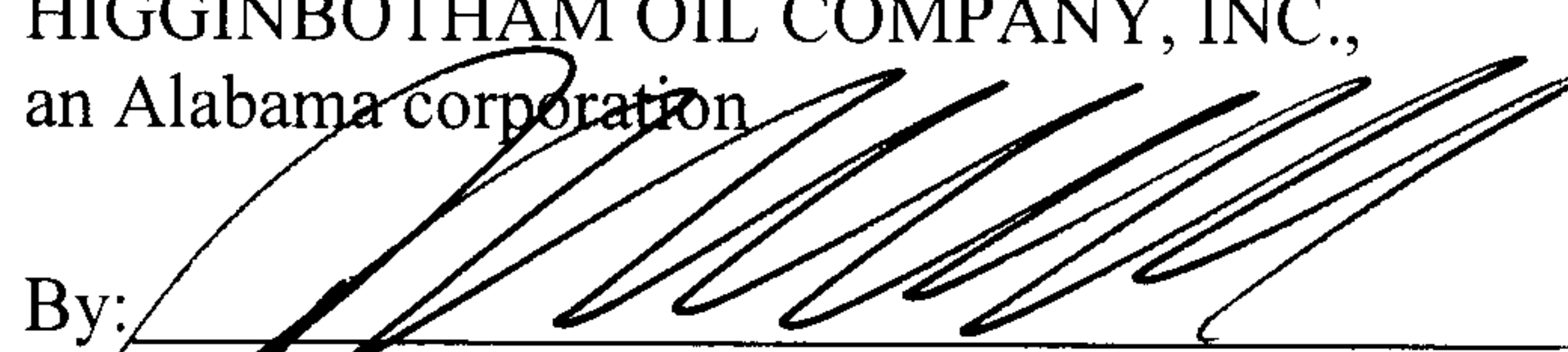
3.04 Assignment. This Mortgage is assignable by Bank and any assignment of this Mortgage by Bank shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Bank.


3.05 Future Advances. Upon request of Borrowers, Bank, at Bank's option so long as this Mortgage secures indebtedness held by Bank, may make future advances to Borrowers. Such future advances, with interest thereon, shall be secured hereby if made under the terms of this Mortgage or the other Loan Documents, or if made pursuant to any other promissory note, instrument or agreement stating that sums advanced thereunder are secured hereby.

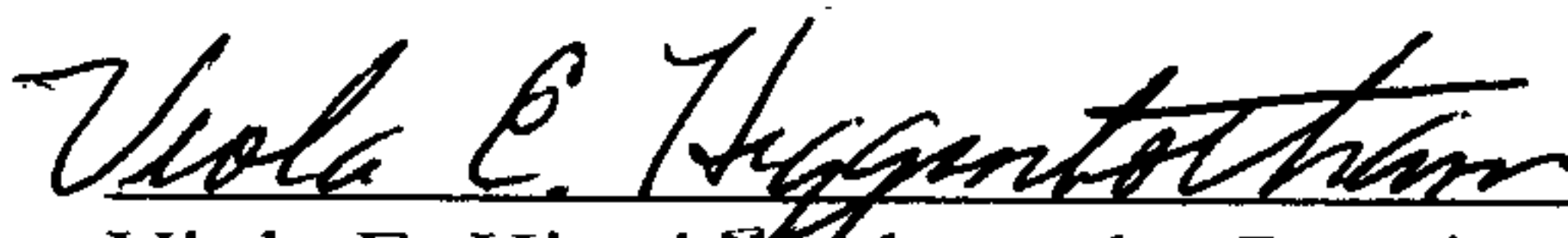
* * * * *

IN WITNESS WHEREOF, Mortgagors have caused this Mortgage to be duly executed and delivered as of the day and year first above written.

HIGGINBOTHAM OIL COMPANY, INC.,
an Alabama corporation

By: 
Burnie A. Higginbotham, Jr., its President


Burnie Arnold Higginbotham

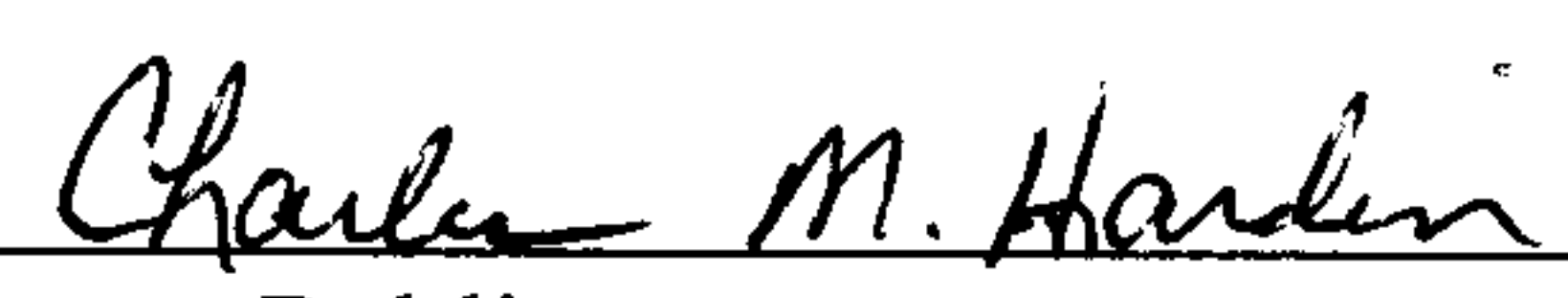

Viola E. Higginbotham, by Burnie Arnold
Higginbotham, her attorney-in-fact

STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Burnie A. Higginbotham, Jr., whose name as President of Higginbotham Oil Company, Inc., an Alabama 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 said instrument, he, 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 the 9 day of April, 2012.

[SEAL]

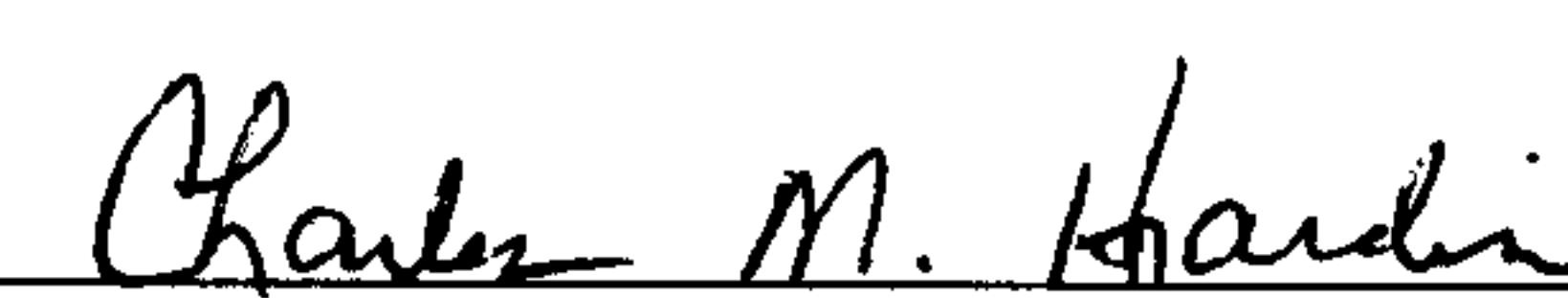

Notary Public
My Commission Expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Apr 14, 2012
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Burnie Arnold Higginbotham, 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 said instrument, he executed the same voluntarily.

Given under my hand and official seal, this the 9 day of April, 2012.

[SEAL]


Notary Public
My Commission Expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Apr 14, 2012
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Burnie Arnold Higginbotham, in his capacity as attorney-in-fact for Viola E. Higginbotham, 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 said instrument, he, as such attorney-in-fact and with full authority, executed the same voluntarily for and as the act of Viola E. Higginbotham.

Given under my hand and official seal, this the 9 day of April, 2012.

[SEAL]

Charles M. Harden
Notary Public
My Commission Expires: Apr 14, 2012
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
BONDED THRU NOTARY PUBLIC UNDERWRITERS

EXHIBIT A

DESCRIPTION OF LAND AND PERMITTED EXCEPTIONS

Parcel 1: (Talladega County)

The following described real estate, situated and being in the Southwest 1/4 of the Northeast 1/4 and the Southeast 1/4 of the Northeast 1/4 of Section 5, Township 17 South, Range 6 East, County of Talladega, State of Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Northeast quarter of Section 5, Township 17 South, Range 6 East, Talladega County, Alabama; thence proceed North 3 degrees 24 minutes 25 seconds East along the west boundary of said quarter section for a distance of 12.57 feet to a point on the north right of way line of the Airport Road; thence proceed South 88 degrees 17 minutes 23 seconds East along the north right of way line of said Airport Road for a distance of 858.0 feet; thence proceed North 40 degrees 29 minutes 07 seconds East for a distance of 200 feet to a point on the southerly right of way line of Interstate Highway No. 20; thence proceed South 50 degrees 09 minutes 38 seconds East along the southerly right of way of I-20 for a distance of 440.74 feet to a concrete monument marked C.S. STA 16+44.74, being located on the westerly right of way line of Talladega County Road No. 93; thence proceed Southwesterly along the westerly right of way line of said County Road No. 93 and along the curvature of a concave curve right, for a distance of 200.3 feet, having a chord distance of 200 feet and a chord bearing of South 44 degrees 51 minutes 28 seconds West; thence proceed North 50 degrees 15 minutes 43 seconds West for a distance of 425.50 feet to the point of beginning.

Parcel 2: (Jefferson County)

Part of the SE 1/4 of the SW 1/4 of Section 13 and the NE 1/4 of the NW 1/4 of Section 24, Township 19 South, Range 3 West, Jefferson County, Alabama and being more particularly described as follows:

Commence at the SE corner of the SE 1/4 of the SW 1/4 of Section 13; thence West along the south line of said Section, 658.33 feet; thence 90 degrees 00 minutes 00 seconds right, 25.49 feet to the point of beginning; thence 114 degrees 59 minutes 31 seconds left, 197.70 feet to the easterly right of way of a proposed road; thence 86 degrees 59 minutes 17 seconds right along said right of way, 165.82 feet to a curve to the right, said curve having a central angle of 91 degrees 14 minutes 08 seconds and a radius of 50.00 feet; thence along the arc of said curve and right of way, 79.62 feet to the southerly right of way of Alabama Highway 150 and a curve to the right, said curve having a central angle of 01 degrees 46 minutes 34 seconds and a radius of 3,759.72 feet; thence along the arc of said curve and right of way, 116.55 feet; thence tangent to said curve and along said right of way, 41.50 feet; thence 90 degrees 00 minutes 00 seconds right leaving said right of way, 220.00 feet to the point of beginning.

Parcel 3: (Tuscaloosa County)

Surface Rights Only in and to the following:

Commence at the SE corner of the SE 1/4 of Section 19, Township 20 South, Range 5 West, Tuscaloosa County, Alabama; thence run North 2 degrees 45 minutes West along the east line of said quarter-quarter Section, a distance of 909.70 feet; thence 94 degrees 52 minutes left and travel 340.0 feet to the point of beginning of said parcel of land; thence 94 degrees 52 minutes

right and travel 94.13 feet to a point on the southerly right of way of U.S. Highway No. 11; thence 76 degrees 25 minutes 30 seconds left, and run along said right of way, a distance of 171.84 feet; thence 10 degrees 36 minutes 15 seconds left, and run 66.10 feet along said right of way to a concrete monument and beginning of denied access of I-59; thence 39 degrees 06 minutes 45 seconds left and run along I-59 right of way, a distance of 407.71 feet; thence 16 degrees 05 minutes 30 seconds left and run a distance of 16.49 feet; thence 101 degrees 58 minutes left and run a distance of 292.10 feet; thence 115 degrees 48 minutes left and run a distance of 150.45 feet; thence 69 degrees 24 minutes right and run a distance of 187.40 feet; thence 69 degrees 24 minutes left and run a distance of 15.0 feet; thence 85 degrees 08 minutes right and run a distance of 134.4 feet to the point of beginning.

Parcel 4: (Shelby County)

A part of the Northwest quarter of the Northeast quarter of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at the Northeast corner of the Northwest quarter of the Northeast quarter of Section 36, Township 19 South, Range 3 West; thence Southerly along the east line of said quarter-quarter Section to the south right of way line of the old (abandoned) right of way of the Acton Branch Railroad, which is the point of beginning; thence continue South along said quarter-quarter Section line, 516.9 feet, more or less, to the centerline of the Helena-Acton Road; thence 60 degrees 06 minutes 30 seconds right, Southwesterly along said centerline a distance of 115.34 feet; thence 119 degrees 53 minutes 30 seconds right, Northerly and parallel to said quarter-quarter line, a distance of 575.0 feet, more or less, to said south railroad right of way line; thence Easterly 100 feet, more or less, along said south railroad right of way line to the point of beginning.

AND ALSO

The part of the Northeast quarter of the Northeast quarter of Section 36, Township 19 South, Range 3 West, lying Southwest of Old U.S. Highway 31 and Northwest of the Helena-Acton Road, Shelby County, Alabama, more particularly described as follows:

Begin at the Northwest corner of the Northeast quarter of the Northeast quarter of Section 36, Township 19 South, Range 3 West; thence Easterly along the north line of said quarter-quarter Section, 65.1 feet to the centerline of U.S. Highway 31; thence 52 degrees 43 minutes 30 seconds right along said centerline, a distance of 430.70 feet to the intersection with the centerline of the Helena-Acton Road; thence 98 degrees 56 minutes right along the last mentioned centerline, 366.48 feet to the intersection with the west line of said quarter-quarter Section; thence 117 degrees 49 minutes 30 seconds right Northerly along said west line, a distance of 516.9 feet to the point of beginning.

Parcel 5: (Shelby County)

A parcel of land situated in the Southeast quarter of Section 31, Township 19 South, Range 2 West, Huntsville Meridian, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Southwest corner of the Southeast quarter of said Section 31; thence in an Easterly direction, along and with the south line of Section 31, 1826.71 feet to a point; thence with a deflection of 122 degrees 59 minutes 55 seconds left (a right interior angle of 57 degrees

00 minutes 05 seconds), a distance of 399.97 feet to a point on the northerly right of way margin of Oak Mountain Park Road; thence continue last described course, a distance of 845.59 feet to the point of beginning; thence continue along last course, 349.11 feet to a point; thence with a deflection of 91 degrees 18 minutes 39 seconds right, 160.0 feet to a point; thence with a deflection of 90 degrees 00 minutes 00 seconds right, 349.02 feet to a point; thence with a deflection of 90 degrees 00 minutes 00 seconds right, 152.01 feet to the point of beginning, forming a closing interior angle of 91 degrees 18 minutes 39 seconds. Situated in Shelby County, Alabama.

Together with full rights of ingress and egress in, on, over, through and across the most northerly 25 foot strip of land parallel to the right of way line of Alabama Highway 119 bounded by the north property line of the property described above, and by the southerly right of way of Alabama Highway 119, as described in Real Record 154, page 727, in the Probate Office.

Parcel 6: (Shelby County)

The following is a description of a tract of land situated in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the Section 3, Township 24 North, Range 12 East, Shelby County, Alabama, and being more particularly described as follows:

Beginning at the NE corner of the Lot 16 of Fancher Subdivision as recorded in Map Book 1, Page 31 in the Office of the Judge of Probate of Shelby County, Alabama, thence run northerly along the west line of Hick's Street a distance of 320.31 feet to a point on the intersection point of said Hick's Street and Alabama Highway #25 thence turn $82^{\circ}-46'$ left and run northwesterly along the south right-of-way line of said Highway #25 a distance of 150 feet to a point; thence turn $97^{\circ}-14'$ left and run southerly a distance of 327.31 feet to the NW corner of said lot 16 of said Fancher subdivision thence turn $82^{\circ}-46'$ left and run easterly along the north line of said lot 16 a distance of 150.00 feet to the point of beginning and subject to all agreements, easements and/or restrictions of probated records or applicable law.

Parcel 7: (Shelby County)

Commence at the Northwest corner of the N.W. $\frac{1}{4}$ of the S.E. $\frac{1}{4}$ of Section 36, Township 18 South, Range 2 West, and run in an Easterly direction along the Northerly line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 474.70 feet to the point of beginning; thence continue along the last stated course a distance of 82.20 feet to a point; thence $117^{\circ} 04'$ to the right in a Southwesterly direction a distance of 170.91 feet to a point on the Northeasterly right of way line of U.S. Highway No. 280; thence $89^{\circ} 59'$ to the right in a Northwesterly direction along the Northeasterly right of way line of U.S. Highway No. 280 a distance of 73.20 feet to a point; thence $90^{\circ} 01'$ to the right in a Northeasterly direction a distance of 133.51 feet to the point of beginning.

AND ALSO:

Commence at the Northwest corner of the N.W. $\frac{1}{4}$ of the S.E. $\frac{1}{4}$ of Section 36, Township 18 South, Range 2 West and run in an Easterly direction along the Northerly line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 305.42 feet to the point of beginning; thence continue along the last stated course a distance of 169.28 feet to a point; thence $117^{\circ} 04'$ to the right in a Southwesterly direction a distance of 133.51 feet to a point on the Northeasterly right of way line of U.S. Highway No. 280; said point lying on a curve to the right having a central angle of $1^{\circ} 31' 58''$

and a radius of 5639.58 feet; thence 89° 59' to the right (angle measured to tangent) and run along the arc of said curve to the right and along said right of way line for a distance of 150.86 feet to a point; thence 88° 29' 02" to the right (angle measured to tangent) in a Northeasterly direction a distance of 54.60 feet to the point of beginning.

PERMITTED EXCEPTIONS

1. All taxes for the year 2012 and subsequent years, not yet due and payable.
2. Any encroachment, encumbrance, violation, variation, or adverse circumstances affecting the title that would be disclosed by an accurate and complete survey of the Land.
3. Rights or claims of parties in possession not shown by the public records.
4. Easements or claims of easements not shown by the public records.
5. Any reappraisal, adjustment, and/or escape taxes that may become due by virtue of any action of the Tax Assessor, Tax Collector, or Board of Equalization.
6. Any prior reservation or conveyance, together with release of damages, of minerals of every kind and character, including, but not limited to oil, gas, sand and gravel in, on, and under subject property. Anything to the contrary notwithstanding this commitment and the final policy does not attempt to set out the manner in which any oil, gas, or mineral rights, or any in rights relating thereto are vested, including drilling, right of entry, or other rights, privileges and immunities relating thereto, together with any release of liability or damage to persons or property as a result of the exercise of such rights.
7. The Company does not insure title to any submerged, filled, or accreted lands nor any portion of the property described on Schedule A that constitute tidelands or any rights in favor of the public, the State of Alabama, or the United States of America in and to any parks, recreational areas, common areas, or littoral and riparian rights, or any rights asserted to Tidelands, or lands comprising the shores or bottoms of navigable rivers, lakes, bays, oceans, gulf, or lands beyond the harbor or bulkhead as established by the United States Government or any other water rights, if any.
8. Any and all environmental issues that may arise from the current or prior use of Land as a gas station.

Parcel 1

9. Outstanding rights of redemption in favor of all persons entitled to redeem the property from that certain foreclosure sale as evidenced by the Foreclosure Deed dated January 19, 2012 and recorded on January 19, 2012 in Book 975, Page 42 in the Office of the Judge of Probate of Talladega County, Alabama, under and in accordance with the laws of the State of Alabama and the United States of America. The Company does not attempt herein to identify the names of all persons, firms, corporations, partnerships, associations, governments, or other entities entitled to redeem the property under the laws of the State of Alabama or the United States of America. Nevertheless, rights of redemption exist,

and constitute a title defect and said defect is expressly excepted from coverages under this policy by virtue of legal obligations to list or identify all persons, firms, partnerships, corporations, associations, governments or other entities entitled to redeem the property under the laws of the State of Alabama or of the United States of America and by the acceptance hereof, the company is hereby released and discharged, and its issuing agent, of and from any such duty, obligations or undertaking.

10. Right of Way recorded in Book 286, Page 630; Book 188, Page 261; Book 137, Page 258 in the Office of the Judge of Probate of Talladega County, Alabama.
11. Transmission Line recorded in Book 103, Page 220; Book 103, Page 15, in the Office of the Judge of Probate of Talladega County, Alabama.
12. Exchange Plant Permit recorded in Book 296, Page 7 in the Office of the Judge of Probate of Talladega County, Alabama.
13. Articles of Incorporation for Sarathi Real Estate Inc. recorded in Book 42, Page 339 of the Office of the Judge of Probate of Talladega County, Alabama.

Parcel 2

14. Oil, gas, petroleum and sulphur, together with rights relating thereto, as reserved in deed recorded in Volume 3668, Page 483, and Volume 3856, Page 446, in the Office of the Judge of Probate of Jefferson County, Alabama.
15. Covenants, Conditions and Restrictions as set forth in Deed recorded in book 1713, Page 92 of the Office of the Judge of Probate of Jefferson County, Alabama, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, to the extent such covenants, conditions or restrictions violate 42 U.S.C. 3604(c).
16. Ten-foot easement reserved in deed from The Harbert-Equitable Joint Venture to Tire Engineers, Inc. by instrument recorded in Official Records Book 1713, Page 92 of the Office of the Judge of Probate of Jefferson County, Alabama and as shown on the Closing Survey by Lawrence D. Weygand, P.E. LS #10373, July 24, 2008.
17. Right of Way granted to Alabama Power Company recorded in Official Records Book 1864, Page 842; Book 1864, Page 846; Book 3173, Page 673; and Book 3713, Page 680 of the Office of the Judge of Probate of Jefferson County, Alabama and as shown on the Closing Survey by Lawrence D. Weygand, P.E. LS #10373, July 24, 2008.
18. Temporary Easement granted to the City of Hoover by instrument recorded on August 7, 2000 in Official Records Book 200009, Page 2519 in the Office of the Judge of Probate of Jefferson County, Alabama and as shown on the Closing Survey by Lawrence D. Weygand, P.E. LS #10373, July 24, 2008.
19. The following matters as shown on the Closing Survey by Lawrence D. Weygand, P.E. LS #10373, July 24, 2008:
 - a. Concrete curb and gutter encroachments into the right of way of Alabama Highway # 150;
 - b. Encroachment of a concrete flume (i) across 10' easement reserved by instrument recorded at Book 1713, Page 92 and (ii) onto adjoining property;

- c. Encroachment of concrete, concrete curb and cutter into Temporary Easement reserved by instrument recorded at Official Records Book 200009, Page 2519; and
- d. Encroachment of Power Transformer by 2.4' inside property line and Temporary Easement.

Parcel 3

- 20. Easement conveyed as Parcel 3 in Book 757, Page 154, in the Office of the Judge of Probate of Tuscaloosa County, Alabama.
- 21. The following matters as shown on the Property Survey and Topo Map prepared by Harry W. Watkins, Jr., Ala P.E. # 11375, and Edward A. Rogers, Sr., Ala L.S. # 1623) and dated February 6, 1981:
 - a. Any rights of ingress and egress to and over a gravel and dirt road to an adjacent property with house trailer as shown on the survey; and
 - b. The location of power lines, gas valves, and underground storage tanks as shown on the survey.

Parcel 4

- 22. Sewer Right of Way granted to the City of Pelham by instrument recorded January 20, 1997 in Official Record Book 110, Page 940, in the Office of the Judge of Probate of Shelby County, Alabama.

Parcel 5

- 23. Covenants, Conditions and Restrictions, including easements and mineral rights, as set forth in Deed recorded in book 154, Page 727 of the Office of the Judge of Probate of Shelby County, Alabama, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, to the extent such covenants, conditions or restrictions violate 42 U.S.C. 3604(c).
- 24. Limitation of access and abutters rights recorded in Book 302, Page 370 and Book 302, Page 13 in the Office of the Judge of Probate of Shelby County, Alabama.
- 25. Transmission line permit recorded in Book 145, Page 378 in the Office of the Judge of Probate of Shelby County, Alabama.
- 26. Right of Way recorded in Book 135, Page 2 in the office of the Judge of Probate of Shelby County, Alabama.
- 27. Landlord Waiver and Consent recorded in Instrument 1998-33908 in the Office of the Judge of Probate of Shelby County, Alabama.
- 28. Subordination, Attornment and Non-Disturbance Agreement recorded in Instrument 2000-19847 in the Office of the Judge of Probate of Shelby County, Alabama.
- 29. Memo of Lease recorded in Instrument 20080912000363440 in the Office of the Judge of Probate of Shelby County, Alabama.
- 30. Assignment of Lease recorded in Instrument 1997-31795 in the Office of the Judge of Probate of Shelby County, Alabama.

31. All matters of survey as shown on the Closing Survey prepared by Laurence D. Weygand, Reg. PE-LS # 10373, dated March 27, 2012 as Job Number 60723, including the following:
 - a. Concrete curb encroachments;
 - b. Concrete encroachments;
 - c. Pole, sign, valve and fire hydrant located in existing 25' ingress/egress easements recorded in Deed Book 154, Page 727;
 - d. Anchor encroachment;
32. Restrictions upon the use of the Land situated in a flood zone.

Parcel 6

33. Right of way as set forth in deed recorded in Book 361, Page 293 in the Office of the Judge of Probate of Shelby County, Alabama.
34. Mineral and Mining Rights recorded in Book 231, Page 327 in the Office of the Judge of Probate of Shelby County, Alabama.
35. Notice of Lis Pendens recorded in Book 358, Page 35 in the Office of the Judge of Probate of Shelby County, Alabama.
36. Decree of Condemnation recorded in book 372, Page 402 in the Office of the Judge of Probate of Shelby County, Alabama.
37. The following matters as shown on the survey by Harry G. Watkins, Jr. dated July 21, 1992:
 - a. A residence located on the southeastern portion of the property as shown on the survey.
 - b. Rights of ingress and egress over a gravel drive to a residence as shown on the survey.
 - c. Rights of ownership of a wood fence and on the eastern most boundary line.
 - d. Rights of ownership of chain link fence on encroaching across the eastern and southern boundary lines.
 - e. Underground storage tanks and submerged pumps as shown on the survey.
 - f. Power lines and water meters as shown on the survey.
 - g. Encroachment of concrete paving into the rights of way of Hicks Road and Alabama Highway 25 as shown on the survey.

Parcel 7

38. Memorandum of Lease recorded September 12, 2008 as Instrument 20080912000363460 in the Office of the Judge of Probate of Shelby County, Alabama, between Andress Company, Inc. and Higginbotham Oil Company, Inc.
39. Joint use with Shoney's D/B/A Captain D's Restaurant of the 30 feet of the Parking Lot of Lot D as shown on Exhibit A to the Ground Lease.

