

**IN THE MATTER OF THE ESTATE OF)**  
**JOAN CALLAHAN,**  
**Deceased.**

**PROBATE COURT OF**  
**JEFFERSON COUNTY, ALABAMA**  
**Case No. 207920**

## ORDER AUTHORIZING SALE OF REAL ESTATE AT PRIVATE SALE

This matter coming on to be heard on October 19, 2012 upon the Emergency Petition For Sale Of Real Property For Division And Distribution by James C. Puckett, Jr. as the Personal Representative of the Estate of JOAN CALLAHAN, deceased ("Decedent"), authorizing James C. Puckett, Jr. as the Personal Representative to sell that certain real property in Shelby County, Alabama, being ninety-eight acres, more or less, and further identified as Parcel numbers 21-5-21-0-000-006.000 and 21-8-28-0-000-02.000, such parcels being more particularly described on Exhibit A hereto, at a private sale for the purposes of administration as authorized in Alabama Code §43-2-837, and moves this Court to grant said Petition; and it appearing to the satisfaction of this Court that all parties in interest consent in writing for the relief for which this Order is sought; and that it will be to the best interest of decedent's estate to sell said real property for the purposes herein set forth at private sale in accordance with the terms of the Sales Contract, a copy of which is attached as Exhibit B hereto.

It is therefore ORDERED, ADJUDGED AND DECREED by this Court that the prayer of said Petition be and the same is hereby granted, and that JAMES C. PUCKETT, JR. as Personal Representative of the Decedent's estate is hereby authorized and directed to sell and convey at private sale to Randall H. Goggans for the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) the real property described hereinabove in accordance with the Sales Contract.

It is further ordered that the costs of this proceeding be taxed against Decedent's estate for which let execution issue.

DONE AND ORDERED this 19 day of October, 2012.

**JUDGE ALAN KING**



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Shelby Cnty Judge of Probate, AL  
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**Exhibit A**  
**Legal Descriptions**

The SW¼ of SE¼ EXC CO RD 26 THE SE¼ OF SW¼ & THE SW¼ E OF SW¼ E OF  
WAXAHATCHECRK SEC21 T21S R1W.

and

BEG @ NE COR OF NW¼ OF NE¼ S TO CO RD 70 R/W W ALG R/W 1060 N TO N SEC  
LNE TO POB SEC28 T21S R1W



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**Exhibit B**  
**Sales Contract**

(see attached)



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## LOTS OR OTHER UNIMPROVED LAND SALES CONTRACT

Form Approved by Birmingham Association of REALTORS®, Inc.  
March 28, 2006 (Previous forms are obsolete and no longer approved)

Date: 9-14-12

The undersigned Buyer(s) Randall H. Rogers hereby agree to purchase and  
the undersigned Seller(s) Edith of Joan Callahan hereby agree to sell the following  
described lot(s) or other unimproved land and appurtenances thereto (the "Property") situated in the City  
of \_\_\_\_\_, County of Shelby, Alabama, on the terms stated below:

Address Tax I.D. #21 571 000000.000 ; #21 8 2P 0 000 002.000  
Zip Code: \_\_\_\_\_

Legal Description: Lot \_\_\_\_\_ Block \_\_\_\_\_ Survey Total acreage -  
approximately 98 acres Map Book \_\_\_\_\_ Page \_\_\_\_\_

1. THE TOTAL PURCHASE PRICE OF THE PROPERTY SHALL BE \$ 250,000.00

Earnest Money under this Contract shall be \$ 2,000.00

(A) FINANCING: (Check as applicable) Balance at closing \$ 248,000.00

- ☒ (1) Buyer will pay cash or obtain a loan for the Property with no financing contingency.
- ☐ (2) This Contract is contingent on Buyer obtaining approval of a loan in the amount of  
\$ \_\_\_\_\_ or \_\_\_\_\_ % of the Purchase Price (excluding any financed loan  
costs) at the prevailing interest rate and loan costs. Buyer will apply for financing within \_\_\_\_\_ days (7  
days if left blank), from the Finalized Date and will provide any and all credit, employment, financial and  
other information required by the mortgage lender. "Finalized Date" shall mean the date that appears  
under the signatures of the parties to this Contract. No terms of this financing contingency can be  
changed without written authorization of the Seller.

(B) DEVELOPMENT: (Check if applicable)

This Contract is contingent upon Buyer obtaining appropriate financing, applicable building  
permits, all utilities (sewerage, gas, power and water) for use on the Property for the purposes intended. In  
the event there is not a public sewer system, this Contract is also subject to approval by proper Health  
Department authorities of a permit for installation of a septic tank. In the event of any one of these  
contingencies cannot be fulfilled on or before \_\_\_\_\_, 20\_\_\_\_, Seller agrees to refund Earnest  
Money and this Contract shall become null and void. Buyer is responsible for determining whether all  
necessary utilities are on the Property and are available for the intended purpose of the Buyer.

2. CLOSING DATE: The sale shall be closed and the deed delivered on or before 11-15-12  
\_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_ a.m. \_\_\_\_\_ p.m.

3. EARNEST MONEY & BUYER'S DEFAULT: Seller and Buyer hereby direct the \_\_\_\_\_  
Company to hold the Earnest Money in trust until this Contract has been accepted and signed by all  
parties, at which time the Earnest Money will be promptly deposited into the escrow account of the

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Lots or Other Unimproved Land Sales Contract, Page 1 of 3



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Listing Company. In the event an offer or counteroffer is not accepted, the Earnest Money shall be returned to Buyer without a signed release. If the Contract is accepted and signed by all parties and the sale does not close, however, a separate mutual release signed by all parties to this Contract will be required before the Earnest Money will be disbursed. In the event either Buyer or Seller claims the escrowed funds without the agreement of the other party, any holder of the escrowed funds, as prescribed by Alabama Real Estate License Law Rule 790-X-3-.03 (4), (5), must either retain the escrowed funds until there is a written mutual release among the parties or interplead the disputed portion of the funds into the appropriate court, and shall be entitled to deduct from the escrowed funds for court costs, attorney fees and other expenses relating to the interpleader; provided, however, that any Claim as defined in Paragraph 15 below shall remain subject to mediation and arbitration as set forth in said Paragraph. Seller, at Seller's option, may cancel this Contract if the Earnest Money check is rejected by the financial institution upon which it is drawn. In the event of default by Buyer, all deposits made hereunder may be forfeited as liquidated damages.

#### 4. AGENCY DISCLOSURE:

The listing company is ARAC

The selling company is ARAC

The listing company is: (Two blocks may be checked) ☐ An agent of the seller, ☐ An agent of the buyer.  
☐ An agent of both the seller and buyer and is acting as a limited consensual dual agent.  
☐ Assisting the buyer seller (check one or both) as a transaction broker.

The selling company is: (Two blocks may be checked) ☐ An agent of the seller, ☐ An agent of the buyer.  
☐ An agent of both the seller and buyer and is acting as a limited consensual dual agent.  
☐ Assisting the buyer seller (check one or both) as a transaction broker.

Buyer's Initials RHC

Seller's Initials JS

Buyer's  
JS  
RHC

5. TITLE INSURANCE: Seller agrees to furnish Buyer a standard form owner's title insurance policy at Seller's expense, issued by a company qualified to insure titles in Alabama, in the amount of the Purchase Price, insuring Buyer against loss on account of any defect or encumbrance in the title, subject to exceptions herein, including Paragraphs 6 & 8 below; otherwise, the Earnest Money shall be refunded in accordance with Paragraph 3 above. In the event owner's and mortgagee's title policies are required at closing, the total expense of procuring the two policies will be divided equally between Seller and Buyer, over if the mortgagee is the Seller. Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the Property.

6. SURVEY: Buyer ☒ does ☐ does not require a survey by a registered Alabama land surveyor of Buyer's choosing. The lender may require a survey and it is recommended that a new survey be obtained on all purchases. Available information indicates that the Property is not located in a flood plain, but this should be confirmed by a flood plain certification and/or a current surveyor's statement in the survey which shall be the responsibility of Buyer. Further, unless otherwise agreed herein, the Property is purchased subject to utility easements, residential subdivision covenants and restrictions; if any, and building lines of record. It is the responsibility of Buyer to determine, prior to closing of this Contract, whether the foregoing materially impairs the use of the Property for intended purposes. Unless otherwise agreed herein, the survey shall be at Buyer's expense.



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7. **PRORATIONS:** Ad valorem taxes, as determined on the date of closing, accrued interest on mortgage(s) assumed, and homeowners association, fire district or other dues, fees or assessments are to be prorated between Seller and Buyer as of the date of closing, and any existing escrow deposits shall be credited to Seller. Unless otherwise agreed herein, all ad valorem taxes except municipal are presumed to be paid in arrears for purpose of proration; municipal taxes, if any, are presumed to be paid in advance.

8. **CONVEYANCE:** Seller agrees to convey the Property to Buyer by general warranty deed (check ☐ if Buyer desires that title be held as joint tenants with rights of survivorship), free of all encumbrances except as permitted in this Contract. Seller and Buyer agree that any encumbrances not herein excepted or assumed may be cleared at the time of closing from sales proceeds. The Property is sold and is to be conveyed subject to any mineral and/or mining rights not owned by Seller. Seller understands that the present zoning classification is: agricultural. It is Buyer's responsibility to verify the current zoning classification.

9. **CONDITION OF THE PROPERTY:** SELLER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING CONDITION OF THE PROPERTY EXCEPT TO THE EXTENT EXPRESSLY AND SPECIFICALLY SET FORTH HEREIN. Purchaser has the obligation to determine any and all conditions of the Property material to Buyer decision to buy the Property, including without limitation, subsurface condition, including the presence or absence of sinkholes, mining activity, wells or buried tanks and other objects; soil conditions; and utility and sewer or septic availability and condition. Except as otherwise stated in this Contract, Buyer accepts the Property in its present "as is" conditions.

Buyer's Initials

RH

Seller's Initials

JP

10. **DISCLAIMER:** Seller and Buyer hereby acknowledge and agree that they have not relied upon any advice or representation of the Listing Broker or Company or the Selling Broker or Company or any of their sales associates ("brokers and sales associates"), and accordingly Seller and Buyer agree that no broker or sales associate shall be held responsible for any obligations or agreements that Seller or Buyer have to one another hereunder. Further, Seller and Buyer agree to discharge and release the brokers and sales associates from any claims, demands, damages, actions, causes of actions or suits at law arising in any way from this Contract related to the Property, and shall include but not be limited to the availability or location of utilities, sewer or septic system; the investment or resale value of the Property; subsurface or subsoil conditions such as sinkholes, mining or other soil conditions, including radon or other potentially hazardous gases or toxic materials; Property access, easements, covenants, restrictions, development structure, and appurtenances thereto; the availability of utilities or sewer service; and any matters affecting the character of the neighborhood; the past, present, or future financial stability of the developer, if any, or the future insurability of the Property; the investment or resale value of the Property; or any other matters affecting the willingness of the Seller and Buyer to sell or purchase the Property on the terms and at the Purchase Price herein set forth. Seller and Buyer acknowledge and agree that if such matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.

Buyer's Initials

RH

Seller's Initials

JP

11. **SELLER WARRANTY:** Seller warrants that Seller has not received notification from any owners association or lawful authority regarding any unpaid assessments, pending assessments, pending public improvements, or repairs, replacements, or alterations to the Property that have not been satisfactorily made. Seller warrants that there is no unpaid indebtedness on the Property except as described in this Contract. These warranties shall survive the closing.

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Lease or Other Unimproved Land Sales Contract, Page 3 of 3



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12. **HAZARDOUS SUBSTANCES:** Seller and Buyer expressly acknowledge that the Broker(s) have not made an independent investigation or determination with respect to the existence or nonexistence of PCB transformers, or other toxic, hazardous or contaminated substances or gases in, on, or about the Property, or for the presence of underground storage tanks. Any such investigation or determination shall be the responsibility of Seller and/or Buyer and Broker(s) shall not be held responsible therefor.

*Handwritten signature and initials*  
etc.

13. **SELECTION OF ATTORNEY:** Buyer and Seller hereby ☐ do ☒ do not agree to share the fees of a closing attorney. Buyer and Seller acknowledge and agree that such sharing of fees may involve a conflict of interest on the part of the attorney and the attorney will require that an affidavit be signed at closing acknowledging the conflict of interest and Buyer's and Seller's acceptance of the same. The parties further acknowledge that they have a right to be represented at all times by separate and independent counsel in connection with this Contract and the closing thereof by an attorney of their own choosing at their own expense.

14. **OTHER OFFERS WHILE BUYER'S OFFER IS PENDING:** Buyer hereby acknowledges that offers other than Buyer's offer may have been made or may be made before Seller acts on or while Seller is considering Buyer's offer or counteroffer. While the Buyer's offer or counteroffer is pending, and before this Contract becomes effective, Seller hereby expressly reserves the right to reject Buyer's offer or counteroffer or to withdraw any offer previously made by Seller to Buyer relating to the Property, and to accept any other offer or counteroffer.

15. **MEDIATION AND ARBITRATION/WAIVER OF TRIAL BY JURY:** All claims, disputes or other matters in question arising out of or relating in any way to this Contract or the breach thereof, including claims against any broker or sales associate, or relating to the relationship involved with, created by or concerning this Contract, including the involvement of any broker or sales associate ("Claim"), shall be submitted to mediation with a mutually agreed upon mediator within forty-five (45) days of notice of the Claim. In the event no mediated resolution is reached within sixty (60) days of the party's notice of the Claim, all Claims shall be resolved by binding arbitration by a single arbitrator in Birmingham, Alabama in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. **EACH PARTY ACKNOWLEDGES THAT HE OR SHE IS KNOWINGLY WAIVING THE RIGHT TO A TRIAL BY JURY RELATING TO ALL CLAIMS.** All disputes concerning the arbitrability of any Claim or the enforceability or scope of this provision shall be subject to the same binding arbitration. The parties shall bear equally the cost of the arbitrator and each party shall otherwise bear their own costs; provided the arbitrator shall have the authority to award costs as a part of this award to the extent authorized by applicable law. The arbitrator shall follow the law applicable to any Claim and shall be empowered to award any damages or other relief which would be available under the law applicable to any such Claim. The determination of the arbitrator shall be final, binding on the parties and non-appealable, and may be entered in any court of competent jurisdiction to enforce it. The parties acknowledge and agree that the transactions contemplated by and relating to this Contract, which may include the use of materials and components which are obtained from out-of-state and which otherwise include the use of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act, 9 U.S.C. § 2.

Buyer's Initials

*Handwritten initials*

☐

Seller's Initials

*Handwritten signature*

☐

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16. **FACSIMILE OR COUNTERPART SIGNATURES:** This Contract may be executed and delivered by any party hereto by sending a facsimile of the signature or by a legally recognized e-signature. Such facsimile signature or legally recognized e-signature shall be binding upon the party so executing it upon the receipt of the signature by any other party.

17. **ADDITIONAL PROVISIONS:** Additional provisions to this Contract are set forth on the attached Addendum(s) # A + B which shall be signed by all parties and shall be part of this Contract.

18. **OBLIGATION FOR FEES AND EXPENSES:** Buyer and Seller acknowledge that in the event this Contract is cancelled or does not close for any reason, fees or costs paid in advance may be non-refundable.

19. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between Buyer and Seller regarding the Property, and supersedes all prior discussions, negotiations and agreements between Buyer and Seller, whether oral or written. Neither Buyer, Seller, nor any broker or sales associate shall be bound by any understanding, agreement, promise, or representation concerning the Property, expressed or implied, not specified herein.

20. Purchaser requires a survey which shall be satisfactory to Purchaser showing property is 98 acres. Purchaser pays for survey and all closing costs including title insurance and attorney fee for closing.  
21. Purchaser is licensed real estate broker.

**THIS IS A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS CONTRACT, SEEK LEGAL ADVICE BEFORE SIGNING.**

Witness to Buyer's Signature

Buyer Randall H. Gygans (Date)

Witness to Buyer's Signature

Buyer James C. Rethy Jr., Administrator (Date)

Witness to Seller's Signature

Seller Estate of Jane Callahan (Date)

Witness to Seller's Signature

Seller (Date)

**Finalized Date:** \_\_\_\_\_, 20\_\_\_\_  
(Date on which last party signed or initialed acceptance of final offer)

**EARNEST MONEY:** Receipt of the earnest money in the amount identified in Paragraph 1 is hereby acknowledged.

☐ CASH

☒ CHECK

LISTING COMPANY: \_\_\_\_\_ By: \_\_\_\_\_ DATE: \_\_\_\_\_, 20\_\_\_\_

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RANDALL H. GOGGANS  
BUSINESS ACCOUNT  
228 HAWTHORNE ST.  
BIRMINGHAM, AL 35204

2399

01-20-2012

DATE 9-14-12

PAY TO THE ORDER OF

James Burford, Attorney

Two Thousand & 20/100

\$ 2000.00

DOLLARS 00

Union State Bank  
P.O. Box 111, 35204

FOR Callahan, Estok - earnest #

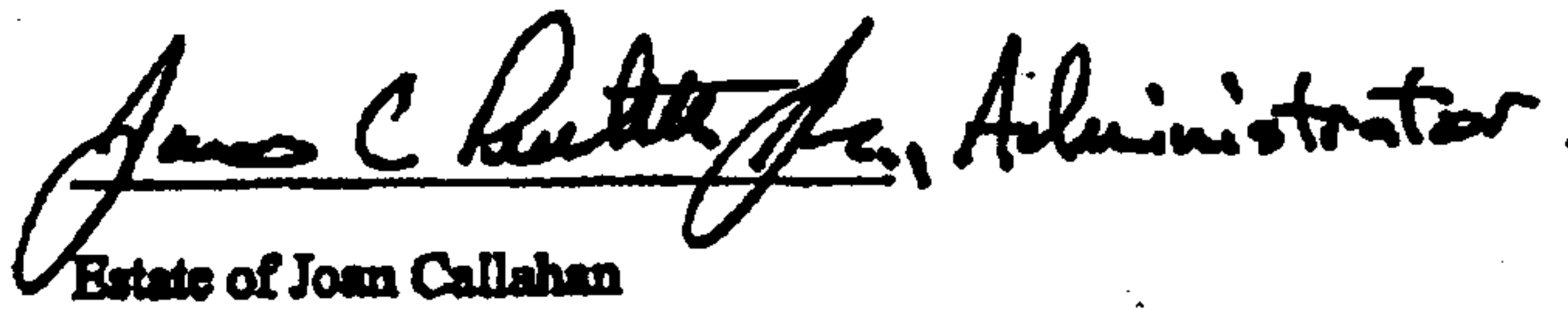
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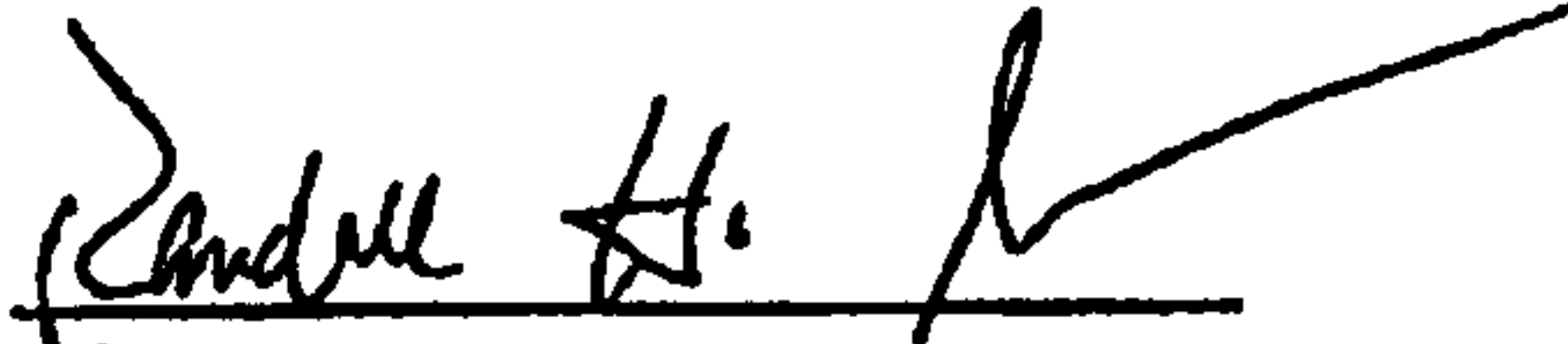
**Addendum B**

The attached real estate contract between Randall H. Goggans and the Estate of Joan Callahan is subject to the approval of the Jefferson County Probate Court.

 **James C. Rutledge Jr., Administrator**

**Estate of Joan Callahan**

**Seller**



**Randall H. Goggans**

**Buyer**



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EXHIBIT "A"

LETTERS OF ADMINISTRATION

PROBATE - 51

IN THE MATTER OF THE ESTATE OF

IN THE PROBATE COURT OF  
JEFFERSON COUNTY, ALABAMA

JOAN CALLAHAN

Deceased

CASE NO.

207920--

LETTERS OF ADMINISTRATION

TO ALL WHOM IT MAY CONCERN:

Letter of Administration on the above-named deceased are hereby granted to \_\_\_\_\_

JAMES C. PUCKETT, JR.

who has duly qualified and given bond in the amount of \$ 50,000.00  
as such Personal Representative, and is authorized to administer such estate.  
Subject to the priorities stated in §43-8-76, Code of Alabama (1975, as amended),  
the said Personal Representative, acting prudently for the benefit of interested  
persons, has all the powers authorized in transactions under §43-2-843, Code of  
Alabama (1975, as amended).

WITNESS my hand this date, APRIL 7, 2010

(SEAL)

ALAN L. KING

Judge of Probate

I, S. J. Rhodes, Chief Clerk of the Court of Probate of Jefferson County,  
Alabama, hereby certify that the foregoing is a true, correct and full copy of the  
Letters of Administration issued in the above-styled cause as appears of record in  
said Court. I further certify that said Letters are still in full force and effect.

WITNESS my hand and seal of said Court this date, APRIL 7, 2010

S. J. Rhodes  
Chief Clerk

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**The State of Alabama**  
**JEFFERSON COUNTY**

**PROBATE COURT**

Case# 207920

I, S.J. Rhodes, Chief Clerk of the Court of Probate, in and for said County in said State hereby certify that the foregoing contains a full, true and correct copy of the Order Authorizing Sale of Real Estate at Private Sale

in the matter of the estate of Joan Callahan, deceased

as the same appears on file and of record, in this office.

Given under my hand and seal of said Court, this  
the 23rd day of October, 20 12

S.J. Rhodes  
Chief Clerk



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