

20130415000152410 1/7 \$30.00
Shelby Cnty Judge of Probate, AL
04/15/2013 10:51:08 AM FILED/CERT

1970245

(Space Above This Line For Recording Data)

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment") is made on **March 28, 2013**, between **VENTURE DEVELOPERS, LLC**, an Alabama Limited Liability Company, whose address is **111-A OWENS PARKWAY, BIRMINGHAM, Alabama 35244** ("Assignor") and **Merchants & Farmers Bank** whose address is **3513 PELHAM PARKWAY, PELHAM, Alabama 35124** ("Assignee"), which is organized and existing under the laws of the State of Alabama. Assignor, in consideration of loans extended by Assignee up to a maximum principal amount of **One Million Fifteen Thousand Six Hundred Seventy and 55/100 Dollars (\$1,015,670.55)** and for other valuable consideration, the receipt of which is acknowledged, hereby grants, transfers, assigns and sets over to Assignee all right, title and interest in and to all rents, issues, profits and privileges (now due or which may hereafter become due) of the following described real property:

Address: **951 DOW ST, PELHAM, Alabama 35124**

Legal Description: **SEE ATTACHED EXHIBIT "A"**

("Property") which secures the following:

- Loan with a principal amount of **\$1,015,670.55**

Assignor further grants all leases now or hereafter existing on all or any part of the Property, whether written or oral, or any letting or any agreement for the use of occupancy of any part of the Property which may have been or which may hereafter be made or agreed to between Assignor and any other present, prior, or subsequent owner of the Property, or any interest therein, or which may be made or agreed to by Assignee, its successors or assigns, under the powers herein granted, and any tenant or occupant of all or any part of the Property (collectively, the "Leases" and each, a "Lease"), including without limitation any leases existing as of the date of this Assignment ("Existing Leases") and described further as:

**ALL ASSIGNMENT OF RENTS AND LEASES NOW OWNED OR HEREAFTER
ACQUIRED BY DEBTOR LOCATED AT 951 DOW ST PELHAM, AL 35124.**

RELATED DOCUMENTS. The words "Related Documents" mean all promissory notes, security agreements, prior mortgages, prior deeds of trust, business loan agreements, construction loan agreements, resolutions, guaranties, environmental agreements, subordination agreements, assignments of leases and rents and any other documents or agreements executed in connection with this Assignment whether now or hereafter existing. The Related Documents are hereby made a part of this Assignment by reference thereto, with the same force and effect as if fully set forth herein.

INDEBTEDNESS. This Assignment secures the principal amount shown above as may be evidenced by a promissory note or notes of even, prior or subsequent date hereto, including future advances and every other indebtedness of any and every kind now or hereafter owing from **VENTURE DEVELOPERS, LLC** to **Merchants & Farmers Bank**, howsoever created or arising, whether primary, secondary or contingent, together

with any interest or charges provided in or arising out of such indebtedness, as well as the agreements and covenants of this Assignment and all Related Documents (hereinafter all referred to as the "Indebtedness").

AMENDMENT OR MODIFICATION OF LEASES. With respect to any Existing Leases or any Leases executed upon the Property after the creation of this Assignment and so long as the Indebtedness remains unpaid, Assignor shall not, without the written consent of Assignee: (a) cancel any Leases; (b) accept the surrender of any Leases; (c) modify or alter any Leases in any way, either orally or in writing; (d) reduce the rental set forth in any Leases; (e) consent to the assignment of any lessee's interest under any Leases, or to any subletting thereunder; or (f) make any other assignment, pledge, encumbrance, or any other disposition of any Leases, or of the rents, issues and profits derived from the use of the Property. Any of the above acts, if done without the written consent of Assignee, shall be null and void, and shall constitute a default under the Assignment and the Related Documents.

REPRESENTATIONS OF ASSIGNOR. Assignor hereby represents: (a) except for the Existing Leases, there are no leases, subleases or agreements to lease or sublease all of or any part of the Property; (b) the Existing Leases are valid and enforceable and no default exists under the Existing Leases; (c) Assignor is entitled to receive all the rents, issues and profits and to enjoy all the rents and benefits mentioned herein and assigned hereby; (d) said rents, issues and profits have not been sold, assigned, transferred or set over by any instrument now in force and shall not at any time during the life of this Assignment be sold, assigned, transferred or set over by Assignor, or any other person taking under or through Assignor except as pursuant to this Assignment; and (e) Assignor has the sole right to sell, assign, transfer, and set over the same and to grant and confer upon Assignee the rights, interests, powers, and authorities herein granted and conferred.

COLLECTION OF RENTS. Provided no Event of Default exists under the Indebtedness or any of the Related Documents, Assignee agrees not to demand from any lessor or lessee under the Existing Leases or from any other persons liable therefor, any of the rents, issues or profits hereby assigned, but shall permit Assignor to collect all such rents, issues and profits from the Property and the Existing Leases, so long as not collected more than one (1) month in advance of their due date.

EVENTS OF DEFAULT. The following events shall constitute default under this Assignment (each an "Event of Default"):

- (a) Failure to make required payments when due under Indebtedness;
- (b) Failure to perform or keep any of the covenants of this Assignment or a default under any of the Related Documents;
- (c) The making of any oral or written statement or assertion to Assignee that is false or misleading in any material respect by Assignor or any person obligated on the Indebtedness;
- (d) The death, dissolution, insolvency, bankruptcy or receivership proceeding of Assignor or of any person or entity obligated on the Indebtedness;
- (e) Any assignment by Assignor for the benefit of Assignor's creditors;
- (f) A material adverse change occurs in the financial condition, ownership or management of Assignor or any person obligated on the Indebtedness; or
- (g) Assignee deems itself insecure for any reason whatsoever.

REMEDIES. Upon the occurrence of an Event of Default under this Assignment, the Indebtedness or the Related Documents, Assignee may declare all sums secured hereby immediately due and payable and may, at Assignee's option, without notice, either in Assignee's person or by agent and with or without bringing any action or proceeding, or by any receiver appointed by the court, enter upon, take possession of, and manage and operate the Property, and each and every part thereof, and in connection therewith, Assignee may make, enforce, and modify any of the Leases; fix or modify rents; repair, maintain and improve the Property; employ contractors, subcontractors, and workmen in and about the Property; obtain and evict tenants; in its own name, sue for and otherwise collect or reserve any and all rents, issues and profits, including those past due and unpaid; employ leasing agents, managing agents, attorneys and accountants in connection with the enforcement of Assignee's rights hereunder and pay the reasonable fees and expenses thereof; and otherwise do and perform any and all acts which



Assignee may deem necessary and appropriate in and about the Property for the protection thereof and of Assignee's rights hereunder and under the Related Documents, and any and all amounts expended by Assignee in connection with the foregoing shall constitute additional Indebtedness secured hereby to the extent permitted by law. Assignee shall apply any moneys collected, as aforesaid, less costs and expenses incurred, upon any Indebtedness secured hereby in such order and manner as Assignee may determine and to the extent permitted by law.

NOTICES AND WAIVER OF NOTICE. Unless otherwise required by applicable law, any notice or demand given by Assignee to any party is considered effective when: (i) it is deposited in the United States Mail with the appropriate postage; (ii) when it is sent via electronic mail; (iii) when it is sent via facsimile; (iv) when it is deposited with a nationally recognized overnight courier service; (v) on the day of personal delivery; or (vi) any other commercially reasonable means addressed to the party given at the beginning of this Assignment unless an alternative address has been provided to Assignee in writing. To the extent permitted by law, Assignor waives notice of Assignee's acceptance of this Assignment, defenses based on suretyship, any defense arising from any election by Assignee under the United States Bankruptcy Code, Uniform Commercial Code, as enacted in the state where Assignee is located or other applicable law or in equity, demand, notice of acceleration, notice of nonpayment, presentment, protest, notice of dishonor and any other notice.

TO THE EXTENT PERMITTED BY LAW, ASSIGNOR WAIVES ANY RIGHT TO NOTICE, OTHER THAN THE NOTICE PROVIDED ABOVE, AND WAIVES ANY RIGHT TO ANY HEARING, JUDICIAL OR OTHERWISE, PRIOR TO THE ASSIGNEE EXERCISING ITS RIGHTS UNDER THIS ASSIGNMENT.

PAYMENT OF RENTS TO ASSIGNEE. All tenants or occupants of any part of the Property (including without limitation, all persons claiming any interest as lessor or lessee under any Leases) are hereby authorized to recognize the claims and demands of Assignee without investigation as to the reason for any action taken by Assignee or the validity of the amount of indebtedness owing to or the existence of any default hereunder or under the Related Documents, or the application of payments made by Assignee, of any amounts to be paid to Assignee. Assignee's sole signature shall be sufficient for the exercise of any right under this Assignment and Assignee's sole receipt given for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Property. Checks for all or any part of the rental collected under this Assignment shall be made to the exclusive order of Assignee.

ASSIGNABILITY. Assignee may assign or otherwise transfer this Assignment or any of Assignee's rights under this Assignment without notice to Assignor. Assignor may not assign this Assignment or any part of the Assignment without the express written consent of Assignee.

ASSIGNEE'S RIGHTS AND REMEDIES. The rights and remedies of the Assignee under this Assignment are cumulative, and are not in lieu of, but are in addition to all other rights and remedies which Assignee has under this Assignment and the Related Documents.

SUCCESSORS AND ASSIGNS. All covenants and agreements contained in this Assignment shall bind, and the rights hereunder shall inure to the respective successors and assigns of the Assignor and the Assignee.

ENTIRE AGREEMENT; MODIFICATIONS; SEVERABILITY. This Assignment shall constitute the entire agreement between Assignee and Assignor. Any modification of this Assignment shall be binding only if placed in writing and signed by the Assignee and Assignor. The invalidity of any provision of this Assignment shall not affect the validity of any other provision.

PARAGRAPH HEADINGS; SINGULAR AND PLURAL TERMS. The titles to the paragraphs of this Assignment are solely for the convenience of the parties and shall not be used to interpret this Assignment. Whenever used, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders.



ATTORNEYS' FEES AND OTHER COSTS. If legal proceedings are instituted to enforce the terms of this Assignment, Assignor agrees to pay all costs of the Lender in connection therewith, including reasonable attorneys' fees, to the extent permitted by law.

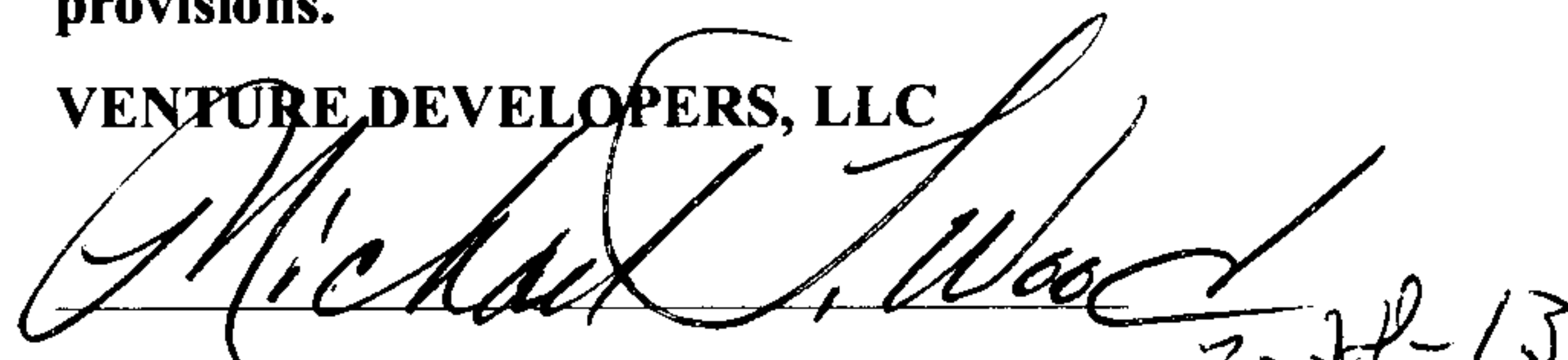
GOVERNING LAW. This Assignment will be governed by the laws of the State of Alabama including all proceedings arising from this Assignment.

WAIVER OF JURY TRIAL. All parties to this Assignment hereby knowingly and voluntarily waive, to the fullest extent permitted by law, any right to trial by jury of any dispute, whether in contract, tort, or otherwise, arising out of, in connection with, related to, or incidental to the relationship established between them in this Assignment or any other instrument, document or agreement executed or delivered in connection with this Assignment or the related transactions.

ORAL AGREEMENTS DISCLAIMER. This Assignment represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

By signing this Assignment, Assignor acknowledges reading, understanding, and agreeing to all its provisions.

VENTURE DEVELOPERS, LLC



By: **MICHAEL L WOOD**

Date

3-28-13

Its: **Managing Member**



20130415000152410 4/7 \$30.00
Shelby Cnty Judge of Probate, AL
04/15/2013 10:51:08 AM FILED/CERT

BUSINESS ACKNOWLEDGMENT

STATE OF ALABAMA)

COUNTY OF Shelby)

I, Cherie Horton, Notary in and for said County and in said State, hereby certify that **MICHAEL L WOOD, Managing Member** on behalf of **VENTURE DEVELOPERS, LLC**, an Alabama Limited Liability Company, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, in his/her official capacity and with full authority, executed the same voluntarily for and as the act of said Limited Liability Company. Given under my hand this the 3-28-2013

Cherie Horton
My commission expires:
Notary Public, State of Alabama
Alabama State At Large
My Commission Expires
August 25, 2013

Cherie Horton

Identification Number

(Official Seal)

THIS INSTRUMENT PREPARED BY:
Merchants & Farmers Bank
134 WEST WASHINGTON ST.
KOSCIUSKO, MS 39090

AFTER RECORDING RETURN TO:
Merchants & Farmers Bank
P.O. Box 520
KOSCIUSKO, MS 39090



EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

All that part of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama lying West of Interstate Highway 65 and East of Fungo Hollow Road (Shelby County Highway 33) all of which is more particularly described as follows: Commence at the Northeast corner of said $\frac{1}{4}$ - $\frac{1}{4}$ section; thence run West along the North line of same for 19.82 feet to a point on the West right of way line of said Interstate Highway 65, said point being the point of beginning; thence continue West along said $\frac{1}{4}$ - $\frac{1}{4}$ section line for 704.54 feet to the East right of way line of Fungo Hollow Road (Shelby County Highway 33); thence 63 degrees 59 minutes 26 seconds left and run Southwesterly along said right of way line for 54.53 feet to the beginning of a curve to the right, said curve having a radius of 2,837.68 feet and subtending a central angle of 04 degrees 16 minutes 18 seconds; thence run Southwesterly along the arc of said curve for 211.56 feet to the end of said curve, said point being also the beginning of a curve to the right, said curve subtending a central angle of 13 degrees 26 minutes 00 seconds and having a radius of 1,677.02 feet; thence run Southwesterly along the arc of said curve for 393.19 feet to the end of said curve; said being also the beginning of a curve to the right, said curve subtending a central angle of 07 degrees 00 minutes 40 seconds and having a radius of 2,443.99 feet; thence run Southwesterly along the arc of said curve and along said right of way line for 299.06 feet to the end of said curve; thence at tangent to said curve Southwesterly along said right of way line for 16.85 feet to a point on the West line of said $\frac{1}{4}$ - $\frac{1}{4}$ section; thence 51 degrees 15 minutes 53 seconds left and run Southerly along said section $\frac{1}{4}$ - $\frac{1}{4}$ line for 547.27 feet to the Southwest corner of said $\frac{1}{4}$ - $\frac{1}{4}$ section; thence 89 degrees 06 minutes 26 seconds left and run East along the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ section for 734.79 feet to a point on the Westerly right of way line of Interstate Highway 65; thence 67 degrees 22 minutes 19 seconds left and run Northeasterly along said right of way for 819.35 feet; thence 05 degrees 44 minutes 44 seconds left and run Northeasterly for 100.52 feet; thence 05 degrees 43 minutes 15 seconds right and run Northeasterly along said right of way line for 249.95 feet; thence 05 degrees 33 minutes 57 second right and run Northeasterly for 100.52 feet; thence 05 degrees 33 minutes 57 seconds left and run Northeasterly along said right of way line for 157.98 feet to the point of beginning; being situated in Shelby County, Alabama.

Less and Except:

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the Northeast corner of said $\frac{1}{4}$ - $\frac{1}{4}$ section, thence run Westerly along the North line of said $\frac{1}{4}$ - $\frac{1}{4}$ for 19.82 feet to a point in the West right of way line of Interstate Highway I-65, said point being the Northeast corner of a boundary survey of an acreage tract by Joseph A. Miller, Jr., dated 5-26-93, thence continue Westerly along the last stated course for 205.00 feet to a point; said point being the point of beginning of the parcel herein described; thence continue Westerly along the last described course for 171.90 feet to a point at the Northeast corner of the recorded right of way of Dow Street; thence turn 90 degrees left and run Southerly across the end of Dow Street right of way for 50.00 feet to the Northeast corner of Lot 31 of Brook Hollow 2nd Sector as recorded in Map Book 17, page 141, in the Probate Office of Shelby County, Alabama; thence turn 19 degrees 00 minutes 00 second right and run Southwesterly along the East line of said Lot 31 for 115.00 feet to a point; thence turn 19 degrees 52 minutes 07 seconds right and run Southwesterly along said Lot 31 East line for 40.16 feet to a point on the right of way of Brook Hollow Drive; thence turn 38 degrees 52 minutes 07 seconds left and run Southwesterly along the East line of Lot 32 of said Brook Hollow 2nd Sector for 90.00 feet to a point; thence turn 19 degrees 09 minutes 05 seconds left and run Southeasterly along the East line of said Lot 32 for 126.44 feet to a point; thence turn 16 degrees 27 minutes 24 seconds right and run Southeasterly along the East line of Lot 37 of said Brook Hollow 2nd Sector for 44.01 feet; thence turn 27 degrees 16 minutes 09 seconds right and run Southwesterly along the East line of Lot 38 of said Brook Hollow 2nd Sector for 119.56 feet; thence turn 12 degrees 19 minutes 28 seconds right and run Southwesterly along the East line of Lot 39 of said Brook Hollow 2nd Sector for 98.18 feet; thence continue Southwesterly along the last stated course and along the East line of Lot 40 of said Brook Hollow 2nd Sector for 33.28 feet to a point; thence turn 27 degrees 54 minutes 04 seconds left and run Southwesterly along said Lot 40 East line for 53.76 feet; thence continue Southwesterly along the last stated course and along the East line of Lot 41 of said Brook Hollow 2nd Sector for 72.27 feet; thence turn 26 degrees 07 minutes 38 seconds right and run Southwesterly along the East line of Lot 42 of said Brook Hollow 2nd Sector for 64.00 feet; thence turn 19 degrees 22 minutes 55 seconds right and run Southwesterly along the East line of Lot 43 of said Brook Hollow 2nd Sector for 65.40 feet to the most Easterly corner of Lot 44A of the Resurvey of Lot 44 of Brook Hollow 2nd Sector as recorded in Map Book 18, page 86 in the Judge of Probate Office of Shelby County, Alabama; thence turn 11 degrees 37 minutes 06 seconds left and run Southwesterly along the East line of Lot 44A of said resurvey of Lot 44 of Brook Hollow 2nd Sector for 63.44 feet; thence turn 16 degrees 51 minutes 46 seconds left and run Southwesterly along the East line of Lot 45 of Brook Hollow 1st Sector as recorded in Map Book 17, page 103, in the Judge of Probate of Shelby County, Alabama for 66.08 feet; thence continue Southwesterly along the last stated course and along the east line of Lot 46 of Brook Hollow 1st Sector for 35.91 feet; thence

ALTA Commitment (6-17-06) Schedule A - continued



20130415000152410 6/7 \$30.00
Shelby Cnty Judge of Probate, AL
04/15/2013 10:51:08 AM FILED/CERT

EXHIBIT A CONTINUED

turn 65 degrees 33 minutes 55 seconds left and run Southeasterly along the Northeasterly line of Lot 51 of said Brook Hollow 1st Sector for 110.00 feet; thence turn 79 degrees 22 minutes 36 seconds right and run Southwesterly along the Southeasterly line of said Lot 51 for 101.91 feet to a point on the right of way line of said Brook Hollow Drive, said point being on a curve to the right, said curve subtending a central angle of 90 degrees and having a radius of 40.00 feet; thence run Southeasterly along the arc of said curve and along said right of way line for 82.83 feet to the end of said curve, said point being the Northeast corner of Lot 1 of said Brook Hollow 1st Sector; thence from tangent of said curve turn 90 degrees left and run Southwesterly along the East line of said Lot 1 for 45.00 feet; thence turn 27 degrees 24 minutes 18 seconds right and run Southwesterly along the Easterly line of said Lot 1 for 61.95 feet to the Southeast corner of said Lot 1; said point being on the South line of said Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 13, Township 20 South, Range 3 West; thence turn 117 degrees 23 minutes 31 seconds left and run East along said $\frac{1}{4}$ - $\frac{1}{4}$ line for 230.19 feet to a point on the westerly right of way line of Interstate Highway I-65; thence turn 67 degrees 22 minutes 18 seconds left and run Northeasterly along said right of way line for 819.35 feet to an Alabama Department of Transportation Concrete right of way monument; thence turn 5 degrees 44 minutes 44 seconds left and run Northeasterly along said right of way line for 25.52 feet to a point; thence turn 34 degrees 56 minutes 33 seconds left and run Northwesterly for 248.63 feet to a point; thence turn 36 degrees 12 minutes 21 seconds right and run Northeasterly for 315.00 feet to the Point of Beginning; being situated in Shelby County, Alabama.

Less and except the property located within map of Brook Hollow, First Sector, as recorded in Map Book 17, page 103; property located within Map of Brook Hollow, Second Sector, as recorded in Map Book 17, page 141 and property located in that certain Resurvey recorded in Map Book 18, page 86 and that certain Resurvey recorded in Map Book 19, page 49, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Parcel 2:

Lot 2, according to the Survey of Regency Park, Phase Two, as recorded in Map Book 26, page 106, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.


20130415000152410 7/7 \$30.00
Shelby Cnty Judge of Probate, AL
04/15/2013 10:51:08 AM FILED/CERT