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Shelby Cnty Judge of Probate, AL
05/23/2013 11:51:13 AM FILED/CERT

IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

State of Alabama,
Plaintiff.

vs.

Leslie P. Smitherman, Nathaniel Harris,
Don Armstrong, Tax Collector,
Defendants.


)
) CASE # PR-2012-000213
)
)
)
)
)
)

ORDER ON PAYMENT OF AWARD

State of Alabama having paid into the Court, on May 13, 2013, the sum of \$1,057.00, such being the amount assessed by the Commissioners heretofore appointed to determine the amount of damages and compensation to which the owners and other interested parties were entitled (and which such amount includes costs of court), it is ORDERED that each respondent and defendant be notified.

It is further ORDERED that each defendant or respondent claiming an interest in said funds set forth the extent of such interest in writing, to the Court within 30 days.

DONE and ORDERED this 14th day of May, 2013.


JAMES W. FUHRMEISTER
Judge of Probate

cc: Clifton S. Price, II, Esq.
Leslie P. Smitherman
Donald Armstrong

ENTERED AND FILED

MAY 14 2013

KIMBERLY MELTON CHIEF CLERK
PROBATE COURT
SHELBY COUNTY ALABAMA

IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

State of Alabama,
Plaintiff.

vs.

Leslie P. Smitherman, Nathaniel Harris, Don
Armstrong, Tax Collector
Defendants.

CASE # PR-2012-000213

DECREE GRANTING CONDEMNATION
AND APPOINTING COMMISSIONERS

This cause came to be heard on the 4th day of March, 2013, upon the Complaint of the State of Alabama, to condemn certain lands or interests in lands for public road or highway purposes.

And it further appearing to the Court that all defendants who are named in the Complaint have had notice of the filing of the Complaint and of the day set for hearing thereof, as provided by law. Present in Court was Clifton S. Price, II, attorney for the State of Alabama. The Defendants did not appear;

The Court proceeded to hear ore tenus testimony regarding the allegations of the Complaint and reviewed responsive pleadings filed by the defendants and all evidence thereon offered by the parties, and upon consideration of the same the Court now determines that the allegations of the Complaint have been established and proven by legal evidence as to every party named therein, and that the Complaint should be granted.

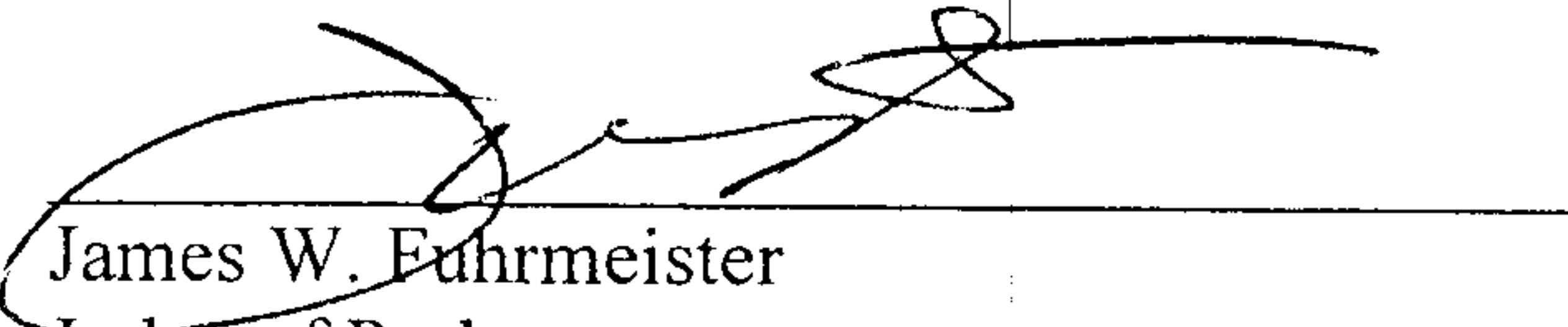
It is, therefore, ORDERED, ADJUDGED and DECREED that the Complaint be and the same is hereby granted as to all parties named therein. And the Court now coming to appoint commissioners to assess the damages and compensation to which the defendants are entitled for the structures, lands or interest in lands sought to be condemned by the plaintiff, and it appearing to the Court that Jim Strickland, Tammy Brush and Jeff Murphy, are citizens of Shelby County, Alabama, the county in which the structures and lands sought to be condemned are located, and that each of them possesses the qualifications of jurors under the laws of the State of Alabama and is disinterested in the proceeding;

It is, therefore, ORDERED, ADJUDGED and DECREED that Jim Strickland, Tammy Brush, and Jeff Murphy are hereby appointed commissioners to assess the damages and compensation to which the defendants, as owners and parties holding or claiming some interest in the lands described in the Complaint are entitled.

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It is further ordered that notice of the appointment of the commissioners be served upon each of such commissioners and that they report to this Court, in writing, the amount of damages and compensation so ascertained and assessed by them as being due said owners of, or the owners of an interest in, said structures and lands within the time prescribed by law.

DONE and ORDERED this the 16 day of March, 2013.



James W. Fuhrmeister
Judge of Probate

cc: Clifton S. Price, II
Leslie P. Smitherman
Donald Armstrong

ENTERED AND FILED

MAR 06 2013

KIMBERLY MELTON CHIEF CLERK
PROBATE COURT
SHELBY COUNTY ALABAMA


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IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

State of Alabama,
Plaintiff.

vs.

Leslie P. Smitherman, Nathaniel Harris, Don
Armstrong, Tax Collector
Defendants.

CASE # PR-2012-000213

CERTIFICATE OF COMMISSIONERS

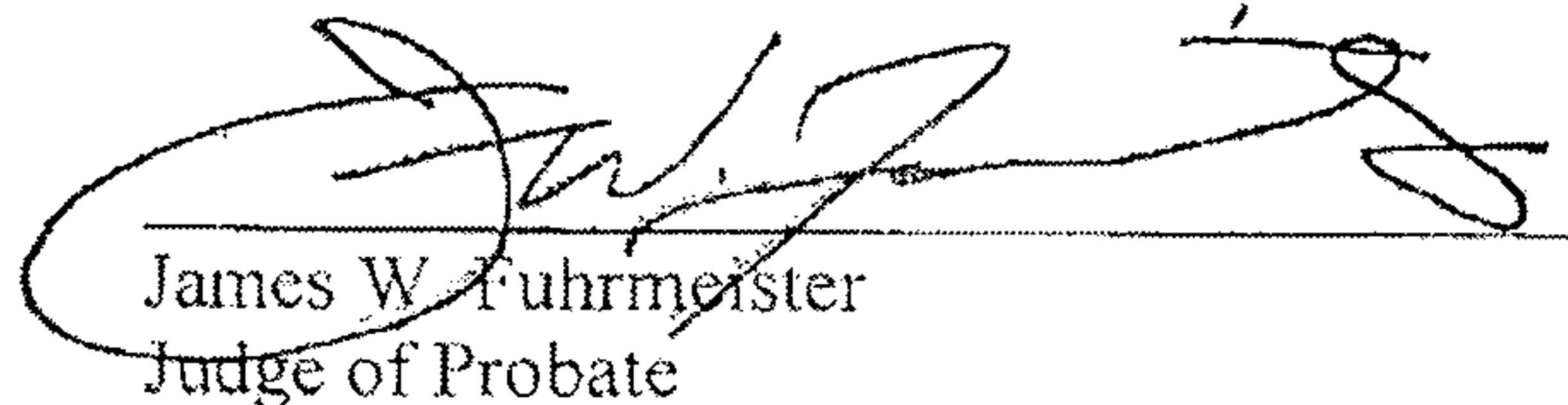
The undersigned commissioners do hereby file in the Probate Court of Shelby County, Alabama, with the foregoing report, this written certificate and do hereby state and certify that none of the undersigned Commissioners have ever been consulted, advised with, or approached by any person in reference to the value of the lands involved or the proceedings to condemn the same prior to the assessment of damages and that they knew nothing of the same prior to their appointment, and have no interest of any kind in said proceedings for condemnation of said lands.



Jim Strickland, Commissioner


Jeff Murphy, Commissioner


Tammy Brush, Commissioner

Subscribed and sworn to before me this the 25 day of March, 2013.


James W. Fuhrmeister
Judge of Probate


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IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

State of Alabama,
Plaintiff.

vs.

Leslie P. Smitherman, Nathaniel Harris, Don
Armstrong, Tax Collector
Defendants.

CASE # PR-2012-000213

REPORT AND CERTIFICATE OF COMMISSIONERS

TO: THE HONORABLE JAMES W. FUHRMEISTER
JUDGE OF PROBATE, SHELBY COUNTY, ALABAMA

The undersigned Commissioners having been heretofore appointed by the Probate Court of Shelby County, Alabama, to assess the damages and compensation to which the owner and other interested parties are entitled by reason of the condemnation and maintenance of public highways and roads, do hereby report as follows:

That after being sworn as required by law, that after viewing the land and receiving all evidence offered by any of the parties touching the amount of damages and compensation to which the owners and other interested parties of same will sustain, we hereby assess the amount of damages and compensation to which the owner and interested parties of said land are entitled, which amounts are set out and shown as follows, to wit:

See Exhibit "A" attached hereto and incorporated herein

1. Owner(s):

Leslie P. Smitherman, Nathaniel Harris, and Don Armstrong

2. The amount of damages and compensation awarded the owners and other interested parties is as follows:

Owner(s): Leslie P. Smitherman, Nathaniel Harris and Don Armstrong

Amount: \$ 500.⁰⁰ (FIVE HUNDRED DOLLARS)



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The undersigned do further state that in making said assessments, they have proceeded in strict conformity to the commission heretofore issued to and served upon them as such commissioners and the undersigned do further file with this report and award a certificate showing that the undersigned commissioners have no interest in said proceeding.

DONE this the 25th day of MARCH, 2013.


Jim Strickland, Commissioner


Tammy Brush, Commissioner


Jeff Murphy, Commissioner

Subscribed and sworn to before me on this the 25 day of March, 2013.

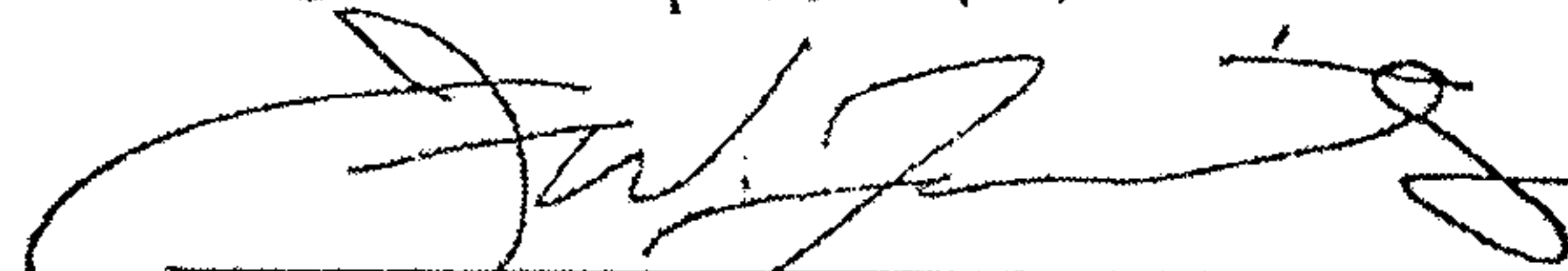

James W. Fuhrmeister
Judge of Probate

Exhibit A

LEGAL DESCRIPTION

A part of the SW 1/4 of the NW 1/4, Section 12, Township 21 South, Range 1 East and, identified as Tract No. 6 on Project No STPAA-0145(500) in Shelby County, Alabama and being more fully described as follows:

Parcel 1 of 1:

Commencing at the SW corner of the NW 1/4 of the SW 1/4, of section 12, township 21 south and range 1 east,

thence N 75°16'24" E a distance of 728.68 feet to a point on the acquired R/W line (said line between a point that is offset 200.00' and perpendicular to centerline of project at station 186+00.00 and a point that is offset 200.00' and perpendicular to centerline of project at station 181+00.00), which is the point of BEGINNING;


thence following the curvature thereof an arc distance of 162.37 feet and along the acquired R/W line to a point on the acquired R/W line (said point offset 200.00' and perpendicular to centerline of project at station 186+00.00) (said arc having a chord bearing of N 11°51'50" E, a counterclockwise direction, a chord distance of 162.36 feet and a radius of 4711.07 feet);

thence N 40°23'55" E and along the acquired R/W line a distance of 20.23 feet to a point (capped iron) on the present R/W line of State Route 145 (said point offset 190.00' and perpendicular to centerline of project at station 186+18.30);

thence S 11°30'49" W and along the present R/W line of State Route 145 a distance of 140.37 feet to a point (capped iron) on the present R/W line of State Route 145 (said point offset 190.00' and perpendicular to centerline of project at station 184+72.30);

thence S 0°58'8" E and along the present R/W line a distance of 37.08 feet to a point on the grantor's property line (said line between a point that is offset 190.00' and perpendicular to centerline of project at station 184+72.30 and a point that is offset 140.00' and perpendicular to centerline of project at station 182+72.30);

thence N 89°1'22" W and along the grantor's property line a distance of 19.10 feet; to the point and place of BEGINNING containing 0.04 acres, more or less;


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specified. A bona fide final offer to purchase has previously been extended to the Defendant(s) and has been refused.

THIRD

Plaintiff further avers that it is necessary to acquire a right-of-way in fee simple over, upon and across the herein described real estate for the purpose of constructing and maintaining said Project No. STPAA-0145(500) with the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands, the right to prevent any person from placing or maintaining any obstruction on said lands, and all the right to enter upon said lands for the purpose of construction, maintaining and repairing the public improvements constructed or installed thereon, thereover or thereunder. Plaintiff avers that the lands set out below are owned by the Defendants named or there is presently an interest held in the lands described by the persons above, each of whom, if an individual, is over the age of nineteen (19) years, and is under no legal disability unless otherwise specifically recited, and that each resides at the address set opposite his name; except where those names, ages, addresses and conditions are listed as unknown, the same cannot be ascertained by Plaintiff after reasonable effort and diligent inquiry.

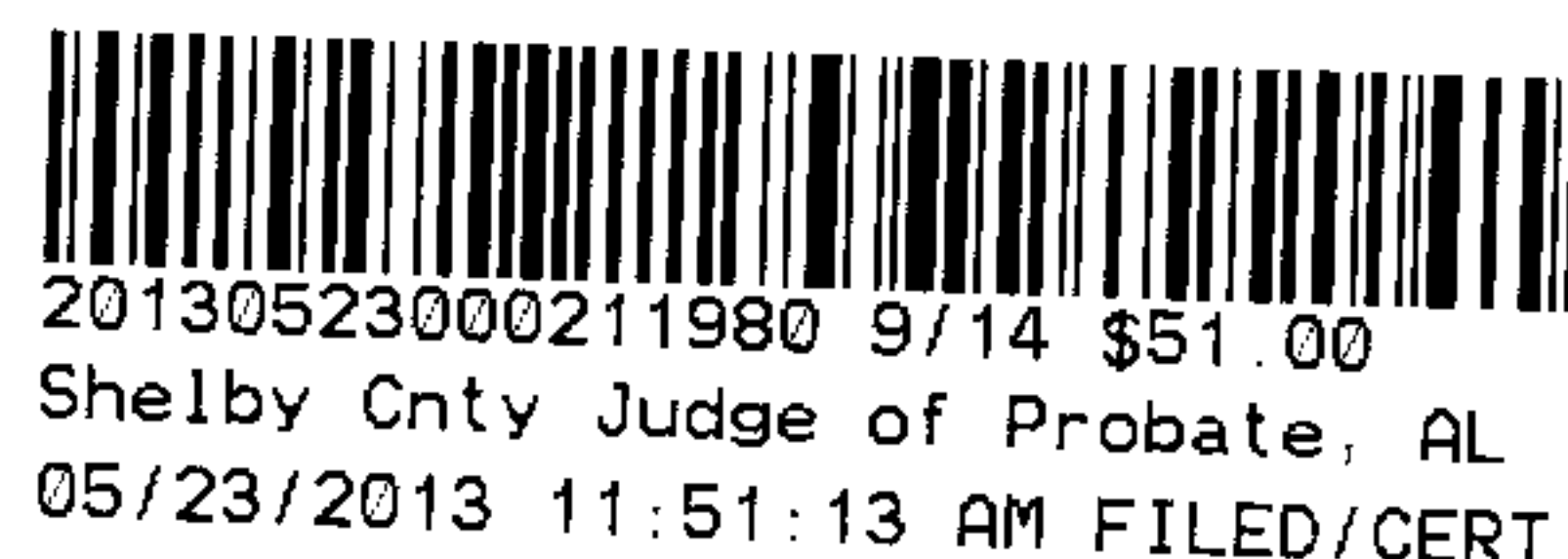
FOURTH

Plaintiff also seeks to enter upon the remaining lands of the Defendants contiguous to the parcels described herein in order to remove in their entirety improvements, if any, located partially on the required right-of-way.

FIFTH

Located on said parcels are certain improvements within the required right-of-way, to-wit:

-NONE-



DEFENDANTS-AMENDED*

Leslie P. Smitherman
801 Bent Creek Road
Alabaster, AL 35007

Nathaniel Harris
Whereabouts are unknown

Don Armstrong, Tax Collector
Shelby County Courthouse
Columbiana, AL

***Defendant Nathaniel Harris, whose whereabouts are unknown was previously incorrectly described as Nathaniel Harris Smitherman.**

LEGAL DESCRIPTION

A part of the SW 1/4 of the NW 1/4, Section 12, Township 21 South, Range 1 East and, identified as Tract No. 6 on Project No STPAA-0145(500) in Shelby County, Alabama and being more fully described as follows:

Parcel 1 of 1:

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thence N 75°16'24" E a distance of 728.68 feet to a point on the acquired R/W line (said line between a point that is offset 200.00' and perpendicular to centerline of project at station 186+00.00 and a point that is offset 200.00' and perpendicular to centerline of project at station 181+00.00), which is the point of BEGINNING;

thence following the curvature thereof an arc distance of 162.37 feet and along the acquired R/W line to a point on the acquired R/W line (said point offset 200.00' and perpendicular to centerline of project at station 186+00.00) (said arc having a chord bearing of N 11°51'50" E, a counterclockwise direction, a chord distance of 162.36 feet and a radius of 4711.07 feet);

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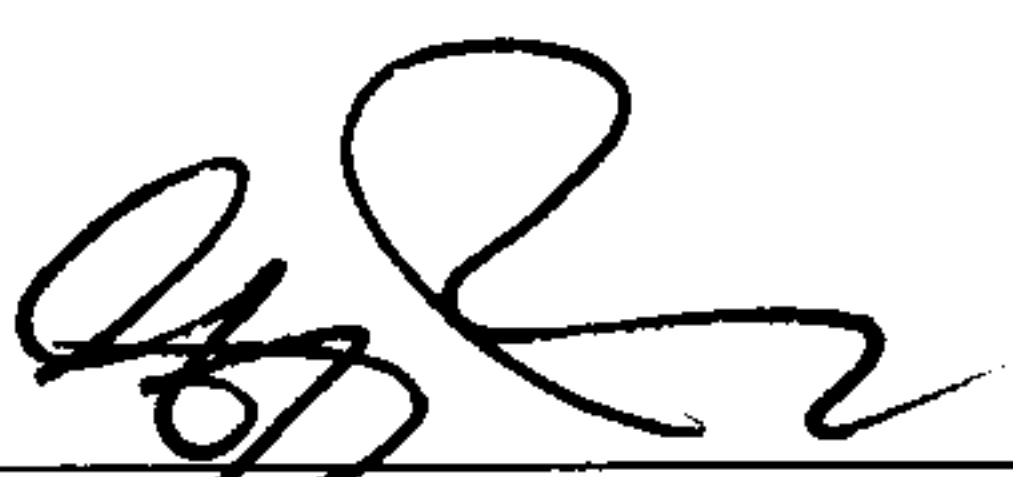
thence S 11°30'49" W and along the present R/W line of State Route 145 a distance of 140.37 feet to a point (capped iron) on the present R/W line of State Route 145 (said point offset 190.00' and perpendicular to centerline of project at station 184+72.30);

thence S 0°58'8" E and along the present R/W line a distance of 37.08 feet to a point on the grantor's property line (said line between a point that is offset 190.00' and perpendicular to centerline of project at station 184+72.30 and a point that is offset 140.00' and perpendicular to centerline of project at station 182+72.30);

thence N 89°1'22" W and along the grantor's property line a distance of 19.10 feet; to the point and place of BEGINNING containing 0.04 acres, more or less;

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays this Court will enter an Order appointing the day for hearing of this Complaint, and will cause notice of this Complaint and notice of the date set for hearing hereof to be issued to the above-named Defendants, all as provided by law and the rules of this Court, and that upon a final hearing of this Complaint, that this Court enter an Order and Decree granting the said Complaint For Condemnation and vesting fee simple title in your Plaintiff to said foregoing described properties; that this Court enter an Order appointing appraisers as provided by law to ascertain the damages occasioned by such taking and the compensation if any to be allowed the Defendants for such taking, and, that this Court will enter any such Order and Decree as is necessary and just.

STATE OF ALABAMA

By 
CLIFTON S. PRICE, II
Deputy Attorney General
for the State of Alabama
8107 Parkway Drive
Leeds, Alabama 35094

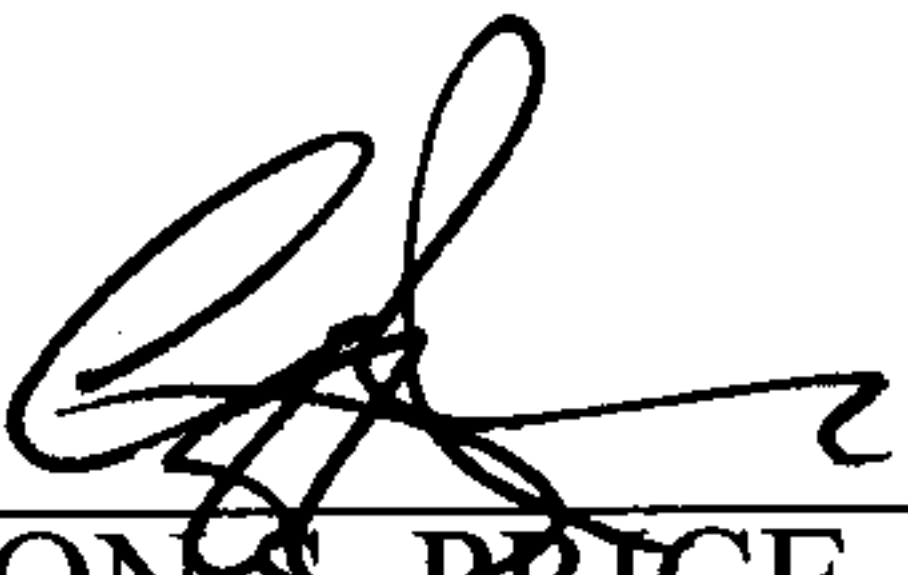
Telephone: (205) 939-3999



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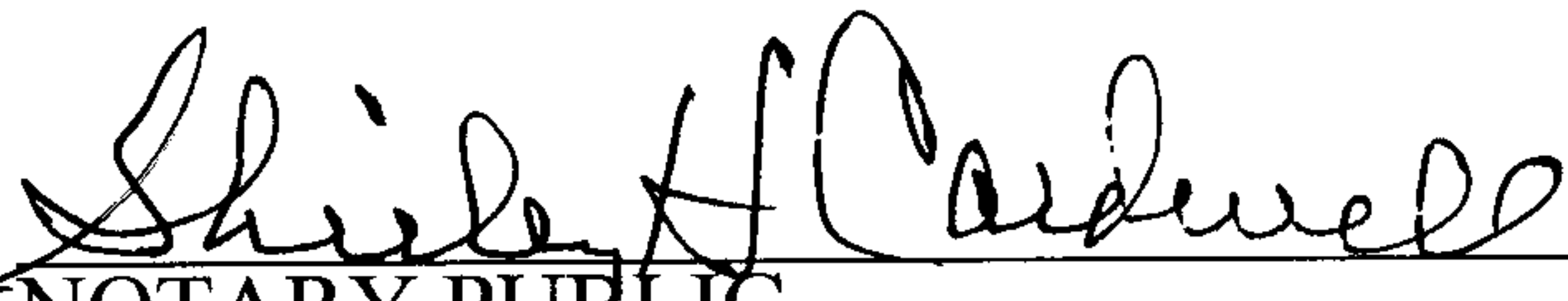
STATE OF ALABAMA)
)
JEFFERSON COUNTY)

BEFORE ME, the undersigned authority, in and for said County in said State, personally appeared CLIFTON S. PRICE, II, who is known to me, and who, being by me first duly sworn, deposes and says that he is a Deputy Attorney General for the State of Alabama, and, as such, is authorized to make this Affidavit that he has read the above and foregoing Complaint, and that the averments of fact contained therein are true and correct.




CLIFTON S. PRICE, II (S E A L)

Subscribed before me on this the 23 day of JULY, 2012.



NOTARY PUBLIC


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POC
SW Corner of the
NW 1/4 OF SW 1/4
SEC. 12, T21S, R1E

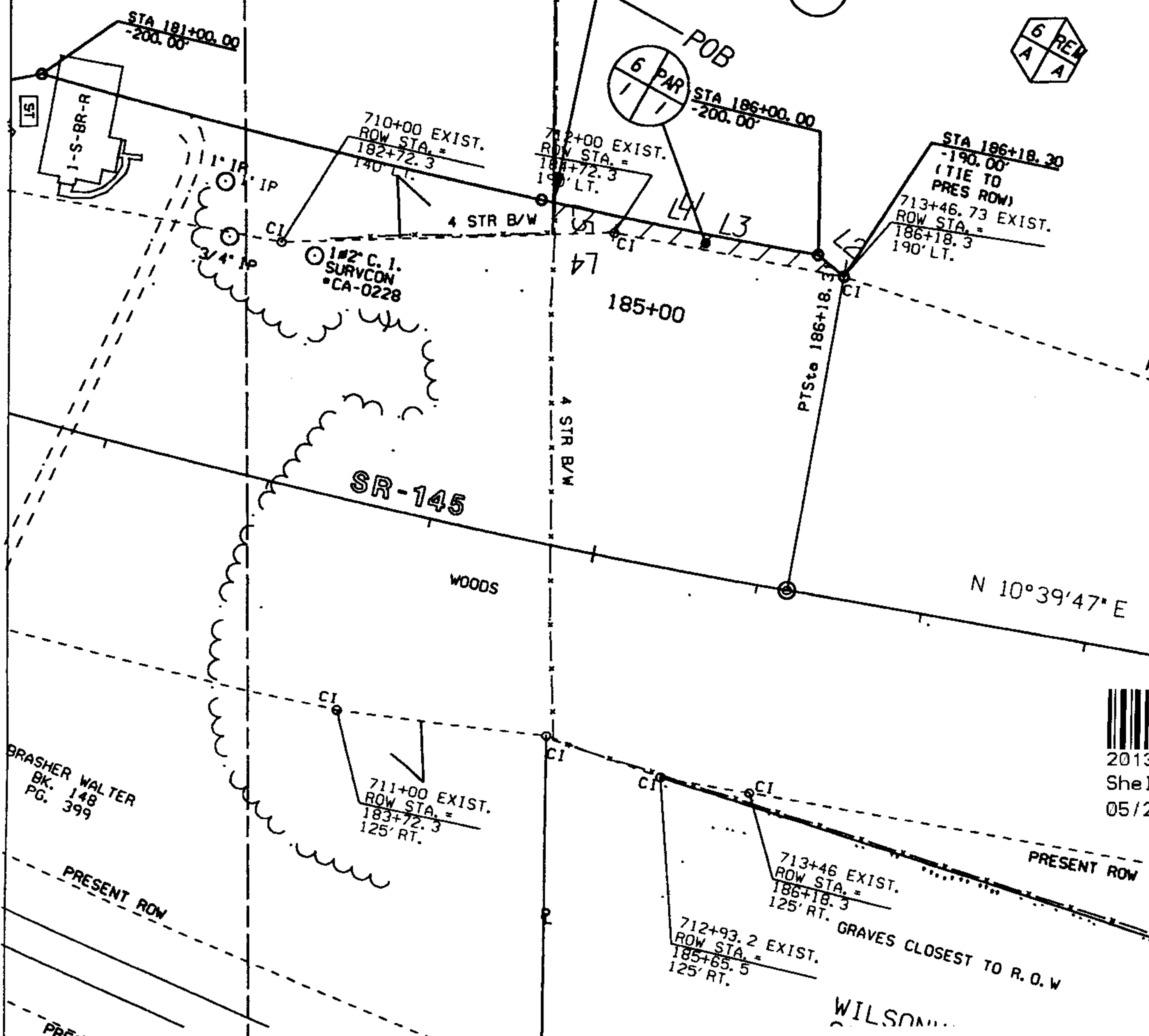
TRACT 6, PAR 1 OF 1
AREA = 0.04 AC. (1818.26 SF)

COURSE	BEARING	DISTANCE	RADIUS	DIR
M1	N75° 16' 24" E	728.68		
L1	N11° 51' 50" E	162.36	4711.07	CCW
L2	N40° 23' 55" E	20.23		
L3	S11° 30' 49" W	140.37		
L4	S0° 58' 8" E	37.08		
L5	N89° 1' 22" W	19.10		

BRASHER WALTER
BK. 148
PG. 399



6



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Tract #:	6	Scale:	1"=100'
Grantor(s):	Leslie P. Smitherman	State:	Alabama
Total Before:	22.00	County:	Shelby
Total Parcels:	0.04	Project:	STPAA-0145(500)
Total Remainder:	21.96	CPMS #:	100038926
S NOT A BOUNDARY SURVEY		Date:	24-Oct-11
		Sketch:	1 of 1

NEGOTIATOR'S REPORT

Page 1 of 1

NEGOTIATOR: Cindy Holladay
Project No.: STPAA 0145(500) 100038926 Owner: Leslie P. Smitherman
Tract No.: 6 Minority/Gender: Non-Minority / Male
County: SHELBY Address: 801 Bent Creek Road
Area Acq'd.: 0.0400 (In Acres) Alabaster, AL. 35007
Home Phone: (205) 620-5795 Work Phone: () -

Negotiations Began: 03/02/2012 90 Day Notice Delivered: 30 Day Notice Delivered:

Acquisition Contains: Residence: () Sign () Vacant Land: (X)
Business: () Farm: () Non-Profit Organization: ()
Other () Other Explanation

Acquisition Brochure: Owner given one by negotiator Given one on: 03/02/2012

Offer

1. No Obligation (offer) \$0.00 (Explain in detail basis on any amended offer by State)
Alt. Obligation (offer)
2. Other \$0.00

Owner's option of retaining their improvements was explained to them and they choose to retain improvements

Pertinent comments on owner retention:

() Owner requested contacts be made with the following representative:

Representative Name Relationship to Owner

Date Contacted: 03/02/2012 Person(s) Contacted: Mr. Leslie Smitherman Place of Contact: Phone
Substance I contacted Mr. Smitherman by phone to set-up an appointment to make the Result: Rejected
of offer based on the evaluation of Mr. Dennis Hill. Mr. Smitherman was very Offer \$500.00
Discussion: upset and said he didn't need an appointment because his land was not for
sale. He said he would take \$50,000 for the 0.04 acres of property to we valued
at \$220 with a minimum offer of \$500. Mr. Smitherman claims that we do not
have the right to just take his property when it is not for sale. Since he refused
to meet with me, I mailed him his offer letter, tract sketch, and rights & privileges
booklet. He told me not to waste the taxpayers money sending it but I sent it
anyway so he can have the offer and booklet to review. It appears that we have
already acquired a portion of his property by condemnation in the past. I am
submitting the request for condemnation to our attorney after receiving his title
opinion dated March 8, 2012.

Complete certification following conclusion of negotiations:

I certify that: (1) the written agreement secured embodies all of the considerations agreed upon between the negotiator and the property owner; (2) the agreement was reached without coercion, promises other than those shown in the agreement, or threats of any kind whatsoever by or to either party;** (3) it is understood that the parcels are to be secured for use in connection with a Federal-aid highway project; (4) I have no direct or indirect present or contemplated future personal interest in the parcels or in any benefit from the acquisition of such property.

(Signed) Cindy Holladay (Title) ROWS
Division Negotiator
(Date) 3/13/2012

**If use on a non-Federal-aid project, strike through provision three (3) which is not applicable.

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