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Shelby Cnty Judge of Probate, AL
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JUN 17 2013

ENVIRONMENTAL COVENANT

Lochapoka, LLC (hereinafter "Grantor") grants an Environmental Covenant (hereinafter "Covenant") this 11th day of June, 2013, to the following entities pursuant to The Alabama Uniform Environmental Covenants Act, Ala. Code §§ 35-19-1 to 35-19-14 (2007 Cum. Supp.) (hereinafter "the Act" or "Act"), and the regulations promulgated thereunder: the Alabama Department of Environmental Management (hereinafter "ADEM").

WHEREAS, the Grantor was the owner of certain real property located in the City of Helena, Alabama, identified as the Dudley Jackson Facility situated at 177 Mullins Drive, Helena, AL 35180, in Shelby County, Alabama, (hereinafter "the Property"). The property which was conveyed to Grantor by deed dated December 28, 2012, and recorded in the Office of the Judge of Probate for Shelby County, Alabama, on January 25, 2013, Recording Number 20130125000034730;

WHEREAS, the Property is more particularly described in Exhibit A, attached hereto;

WHEREAS, this instrument is an Environmental Covenant developed and executed pursuant to the Act and the regulations promulgated thereunder;

WHEREAS, a release/disposal of hazardous substances, including, but not limited to, Trichloroethene and Methyl Tertiary Butyl Ether, occurred on the Property;

WHEREAS, no "remedial action" was needed for the release/disposal pursuant to ADEM:

WHEREAS, the Brownfield Redevelopment and Voluntary Cleanup Plan (VCP) requires institutional controls to be implemented to address the effects of the release/disposal so that exposure to the above-mentioned substances is controlled by restricting the use of the Property and the activities on the Property;

WHEREAS, the above-mentioned substances remain on the Property;

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions on the Property to reduce the risk to human health to below the target risk levels for those above-mentioned substances that remain on the Property;

WHEREAS, due to Trichloroethene and Methyl Tertiary Butyl Ether contamination in the groundwater, the exposure pathway of concern is ingestion of groundwater.

WHEREAS, further information concerning the release/disposal and the activities to correct the effects of the release/disposal may be obtained by contacting Chief, Land

Division, Alabama Department of Environmental Management ("ADEM"), or his or her designated representative, at 1400 Coliseum Boulevard, Montgomery, Alabama, 36110; and

WHEREAS, the Administrative Record concerning the Property is located at:

Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110
www.adem.state.al.us

NOW, THEREFORE, Grantor hereby grants this Environmental Covenant to the Holder, and declares that the Property shall hereinafter be bound by, held, sold, used, improved, occupied, leased, hypothecated, encumbered, and/or conveyed subject to the following requirements set forth in paragraphs 1 through 3 below:

1. **DEFINITIONS**

Owner. "Owner" means the GRANTOR, its successors and assigns in interest.

2. **USE RESTRICTIONS**

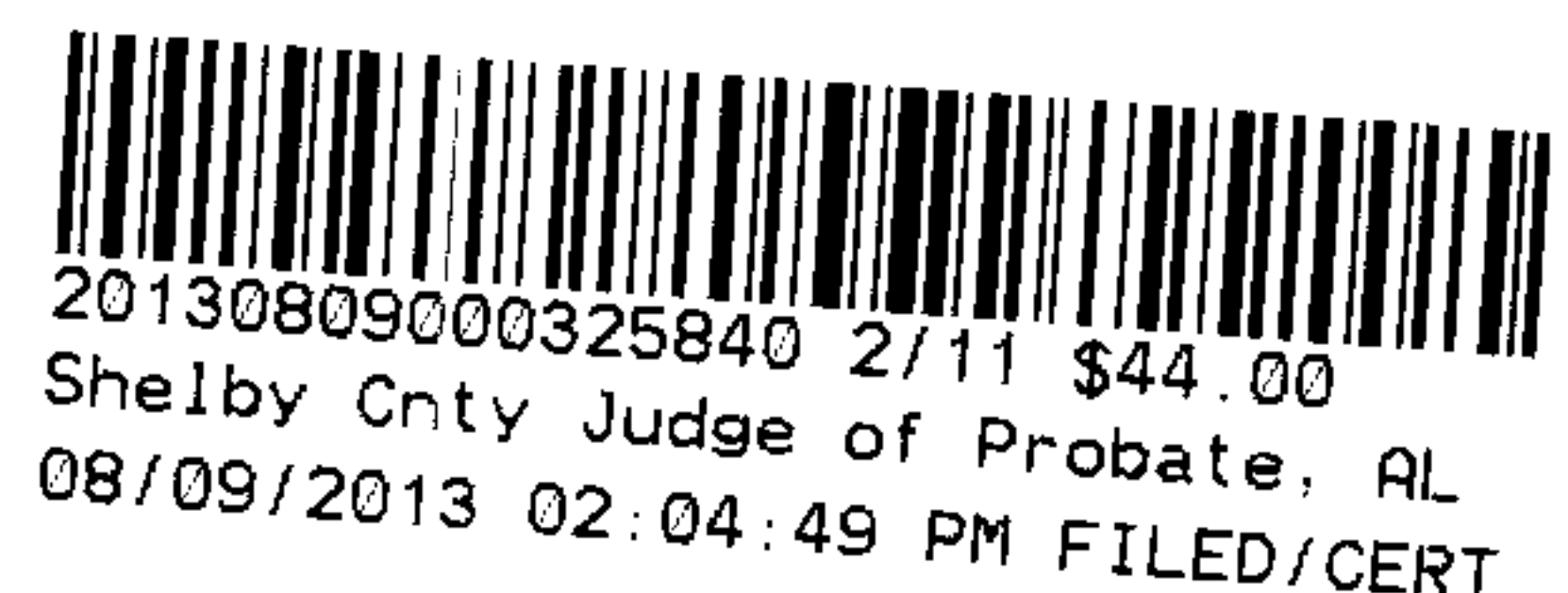
The following activities shall not take place on the identified Property without first obtaining written approval from ADEM through modification of this covenant:

Use of property for residential purposes.
Use of groundwater for potable purposes.

3. **GENERAL PROVISIONS**

A. **Restrictions to Run with the Land**. This Environmental Covenant runs with the land pursuant to Ala. Code §35-19-5 (2007 Cum Supp.); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to Ala. Code §35-19-9 (Cum Supp. 2007); is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof; inures to the benefit of and passes with each and every portion of the Property; and binds the Owner, the Holders, all persons using the land, all persons, their heirs, successors and assigns having any right, title or interest in the Property, or any part thereof who have subordinated those interests to this Environmental Covenant, and all persons, their heirs, successors and assigns who obtain any right, title or interest in the Property, or any part thereof after the recordation of this Environmental Covenant.

B. **Notices Required**. In accordance with Ala. Code §35-19-4(b) (2007 Cum Supp.), the Owner shall send written notification, pursuant to Section J, below, following transfer of a specified interest in, or concerning proposed



changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the Property. Said notification shall be sent within fifteen (15) days of each event listed in this Section.

- C. **Registry/Recordation of Environmental Covenant; Amendment; or Termination.** Pursuant to Ala. Code §35-19-12(b) (2007 Cum Supp.), this Environmental Covenant and any amendment or termination thereof, shall be contained in ADEM's registry for environmental covenants. After an environmental covenant, amendment, or termination is filed in the registry, a notice of the covenant, amendment, or termination may be recorded in the land records in lieu of recording the entire covenant in compliance with §35-19-12(b). Grantor shall be responsible for filing the Environmental Covenant within thirty (30) days of the final required signature upon this Environmental Covenant.
- D. **Right of Access.** The Owner hereby grants ADEM; ADEM's agents, contractors and employees; the Owner's agents, contractors and employees; and any Holders the right of access to the Property for implementation or enforcement of this Environmental Covenant.
- E. **ADEM Reservations.** Notwithstanding any other provision of this Environmental Covenant, ADEM retains all of its access authorities and rights, as well as all of its rights to require additional land/water use restrictions, including enforcement authorities related thereto.
- F. **Representations and Warranties.** Grantor hereby represents and warrants to the other signatories hereto:
- i) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
 - ii) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
 - iii) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
 - iv) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under, any other agreement, document, or instrument to which Grantor is a party, by which Grantor may be bound or affected;

- v) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property;
- vi) That this Environmental Covenant does not authorize a use of the Property which is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

G. **Compliance Enforcement.** In accordance with Ala. Code §35-19-11(b) (2007 Cum Supp.), the terms of the Environmental Covenant may be enforced by the parties to this Environmental Covenant; any person to whom this Covenant expressly grants power to enforce; any person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the Covenant; or a municipality or other unit of local government in which the real property subject to the Covenant is located, in accordance with applicable law. The parties hereto expressly agree that ADEM has the power to enforce this Environmental Covenant. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict ADEM, or the Grantor, from exercising any authority under applicable law.

H. **Modifications/Termination.** Any modifications or terminations to this Environmental Covenant must be made in accordance with Ala. Code §§35-19-9 and 35-19-10 (2007 Cum Supp.).

I. **Notices.** Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

ADEM

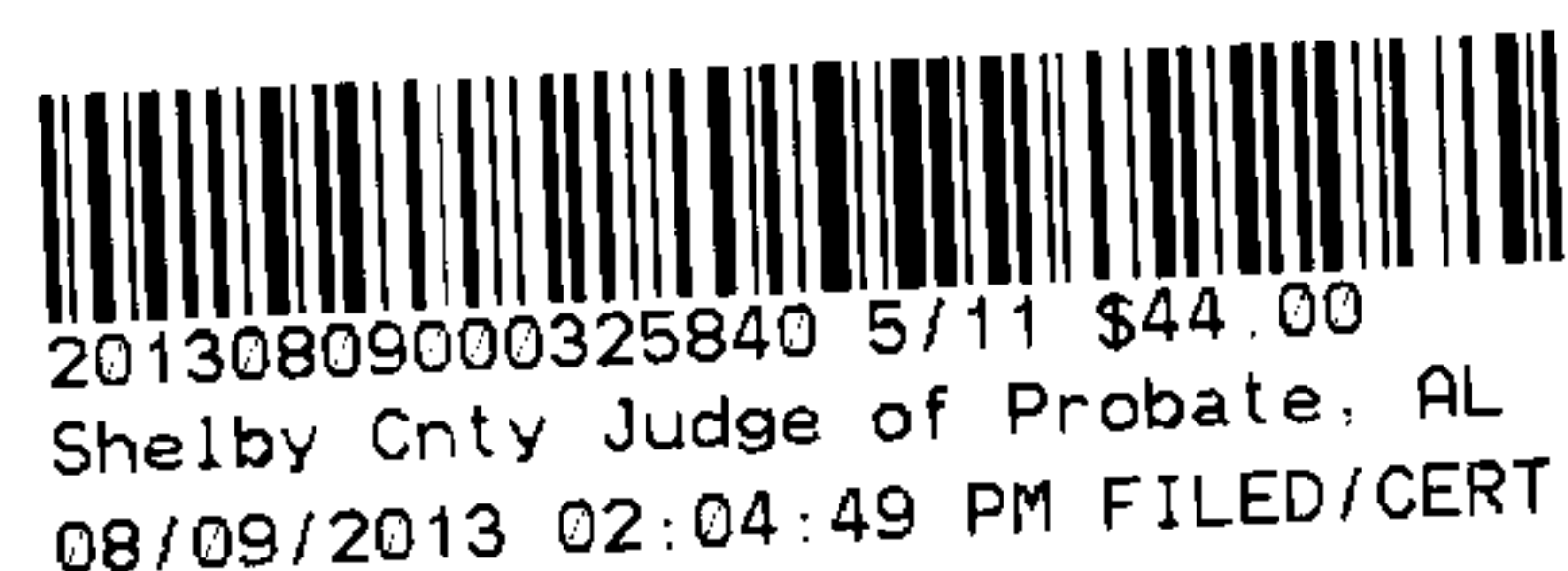
Chief, Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110

Grantor

Lochapoka, LLC
c/o T. Michael Goodrich, II
The Goodrich Law Firm, LLC
2100 1st Ave N, Ste. 600
Birmingham, AL 35203


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- J. **No Property Interest Created in ADEM.** This Environmental Covenant does not in any way create any interest by ADEM in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by ADEM in the Property in accordance with Ala. Code §35-19-3(b) (2007 Cum. Supp.).
- K. **Severability.** If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
- L. **Governing Law.** This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Alabama.
- M. **Recordation.** In accordance with Ala. Code §35-19-8(a) (2007 Cum. Supp.), Grantor shall record this Environmental Covenant and any amendment or termination of the Environmental Covenant in every county in which any portion of the real property subject to this Environmental Covenant is located. Grantor agrees to record this Environmental Covenant within fifteen (15) days after the date of the final required signature upon this Environmental Covenant.
- N. **Effective Date.** The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded, in accordance with Ala. Code §35-19-8(a) (2007 Cum. Supp.).
- O. **Distribution of Environmental Covenant.** Within fifteen (15) days of filing this Environmental Covenant, the Grantor shall distribute a recorded and date stamped copy of the recorded Environmental Covenant in accordance with Ala. Code §35-19-7(a) (2007 Cum Supp.). However, the validity of this Environmental Covenant will not be affected by the failure to provide a copy of the Covenant as provided herein.
- P. **ADEM References.** All references to ADEM shall include successor agencies, departments, divisions, or other successor entities.
- Q. **Grantor References.** All references to the Grantor shall include successor agencies, departments, divisions, or other successor entities.
- R. **Other Applicable Party(ies).** All references to Other Applicable Party(ies) shall include successor agencies, departments, divisions, or other successor entities.



The property owner has caused this Environmental Covenant to be executed pursuant to The Alabama Uniform Environmental Covenants Act, on this 11th day of June, 2013.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands this the day and year first above written.

Signature pages to follow this page.

This instrument prepared by:

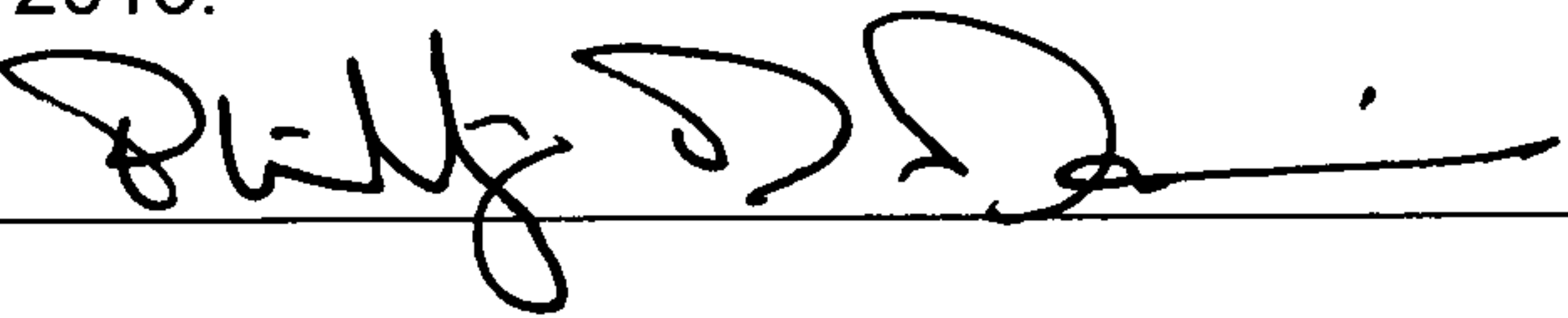
E. Vaughn McWilliams
McWilliams Law, LLC
2100 1st Ave N, Suite 600
Birmingham, AL 35203



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ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

This Environmental Covenant is hereby approved by the State of Alabama this 26th day of July, 2013.

By: 

Chief, Land Division
Alabama Department of Environmental Management

The foregoing Environmental Covenant was acknowledged before me by Phillip D. Davis, Chief, Land Division, Alabama Department of Environmental Management, this the 26 day of July, 2013.


Notary Public

My Commission Expires: 1-30-15

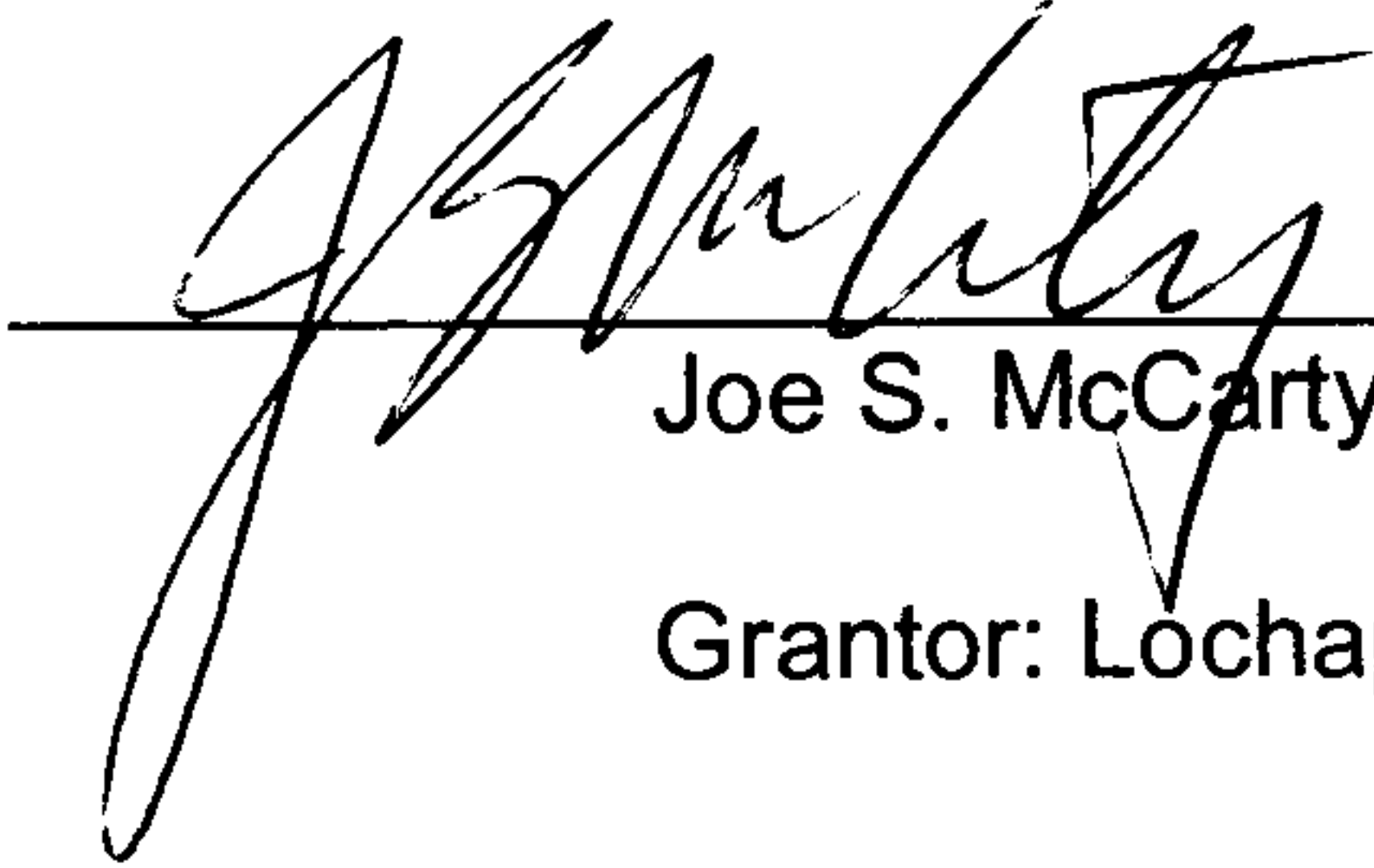


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LOCHAPOKA, LLC

This Environmental Covenant is hereby approved by Lochapoka, LLC, an Alabama limited liability company, this 11 day of June, 2013.

By:



Joe S. McCarty, Manager
Grantor: Lochapoka, LLC

The foregoing Environmental Covenant was acknowledged before me by Joe S. McCarty, Manager of Lochapoka, LLC, this the 11th day of June, 2013.

Notary Public

My Commission Expires: 3/28/16



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EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

Begin at the Southeast corner of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 15, Township 20 South, Range 3 West; thence run North along the East line thereof 810.03 feet; thence 88 degrees 50 minutes 12 seconds left run 336.43 feet; thence 108 degrees 21 minutes 30 seconds left and run Southeasterly for 210.67 feet; thence 1 degrees 03 minutes 25 seconds right and run Southeasterly 195 feet; thence 03 degrees 57 minutes left continue for 200.00 feet; thence 109 degrees 27 minutes right run Westerly 50.0 feet; thence 109 degrees 55 minutes left run Southeasterly 200.00 feet; thence 111 degrees 23 minutes 57 seconds right run Westerly 151.35 feet to the Northeasterly right of way of Mullins Drive; thence 110 degrees 23 minutes 50 seconds left run Southeasterly along said right of way 46.26 feet; thence 71 degrees 05 minutes 07 seconds left run Easterly 300.32 feet to the point of beginning; being situated in Shelby County, Alabama.

PARCEL 2:

Part of Northeast $\frac{1}{4}$ of Southeast $\frac{1}{4}$ of Section 15, Township 20 South, Range 3 West, of Huntsville Principal Meridian, Shelby County, Alabama, being more particularly described as follows:

Begin at Southeast corner of Northeast $\frac{1}{4}$ of Southeast $\frac{1}{4}$ of said Section 15, thence in Westerly direction along the South boundary of said Quarter-Quarter section line 149.65 feet, thence turning an angle of 70 degrees and 05 minutes to the right in Northwesterly direction 242.27 feet, thence turning an angle of 109 degrees and 55 minutes to the right in Easterly direction 50.00 feet, thence turning an angle of 109 degrees and 27 minutes to the left in Northwesterly direction 200.00 feet to point of beginning of a tract of land herein described; thence turning an angle of 3 degrees and 57 minutes to the right in Northwesterly direction 195.00 feet, thence turning an angle of 72 degrees and 40 minutes to left in Westerly direction 209.05 feet to point of intersection with East boundary of a County Road right of way said point being the arc of a curve turning to left in Southerly direction and having a radius of 5704.58 feet said chord being subtended by a central angle of 2 degrees 02 minutes and 56 seconds and having a chord of 203.98 feet in length said chord forming angle of 109 degrees and 18 minutes to left from last mentioned course having a length of 209.05 feet, thence along said arc of said curve 204.00 feet which is East boundary of said right of way, thence turning an angle of 72 degrees and 32 minutes to left from last mentioned chord having a length of 203.98 feet, thence in Easterly direction 200.00 feet to point of beginning.

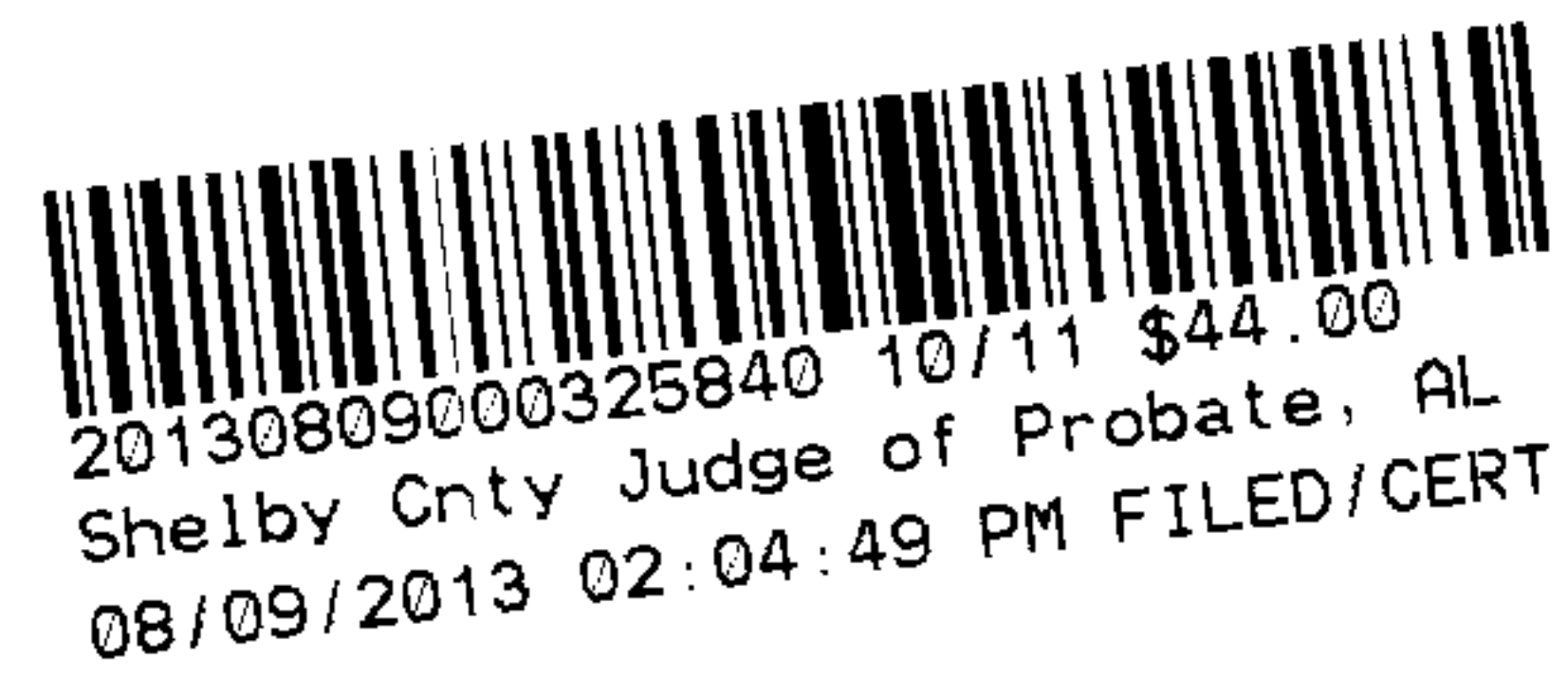


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PARCEL 3:

A part of the Northeast $\frac{1}{4}$ of Southeast $\frac{1}{4}$ of Section 15, Township 20 South, Range 3 West, described as follows:

Commence at Southeast corner of said $\frac{1}{4}$ - $\frac{1}{4}$ section and run Westerly along South line a distance of 149.65 feet; thence turn angle of 70 degrees 05 minutes to right in Northwest direction 42.27 feet to point of beginning, thence continuing in a straight line along last mentioned course 200.00 feet; thence turn angle of 109 degrees 55 minutes to right in Easterly direction 50.00 feet; thence turning an angle of 109 degrees 27 minutes to left in Northwesterly direction 200.00 feet; thence turn an angle of 70 degrees 33 minutes to left in Westerly direction 200 feet to point of intersection with the East boundary of a County Road right of way, said point being in the arc of a curve turning to left in Southerly direction and having a radius of 5704.58 feet, said chord being subtended by a central angle of 2 degrees 07 minutes 12 seconds and having a chord of 211.06 feet in length, said chord forming an angle of 109 degrees 28 minutes to left from last mentioned course having a length of 200.00 feet; thence along said arc of said curve 211.07 feet to the point of intersection with a straight line tangent to said arc; thence continuing along said straight line which is East boundary of said right of way of road 45.27 feet to the point of beginning of an arc of a curve turning to the right in Southerly direction and having a radius of 4799.69 feet said arc being subtended by a central angle of 1 degree 40 minutes and having a chord of 139.61 feet in length; thence along said arc of said curve 139.61 feet to point of intersection with a straight line tangent to said arc; thence along said straight line 4.06 feet which is on said right of way of road; thence turn an angle of 70 degrees 07 minutes to left in an Easterly direction 150.00 feet to point of beginning.



STATE OF ALABAMA

COUNTY OF SHELBY

I, _____, Clerk of the Shelby
County Court, do certify that the foregoing Environmental Covenant was lodged in my
office for record, and that I have recorded it, this ____ day of _____, 2013
in the Deed Recordation Book _____ on Page _____.

County Clerk



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