


**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Return to:
First American Title Insurance Company
801 Nicollet Mall, Suite 1900
Minneapolis, MN 55402
NCS- 659384 -MPLS (CK)


20140414000108690 1/11 \$44.50
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Value
500.00

SPACE ABOVE THIS LINE FOR RECORDERS' USE ONLY

GRANT OF TEMPORARY CONSTRUCTION AND CROSS-ACCESS EASEMENTS

THIS GRANT OF TEMPORARY INGRESS CONSTRUCTION AND CROSS-ACCESS EASEMENTS (this "Agreement") is dated as of April 10, 2014, by and between HIGHWAY 11/31 II, LLC, an Delaware limited liability company ("Highway 11/31"), and CFT DEVELOPMENTS, LLC, a California limited liability company ("CFT") (collectively, the "Parties").

RECITALS

A. Highway 11/31 is the fee owner of certain real property located in the City of Alabaster, County of Shelby, State of Alabama, as more particularly described in **Exhibit A** attached hereto ("Highway 11/31 Property") and depicted as "Grantor Property" on the site plan attached hereto as **Exhibit B** (the "Site Plan").

B. CFT is the fee owner of certain real property located adjacent to the Highway 11/31 Property in the City of Alabama, County of Shelby, State of Alabama, as more particularly described in **Exhibit C** attached hereto (the "CFT Property") and depicted as "Grantee Property" on the Site Plan.

C. CFT, its affiliates, contractors and agents, require access to a portion of the Highway 11/31 Property to facilitate the creation of a curb cut that will initially be used for construction vehicles and later used by general vehicular and pedestrian traffic.

D. In order to provide for the construction of the curb cut which will benefit both the Highway 11/31 Property and CFT Property, Highway 11/31 desires to grant a temporary construction easement in accordance with this Agreement.

E. In order to provide for the ingress and egress of vehicular and pedestrian traffic over and across the Highway 11/31 Property and CFT Property, the Parties desire to grant each other reciprocal access and ingress/egress easements in accordance with this Agreement.

NOW, THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Grant of Temporary Construction Easement.** Subject to the terms and conditions contained herein, Highway 11/31 hereby grants to CFT a non-exclusive temporary easement (the "Construction Easement") upon the Highway 11/31 Property as depicted on the attached **Exhibit D** (the "Construction Site Plan"), for the use and benefit of CFT, its affiliates, employees, agents and contractors for the construction of a curb cut to be located in between the Highway 11/31 Property and CFT Property. The term of this temporary construction easement shall commence on the date hereof and expire upon the earlier to occur of (i) the issuance by the applicable local governmental authority of a certificate of occupancy regarding the building to be constructed on the CFT Parcel; or (ii) the expiration of two (2) years from the date hereof.

2. **Grant of Cross-Access Easement.** Highway 11/31 reserves unto itself and grants unto CFT, with respect to the Highway 11/31 Parcel, and CFT reserves unto itself and grants unto Highway 11/31, with respect to the CFT Parcel, perpetual non-exclusive easements, appurtenant to each Party's parcel, for the use and benefit of each Party and such Party's respective successors, tenants, licensees, and customers, for the purpose of vehicular and pedestrian ingress and egress to and from each Parties' parcel, over, upon, and across the driveways, access ways, sidewalks and walkways, and right-of-way entrances and exits on each Party's parcel, including without limitation the curb cut depicted on the Site Plan as the "Cross Access Easement Area," as such areas will, from time to time, be constructed, altered, modified and maintained by the Parties, and their respective successors and assigns. Notwithstanding anything contained in this Agreement to the contrary, the free flow of traffic to and from each Party's parcel to the adjacent rights-of-way shall not be hindered or impaired in any manner without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed.

3. **Easement Rights.** The Easements shall be non-exclusive; provided, however, that neither Highway 11/31 nor CFT shall grant any right to utilize the Easements to any person or entity other than their successors and assigns, tenants and subtenants and their employees, agents, licensees, permittees and invitees.

4. **Acceptance of Grant.** Highway 11/31 and CFT hereby accept the foregoing grant of Easements and hereby expressly agree to be bound by the terms, covenants and conditions contained herein.

5. **Construction.** The Easements shall be constructed at CFT's sole cost and expense and in accordance with any applicable laws and ordinances.

6. **Indemnity Obligations.** Highway 11/31 shall protect, defend, indemnify and hold CFT and the general partners, agents, employees, partners, unitholders, shareholders, affiliates, officers and directors (collectively, the "Indemnitees") of CFT harmless from and against any and all losses, costs, expenses (including reasonable attorneys' fees and court costs), claims, damages, liens and stop notices caused by Highway 11/31 or the consultants, representatives, contractors, subcontractors, employees or agents (collectively, the "Representatives") of Highway 11/31 from Highway 11/31's use of the CFT Easement. CFT shall keep the Highway 11/31 Property free and clear of any mechanics' liens and materialmen's liens arising from CFT's use of the CFT Easement or the construction of the CFT Easement (collectively, "CFT's Work"). CFT shall protect, defend, indemnify and hold Highway 11/31



and Highway 11/31's Indemnites harmless from and against any and all losses, costs, expenses (including reasonable attorneys' fees and court costs), claims, damages, liens and stop notices caused by CFT or CFT's Representatives in connection with CFT's Work.

7. **Agreement Runs with the Land.** The Easements, the restrictions hereby imposed and the agreements contained in this Agreement shall be deemed easements, restrictions and covenants running with the land pursuant shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns. Reference herein to Highway 11/31 and CFT and their respective rights and obligations under this Agreement shall include reference to any successors-in-interest and assignees of Highway 11/31 and CFT.


8. **Reasonable Care.** Highway 11/31 and CFT shall each exercise reasonable care in the use and enjoyment of the Easements and in exercising any of their respective rights under this Agreement.

9. **Cooperation.** Highway 11/31 and CFT shall in good faith cooperate with each other in connection with their respective rights and obligations under this Agreement, including, but not limited to, performing any acts and executing any further documents that may be reasonably necessary to effectuate the purposes of or rights conferred under this Agreement.

10. **Modification of Agreement.** This Agreement may only be modified, changed or terminated by a written agreement signed and acknowledged by Highway 11/31 and CFT and recorded in the real property records of Shelby County. If a modification or amendment of this Agreement is a condition precedent to the consummation of a sale, assignment or other transfer of the Highway 11/31 Property or the CFT Property, Highway 11/31 or CFT, as applicable, shall not unreasonably withhold consent to such modification or amendment, provided that such amendment or modification is not inconsistent with the intent of this Agreement and the Purchase Agreement.

11. **Limitation on Liability.** Notwithstanding anything to the contrary contained in this Agreement, in no event shall any of the officers, directors, employees, unitholders or general partners of Highway 11/31 or of any of the partners of any partner of Highway 11/31 have any personal liability or shall any of their assets be subject to any personal liability for any breach of this Agreement. The sole recourse against Highway 11/31 under this Agreement shall be limited to the assets of Highway 11/31. Upon any transfer of either the Highway 11/31 Property or the CFT Property, Highway 11/31 and/or CFT, as applicable, shall be released from all obligations and liability arising under this Agreement after the date of such transfer; provided, any successor-in-interest to Highway 11/31 or CFT, as applicable, expressly assumes, in writing, all of the obligations of Highway 11/31 or CFT, as applicable, under this Agreement.

12. **Notices.** All notices and requests under this Agreement shall be in writing and shall be sent by personal delivery, facsimile (with hard copy to follow the next business day by overnight mail), by certified or registered mail, postage prepaid, return receipt requested, nationally recognized overnight mail carrier such as FedEx or delivered in person to the following street addresses:


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Highway 11/31:

Merchant Retail Partners
2801 Hwy 280 South, Suite 375
Birmingham, AL 35223

Attention: Trevor O'Connor

Telephone: (205) 268-4252

Facsimile: 205-268-4253

With a copy to:

Johnston, Hinesley, Flowers, Clenney &
Turner, P.C.

291 North Oates Street (36303)

Dothan, AL 36302

Attention: William Hinesley, Esq.

Telephone: (334) 793-1115

Facsimile: (334) 793-6603

CFT:

CFT Developments, LLC

1683 Walnut Grove Avenue

Rosemead, California 91770

Attention: Restaurant Development

Telephone: (626) 799-9898

Facsimile: (626) 372-8288

With copies to:

CFT Developments, LLC

1683 Walnut Grove Avenue

Rosemead, California 91770

Attention: Real Estate Legal

Telephone: (626) 799-9898

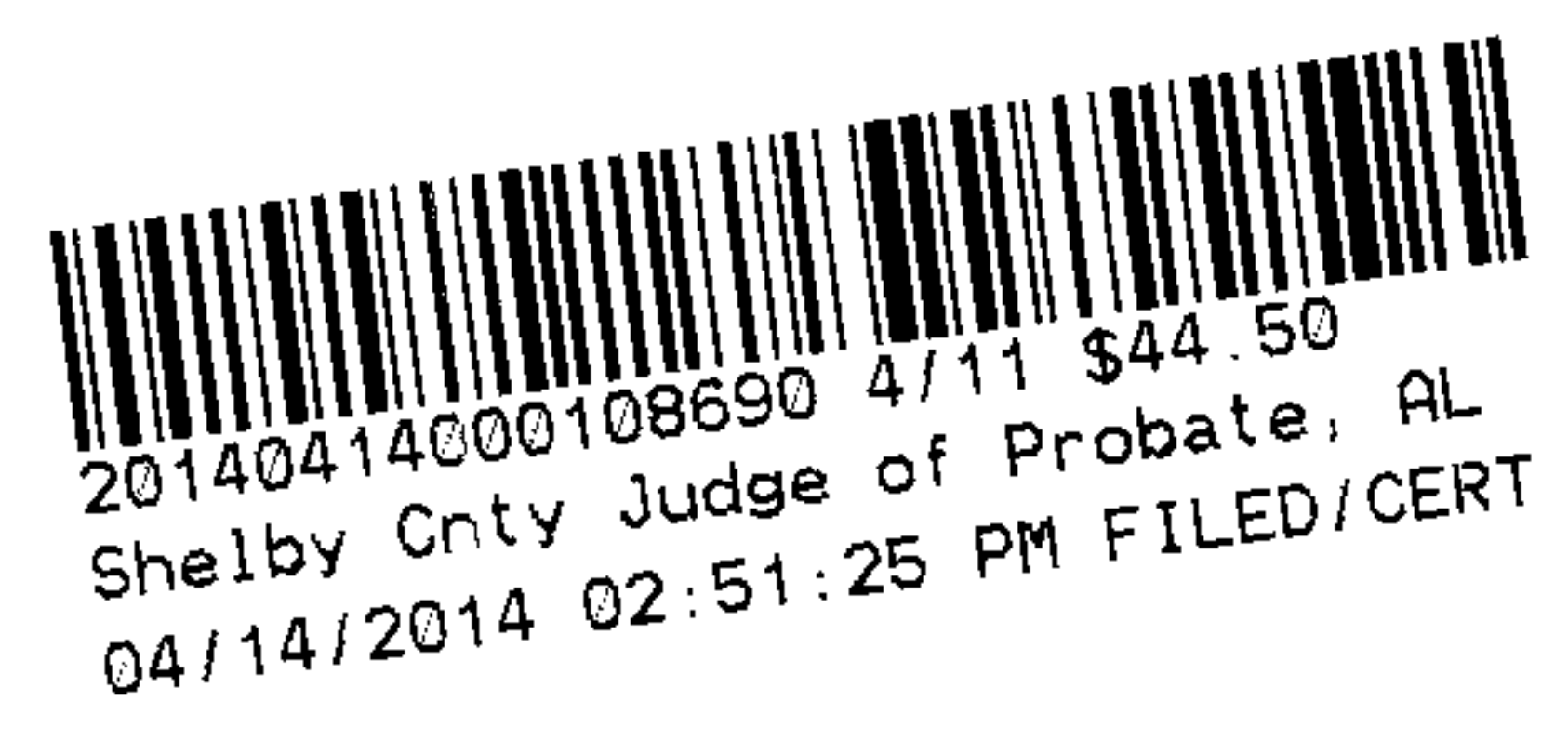
Facsimile: (626) 372-8296

All notices shall be effective upon the earlier of personal delivery or receipt of a facsimile confirmation statement, if sent by facsimile, or receipt of confirmation of delivery, if delivered by a nationally recognized overnight mail carrier or seventy-two (72) hours after deposit in the United States mail. Either party may change its address or designate a new street address for notices under this Agreement by notice complying with the terms of this Section.

13. Interpretation. This Agreement shall be construed in accordance with and governed by the laws of the State of Alabama. If any provision of this Agreement or application thereof to any person or circumstances shall to any extent be invalid, the remainder of this Agreement shall not be affected and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law. **Exhibits A, B and C** as attached to this Agreement are hereby incorporated by this reference.

14. Counterpart Execution. This Agreement may be executed and acknowledged in counterpart originals and all such counterparts shall constitute one (1) Agreement. Signature pages may be detached from the counterpart originals and attached to a single copy of this Agreement to physically form one (1) document.

(Signature Page Follows Immediately)



IN WITNESS WHEREOF, this instrument has been executed as of the date first set forth above.

“CFT”:

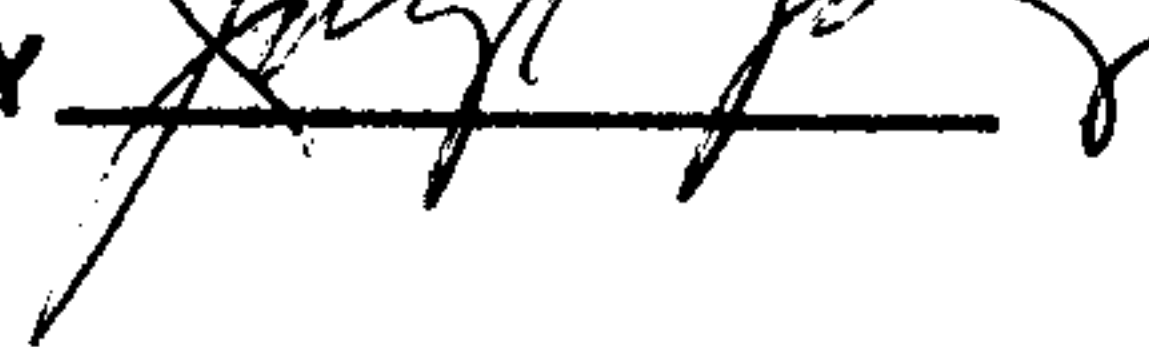
CFT DEVELOPMENTS, LLC,
a California limited liability company

By: 


Name: CHARLIE SHEN

Title: MANAGER

APPROVED AS TO FORM

BY 

[NOTARY ACKNOWLEDGMENT TO BE ATTACHED]


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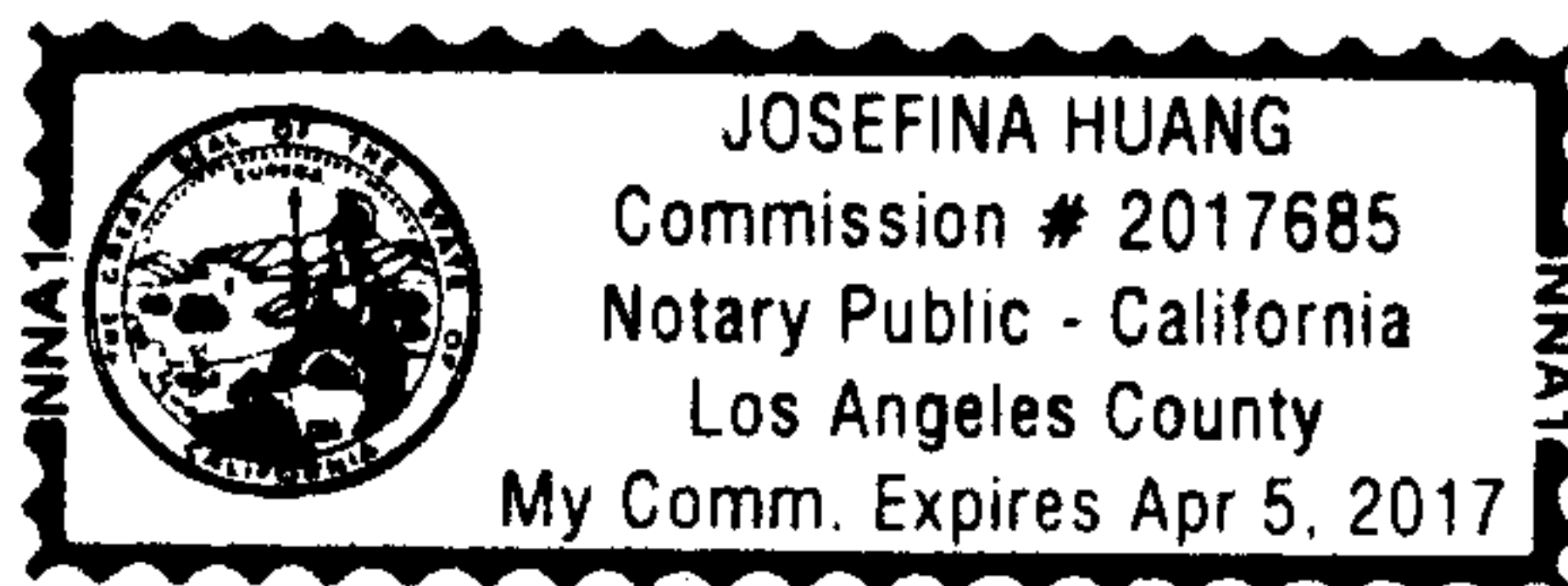
ACKNOWLEDGMENT

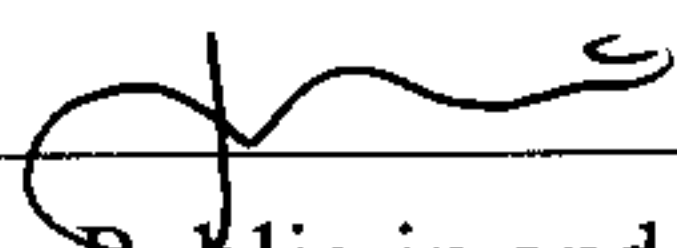
STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On APRIL 1, 2014, before me, JOSEFINA HUANG, Notary Public, personally appeared Charlie Shen, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that his/~~her/their~~ executed the same in his/~~her/their~~ authorized capacity, and that by his/~~her/their~~ signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.


WITNESS my name and official seal.





Notary Public in and for the
State of CALIFORNIA
My commission expires: APRIL 5, 2017

RE: CFT Developments, LLC, a California limited liability company


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“HIGHWAY 11/31”:

**HIGHWAY 11/31 II, LLC,
an Delaware limited liability company**

By: WZ

Name: William Leitner

Title: manager

STATE OF ALABAMA)
)
Jefferson **COUNTY**)

I, Nancy C. Clarke, a Notary Public, in and for said County in said State, hereby certify that William Leitner, whose name as Manager of **HIGHWAY 11/31 II, LLC an Delaware limited liability company**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, in his capacity as Manager of said company and with full authority, executed the same for and as the act and deed of said company on the day that the same bears date.

Given under my hand this the 10th day of April, 2014.

Nancy C. Clarke
Notary Public

My Commission Expires: 10-01-2014



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EXHIBIT A

Highway 11/31 Property Legal Description

Lot 7A, according to the Final Plat of Colonial Promenade Alabaster South Lot 7 Subdivide, as recorded in Map Book 44, page 3, in the Probate Office of Shelby County, Alabama


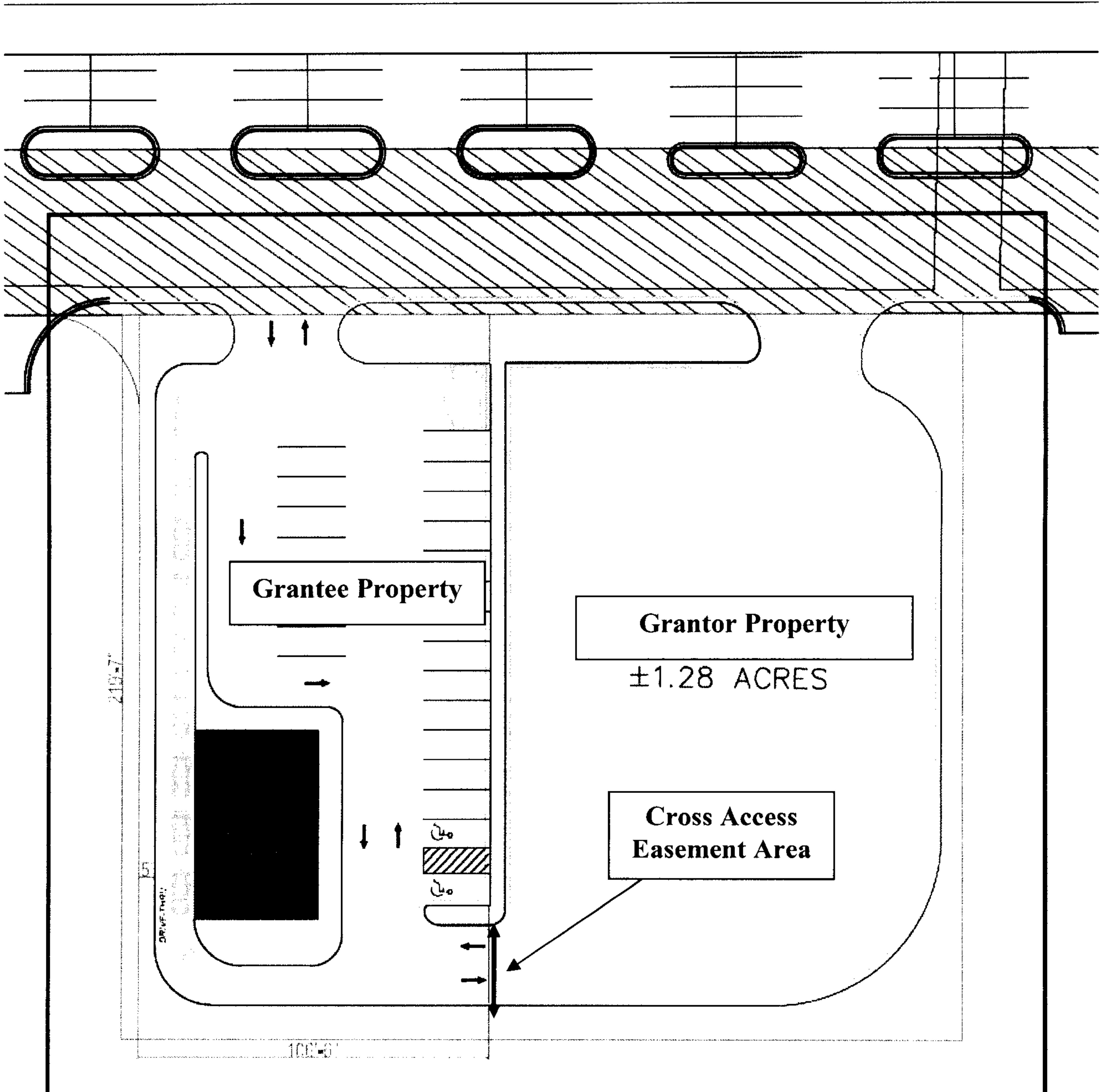

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EXHIBIT B

Site Plan



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EXHIBIT C

CFT Property Legal Description

Lot 7B, according to the Final Plat of Colonial Promenade Alabaster South Lot 7 Subdivide, as recorded in Map Book 44, page 3, in the Probate Office of Shelby County, Alabama.


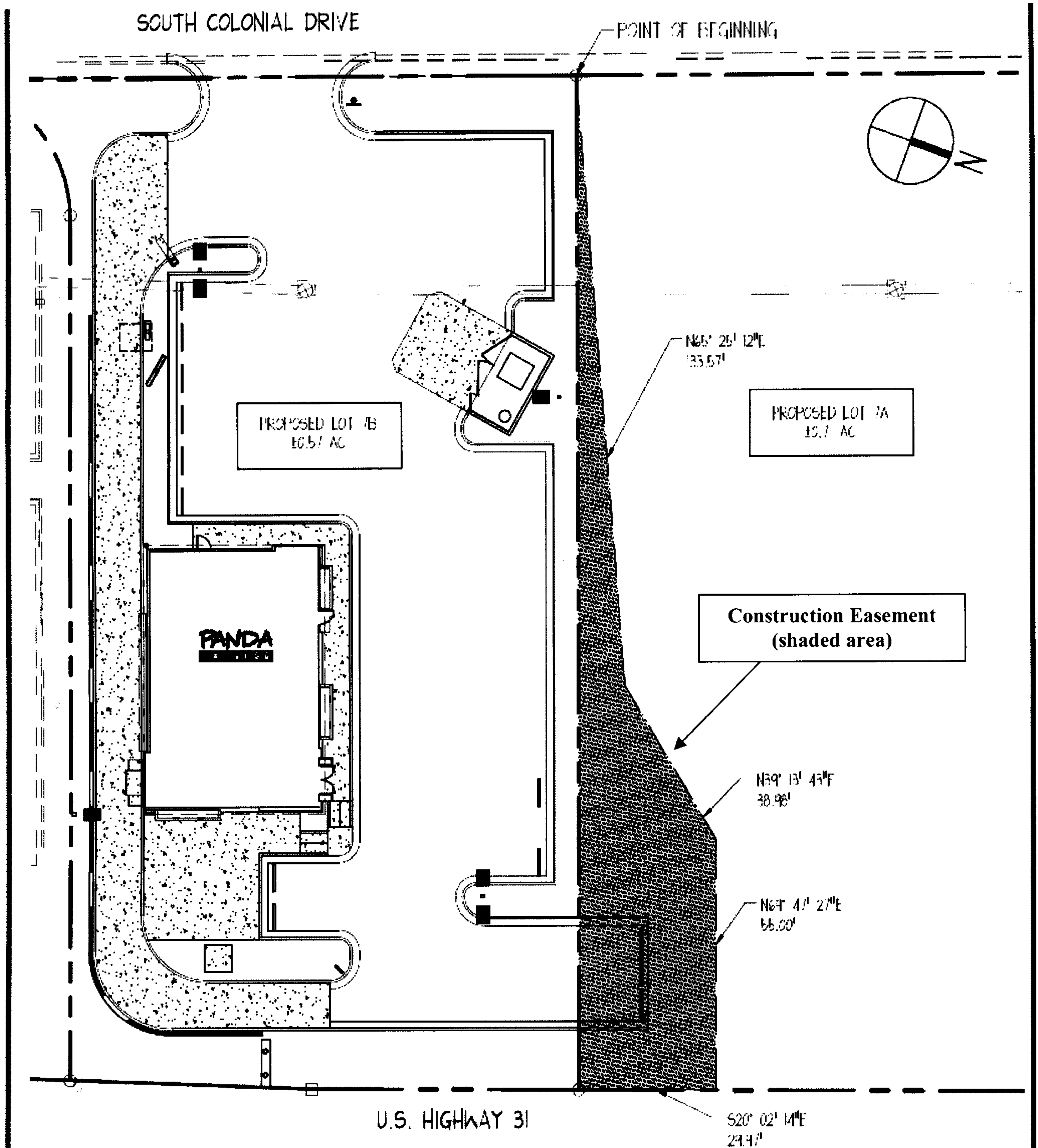

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EXHIBIT D

Construction Easement Site Plan



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Shelby County, AL 04/14/2014
State of Alabama
Deed Tax: \$.50