

THIS INSTRUMENT PREPARED BY:

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420 North 20th Street, Suite 2000
Birmingham, Alabama 35203

DECLARATION OF DRAINAGE EASEMENT

STATE OF ALABAMA)

SHELBY COUNTY)

This DECLARATION OF DRAINAGE EASEMENT (this "Easement Grant") is made as of this 9th day of July, 2014, by D.R. HORTON, INC.-BIRMINGHAM, an Alabama corporation ("Developer").

WHEREAS, Developer is the owner and developer of the single family residential development known as Hunters Gate located on Doug Baker Boulevard in the City of Hoover, Shelby County, State of Alabama, as more particularly described on EXHIBIT "A", attached hereto and incorporated herein by reference (which such development is referred to herein as the "Subdivision");

WHEREAS, Developer owns the real property described on EXHIBIT "B", attached hereto and incorporated by this reference (collectively and individually, the "Lots"), which are a part of the Subdivision; and

WHEREAS, Developer desires that the Lots be subject to the easements and the covenants, conditions and restrictions as set forth in this Easement Grant.

NOW THEREFORE, the Developer hereby grants, creates, declares the following:

**ARTICLE I
DEFINITIONS**

Section 1.1 "Easement Grant" means this Declaration of Drainage Easement, as such may be amended, in writing, from time to time in accordance herewith.

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Section 1.2 “CCRs” shall mean that certain Declaration of Covenants, Covenants and Restrictions for Hunters Gate, dated January 2, 2014, and recorded on January 3, 2014, as amended from time, as originally recorded in the Probate Office of Shelby County, Alabama as Instrument No. 2014010300003530.

Section 1.3 “Developer” shall mean D.R. Horton, Inc.-Birmingham, an Alabama corporation, its successors and assigns.

Section 1.4 “Drainage Improvements” means such pipelines, open drainage channels, retaining walls, and/or other improvements for storm water drainage and for the filtration of storm and surface waters.

Section 1.5 “Entity” shall mean any individual, partnership, firm, association, corporation, limited liability company, limited liability partnership, trust, or any other form of entity or government entity.

Section 1.6 “Governing Documents” shall mean any and all applicable subdivision plats, declarations, CCRs, covenants, easements, agreements, instruments and documents lawfully and properly recorded in the real property records of Shelby County, State of Alabama, which affect the Subdivision or any of the Lots.

Section 1.7 “Lots” means the real property described on EXHIBIT “B”.

Section 1.8 “Lot Owner” means, collectively and individually, the owner of a Lot and, its heirs, successors, successors-in-title and assigns.

Section 1.9 “Occupant” shall mean any Entity from time to time entitled to the use and occupancy of any portion of a residence on any Lot under an ownership right or any lease, sublease, license, concession, or other similar agreement.

Section 1.10 “Permittees” shall mean, collectively and individually, Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, subleases, and concessionaires of all such Occupants insofar as their activities relate to any Lot.

ARTICLE II BINDING EFFECT

For the benefit of the Subdivision, the Lot, Developer, Lot Owners, Occupants, and Permittees, Developer declares that all of the Lots are to be held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the provisions of this Easement Grant. All the Lots described on EXHIBIT “B” shall be owned, held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to all the

provisions of this Easement Grant, which shall run with the title to such Lots. This Easement Grant shall be binding upon all Entities having any right, title, or interest in any Lot (or portion thereof), and their respective heirs, successors, successors-in-title and assigns.

ARTICLE III DRAINAGE EASEMENT

Section 3.1 Easement Grant. For the benefit of the Subdivision, the Lots, Developer, Lot Owners, Occupants, and Permittees, but subject to the other terms hereof, Developer does hereby grant, transfer, bargain and convey, and declare a permanent and perpetual non-exclusive easement, including rights of ingress and egress, over and across portions of the Lots depicted on EXHIBIT "C", attached hereto and incorporated herein by reference (the "Easement Area") for the installation, operation, maintenance, and repair of the Drainage Improvements. The easement rights herein granted are appurtenant to and shall run with title to the Lots, whether or not such easement is referenced in any conveyance. The easement rights granted hereunder are nonexclusive, and, notwithstanding anything to the contrary herein, Developer reserves, for Developer, Lot Owners, Occupants, and Permittees, the right to use the Easement Area for any purpose which does not unreasonably interfere with the use of the Easement Area for the purposes set forth herein; provided however, no construction or placement of temporary or permanent structures or facilities, including, but not limited to fences, pavement, or buildings is permitted on, under, or above the Easement Area.

Section 3.2 Construction. The Drainage Improvements shall be constructed and installed by Developer and shall comply with the Governing Documents and all applicable regulations, ordinances, codes and laws.

Section 3.3 Maintenance of Drainage Improvements. Each Lot Owner shall be responsible for maintaining, repairing and replacing that part or portion of the Drainage Improvements that is located on or within its Lot, including cutting and removing trees, debris, and other obstructions which may interfere with the use and operation of the Drainage Improvements, so that such portion or part remains in good repair. The construction, repair, replacement, improvement or maintenance in, to or on the Drainage Improvements shall be carried on in a reasonably diligent manner taking into consideration the nature and scope of the work being performed. All construction, repair, replacement, improvement or maintenance in, to or on the Drainage Improvements shall be done in a workmanlike manner by the relevant Lot Owner.

ARTICLE IV BREACH

Section 4.1 Injunction. A Lot Owner would be irreparably harmed and would have no adequate remedy at law for a breach or violation of this Easement Grant. Therefore, each Lot Owner shall be entitled to the entry of a temporary restraining order or a preliminary injunction, in addition to specific performance and any other remedy available at law or in equity, to enforce

this Easement Grant.

Section 4.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a breach of this Easement Grant within thirty (30) days following written notice given by Developer or, as relevant, a non-breaching Lot Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the breaching Lot Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), Developer or, as relevant, the non-breaching Lot Owner shall have the right (but not the obligation) to perform such obligation contained in this Easement Grant on behalf of such breaching Lot Owner and be reimbursed by such breaching Lot Owner upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by Wells Fargo Bank in Birmingham, Alabama (or its successor), plus two percent (2%) (not to exceed the maximum rate of interest allowed by applicable laws of the State of Alabama).

Section 4.3 Indemnity. A Lot Owner that breaches or violates this Easement Grant shall indemnify and hold the damaged Lot Owner harmless from and against any and all claims, liability, losses, costs and expenses (including, but not limited to, reasonable attorney's fees and court costs) arising from the breach or violation of this Easement Grant, excluding compensatory damages, damages for lost profits, and punitive damages.

ARTICLE V PERPETUITY OF AGREEMENT

Except as specifically set forth in this Easement Grant, the covenants, conditions, restrictions contained in this Easement Grant shall be binding upon all Lot Owners and shall be deemed perpetual and construed to run with the land.

ARTICLE VI MISCELLANEOUS

Section 6.1 Notices. Any notice required or to be given under this Easement Grant shall be in writing, and a copy of all required written notices shall be sent via certified mail or via overnight delivery by a national carrier to:

DEVELOPER:

D.R. Horton, Inc. - Birmingham
2188 Parkway Lake Drive
Hoover, AL 35244

OTHER LOT OWNERS:

The physical mailing address of the relevant Lot(s),



and copy of any such notice shall also be sent to the address that property tax notices are sent with regard to the relevant Lot (to the extent such tax notice address is ascertainable from publicly available records).

Any written notice sent pursuant to this Easement Grant shall clearly state in capital letters on the face of such notice that it is an official notice that is being delivered in connection with this Easement Grant.

Section 6.2 Term and Endorsement. Except as provided expressly otherwise herein, the restrictions and obligations created and imposed in this Easement Grant shall be effective upon the date hereof, shall run with the land and shall inure to the benefit of and be binding upon the Lot Owners, their heirs, executors, administrators, successors, successors-in-title, assigns and tenants, including any ground lessee under a ground lease and the customers, employees and invitees of such Lot Owners. Said restrictions and obligations shall be unaffected by any change of the ownership of any property covered by this Easement Grant or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein.

Section 6.3 Severability. In the event any provision or portion of this Easement Grant is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provision shall continue in full force and effect at the same extent as would have been the case had just invalid or unenforceable provision or portion never been a part hereof.

Section 6.4 Amendment.

(a) During the Control Period. During the Control Period (as defined in the CCRs), Developer reserves the right to unilaterally amend any exhibit or provision of this Easement Grant provided that: (i) the amendment is in writing; (ii) the amendment is promptly recorded in the land records of Shelby County, Alabama; and (iii) a copy of the recorded amendment is provided to all the Lot Owners of record in the land records of Shelby County, Alabama.

(b) After the Control Period. After the expiration of the Control Period, except as otherwise expressly provided in this Easement Grant, this Easement Grant once recorded shall not be modified or altered in any respect except by a writing executed by all the Lot Owners.

(c) Reasonable Consent by Lot Owners. No Lot Owner shall unreasonably withhold, condition, or delay its consent to any amendment to this Easement Grant proposed by Developer.

(d) Arbitration. With regard to any dispute between or among the

Developer and Lot Owner(s) (or between the Lot Owners) with regard to any amendment, or proposed amendment, to this Easement Grant, then this Section 6.4 (d) shall control. Arbitration shall be the sole and exclusive manner in which the dispute over an amendment, or proposed amendment, shall be resolved. Where a dispute over an amendment or proposed amendment to this Easement Grant cannot be promptly and informally resolved, Developer or a Lot Owner may invoke arbitration by giving Lot Owners written notice of its election to begin arbitration proceedings. Upon such written notice, Developer shall promptly select an arbitrator (the "Arbitrator") from a list of arbitrators provided by the American Arbitration Association ("AAA"). The Arbitrators must be: (i) unbiased; (ii) a licensed Alabama attorney; and (iii) have at least twenty (20) years of experience in real estate legal practice. Except as otherwise provided in this paragraph (d), the commercial rules of the AAA shall apply to the arbitration. The arbitration will take place in Birmingham, Alabama. Judgment upon the arbitration award may be entered in any court having jurisdiction. This paragraph (d) will not prevent Developer from resorting to a court in accordance with Section 4.1 in any instance where injunctive relief may be appropriate pending the outcome of the arbitration proceedings.

Section 6.5 Cooperation. Each Lot Owner agrees to reasonably cooperate with Developer with regard any plats, applications, consents, or amendments with regard to the Subdivision that Developer may seek from such Lot Owner(s), and each Lot Owner shall not unreasonably withhold or delay its consent thereto (or execution thereof) upon Developer's request.

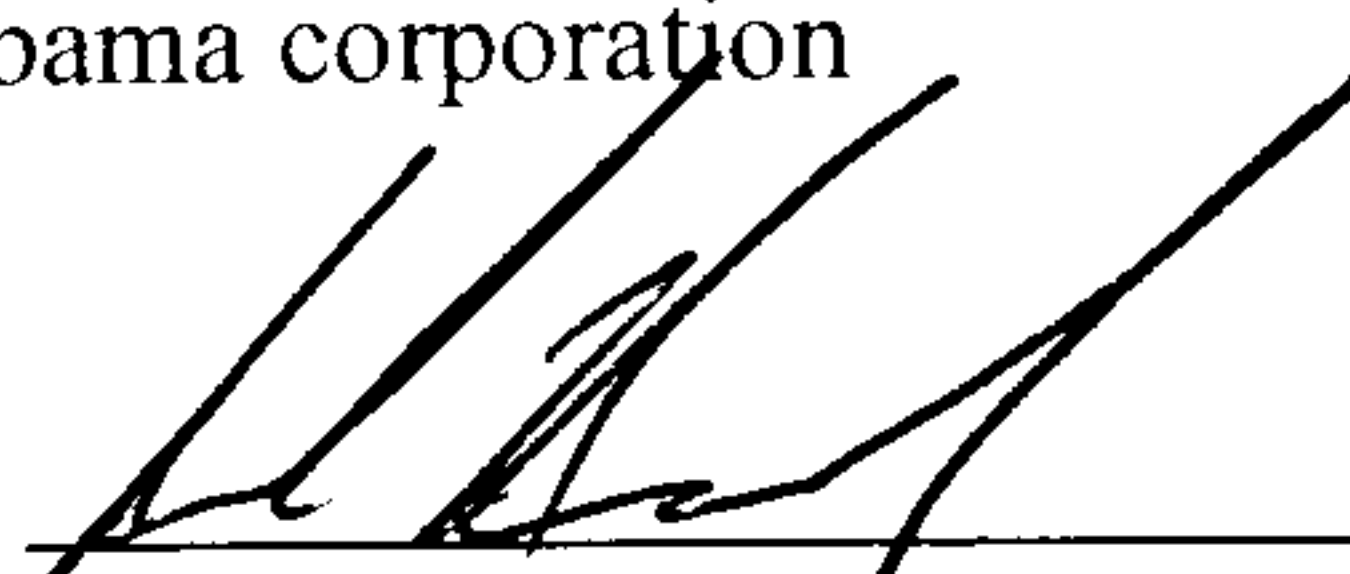
Section 6.6 Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof. This Easement Grant shall be interpreted in accordance with its plain meaning and not against the party that drafted or provided it. The Exhibits referred to throughout this Easement Grant are attached to this Easement Grant and are incorporated into this Easement Grant. Unless the context clearly indicates otherwise, when used in this Easement Grant of "or" shall mean "and/or".

Section 6.7 Assignment of Developer Rights. Upon expiration of the Control Period or upon Developer terminating its control of the Subdivision in accordance with the CCRs, all of Developer's rights and obligations hereunder this Easement Grant shall be assigned to and assumed by the Hunters Gate Residential Association, Inc., which shall be the Developer for purposes of this Easement Grant.

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IN WITNESS WHEREOF, the duly authorized officer of D.R. HORTON, INC.-
BIRMINGHAM has hereunder set his hand and seal on the date first set forth above.

D.R. HORTON, INC. - BIRMINGHAM,
an Alabama corporation

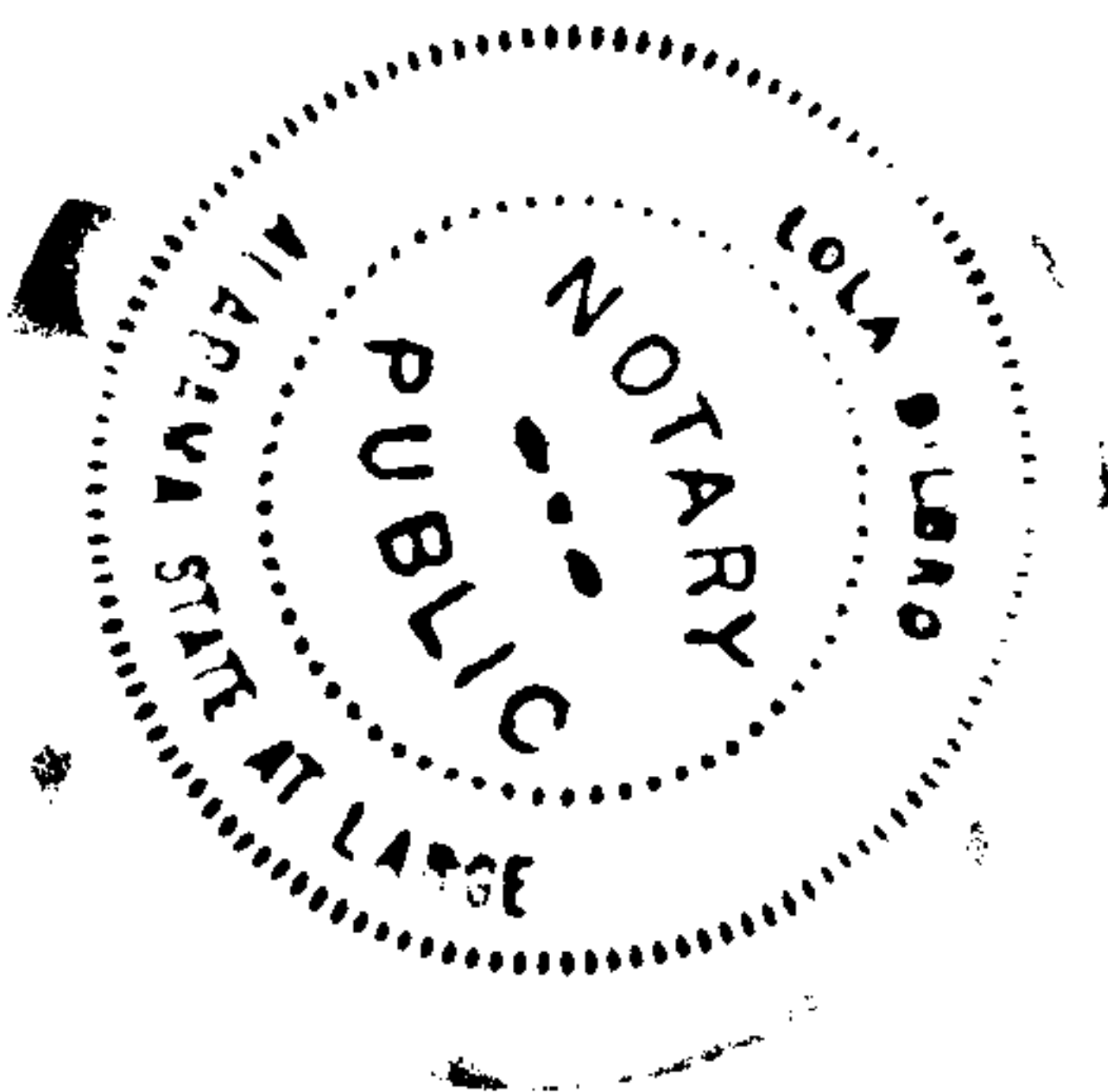
By: 
Andrew J. Hancock
Its: Division President

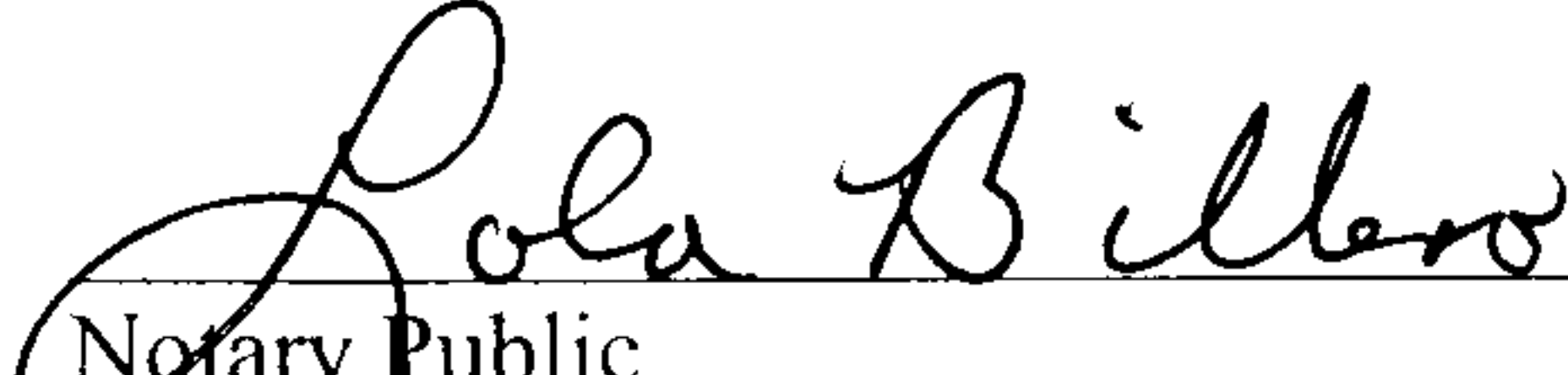
STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Andrew J. Hancock, whose name as Division President of D.R. Horton, Inc. - Birmingham, an Alabama corporation, 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, as such officer, executed the same voluntarily and with full authority for and as the act of said corporation.

Given under my hand and official seal this 9th day of July, 2014.




Notary Public
My Commission Expires: 9-19-16

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sept 19, 2016
BONDED THRU NOTARY PUBLIC UNDERWRITERS

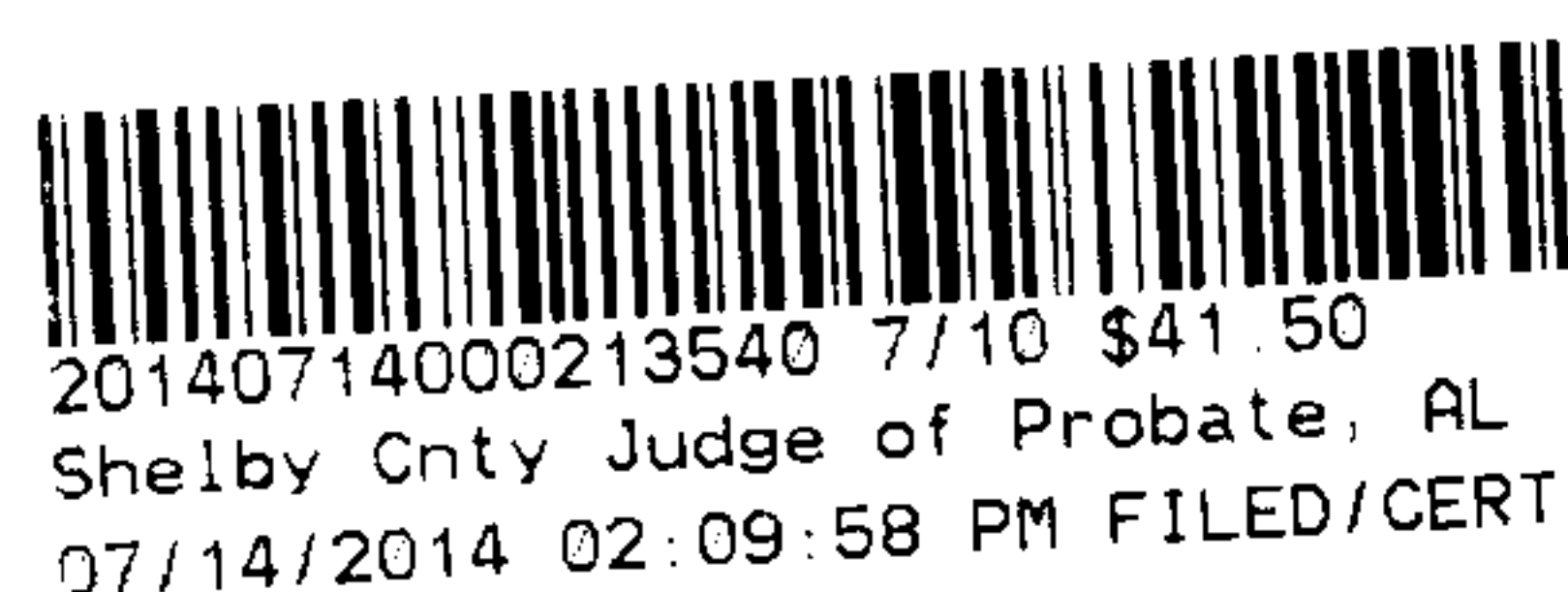


EXHIBIT "A"

The Subdivision

Lots 1 through 28, CA-29, CA-30, and CA-31, according to the Plat of Hunters Gate, as recorded in Map Book 43, page 131, in the Office of the Judge of Probate Shelby County, Alabama.

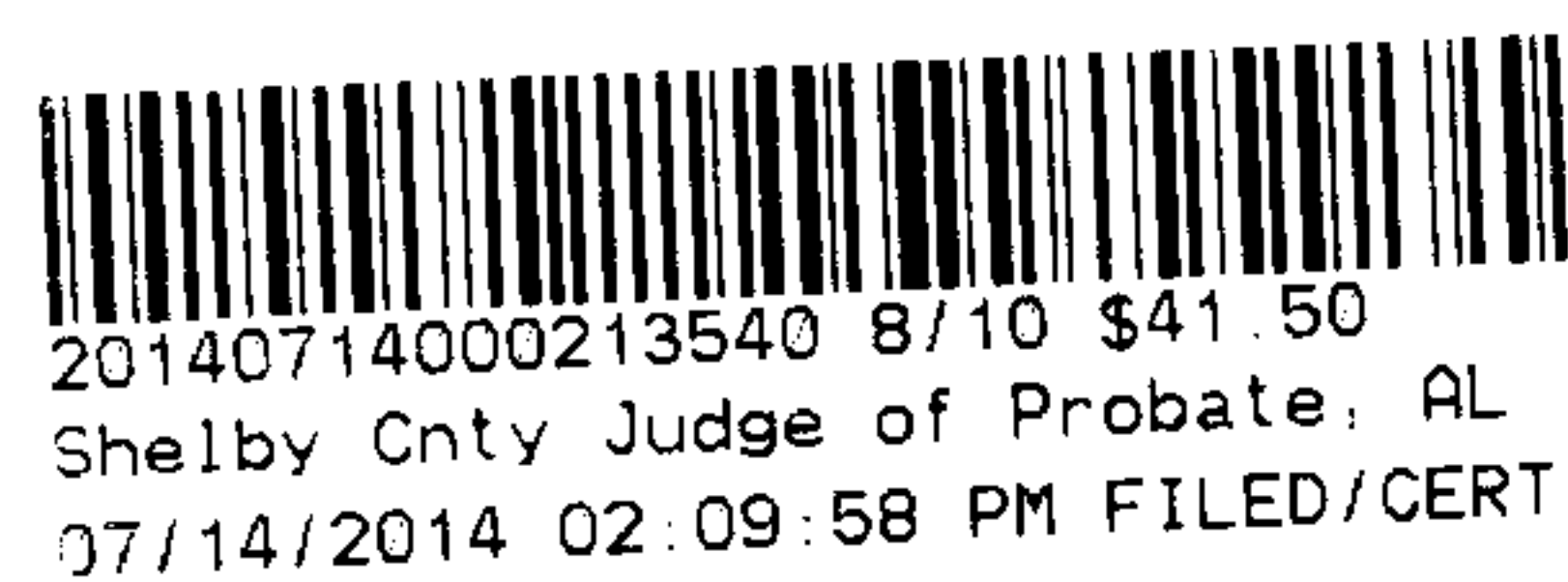


EXHIBIT "B"

The Lots

Lots 17 through 28, CA-29 and CA-31, according to the Plat of Hunters Gate, as recorded in Map Book 43, page 131, in the Office of the Judge of Probate Shelby County, Alabama.

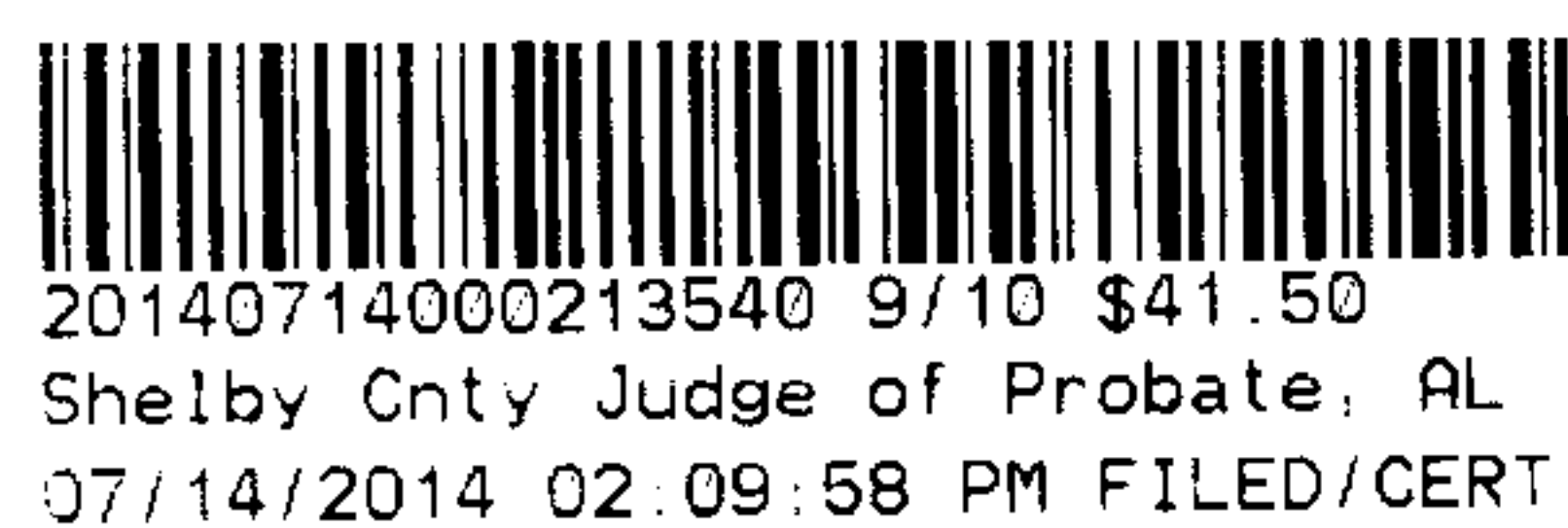



EXHIBIT "C"

Description of the Easement Area

Commence at the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, and run in a Southerly direction along the 1/4 section line for a distance of 251.74 feet to a point; thence deflect $91^{\circ} 26' 39''$ to the left and run in an Easterly direction for a distance of 173.73 feet to the point of beginning of a 10 foot easement herein described; thence continue along last mentioned course for a distance of 720.04 feet to a point; thence deflect to the right $90^{\circ} 35' 7''$ and run in a Southerly direction for a distance of 10.0 feet to a point; thence deflect $89^{\circ} 24' 13''$ to the right and run in a Westerly direction for a distance of 720.04 feet to a point; thence deflect $90^{\circ} 35' 47''$ to the right and run in a Northerly direction for a distance of 10.0 feet, to the point of beginning.


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Shelby Cnty Judge of Probate, AL
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