

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENMENT AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into this 13th day of October, 2014, by and among National Bank of Commerce ("Lender"), CHICK-FIL-A, INC. (the "Tenant"), and LIBERTAE VITAE, LLC ("Landlord").

WITNESSETH:

A. Landlord has executed and delivered to Lender the following security instruments (collectively, the "Security Documents"): * 20141017000328410

(i) Mortgage ~~Commercial Deed to Secure Debt and Security Agreement~~ from Landlord to Lender dated October 9, 2014, recorded in Deed Book *, Page *, in the records (the "Records") of Probate Office of Shelby County, Alabama and conveying the property located in Shelby County known as See Exhibit A (the "Property"); and

(ii) Financing Statement naming Landlord as debtor and Lender as secured party, filed _____, as file no. _____; in the foregoing Records.

B. Landlord and Tenant entered into a Ground Lease (the "Ground Lease") dated the 8th day of July, 2012, with respect to the premises described on Exhibit "A" (the "Demised Premises").

C. The Demised Premises are a part of the Property conveyed to Lender pursuant to the Security Documents; and the parties desire to enter into this agreement with respect to the Security Documents and the Ground Lease.

In consideration of the premises and the mutual covenants set forth in this Agreement, Lender, Tenant and Landlord covenant and agree, intending to be legally bound, as follows:

1. Subordination. The Ground Lease is now and will remain subject and subordinate to the Security Documents and to any renewals, modifications, and replacements of the Security Documents, subject to the terms of this Agreement.

2. Non-Disturbance. Lender covenants and agrees that, as long as no default exists, and no event has occurred and has continued to exist for such period of time (after notice and expiration of all cure periods, if any, required by the Ground Lease) as would entitle the Landlord or any other party, including Lender, succeeding to Landlord's interest under the Ground Lease (each, a "Successor Landlord") to terminate the Ground Lease, (i) Lender will not terminate the Ground Lease, (ii) Lender will not interfere with Tenant's use, possession or enjoyment of the Demised Premises, and (iii) in the event Lender or any other person or entity becomes the owner of the Demised Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, the Demised Premises will be subject to the Ground Lease, and Successor Landlord will recognize Tenant as the tenant of the Demised Premises for the remainder of the term, including all renewal terms, in accordance with the provisions of the Lease. Lender agrees that it will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating the Ground Lease because of any default of Landlord under the Security Documents.

3. Attornment. If the interests of the Landlord are transferred by any foreclosure or other proceeding for enforcement of the Security Documents, Tenant will be bound to the Successor Landlord with the same force and effect as if the Successor Landlord were the original Landlord under the Ground Lease. Tenant will attorn to any such Successor Landlord as its Landlord under the Ground Lease. The attornment will be effective and self-operative without the execution of any further instruments upon the succession by any such Successor Landlord to the interest of the Landlord under the Ground Lease.

4. Notice of Default by Landlord. Tenant covenants and agrees to give Lender written notice simultaneously with the giving of any notice of default to the Landlord under the provisions of the Lease. Tenant agrees that Lender will have the right, but not the obligation, within thirty (30) days after receipt by Lender of such notice to correct or remedy, or cause to be corrected or remedied, each such default before Tenant may take any action under the Ground Lease by reason of such default. The notices to Lender will be delivered to:

National Bank of Commerce
Attn: P. Carlton
813 Shades Creek Parkway
Birmingham, AL 35209


or to such other address as the Lender designates to Tenant by giving written notice to Tenant at Chick-fil-A, Inc., 5200 Buffington Road, Atlanta, Georgia 30349, or to such other address as may be designated by written notice from Tenant to Lender. Notices will be given and will be effective in accordance with Section 25 of the Ground Lease.

5. As to Landlord and Tenant. As between Landlord and Tenant, Landlord and Tenant covenant and agree that nothing contained in this Agreement nor anything done pursuant to the provisions of this Agreement will be deemed or construed to modify the Ground Lease.

6. As to Landlord and Lender. As between Landlord and Lender, Landlord and Lender covenant and agree that nothing contained in this Agreement nor anything done pursuant to the provisions of this Agreement will be deemed or construed to modify the Security Documents.

7. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state in which the Property is located.

8. Provisions Binding. The terms and provisions of this Agreement will be binding on and will inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of Lender, Tenant and Landlord.


20141017000328430 2/8 \$35.00
Shelby Cnty Judge of Probate, AL
10/17/2014 08:13:03 AM FILED/CERT

Lender, Landlord and Tenant have executed this Agreement as of the day, month and year first written above.

"LENDER"

NATIONAL BANK OF COMMERCE

By: 

Name: PATRICK CARLTON

Title: SENIOR VICE PRESIDENT

Attest: 

Name: MELISSA B. BENSON

MELISSA B. BENSON
Notary Public
State of Alabama

MY COMMISSION EXPIRES: APR 24, 2016

(SEAL)

"TENANT"

CHICK-FIL-A, INC.

By: _____

Name: _____

Title: _____


Attest: _____

Name: _____

Title: _____

(CORPORATE SEAL)

[SIGNATURES CONTINUED ON NEXT PAGE]


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Shelby Cnty Judge of Probate, AL
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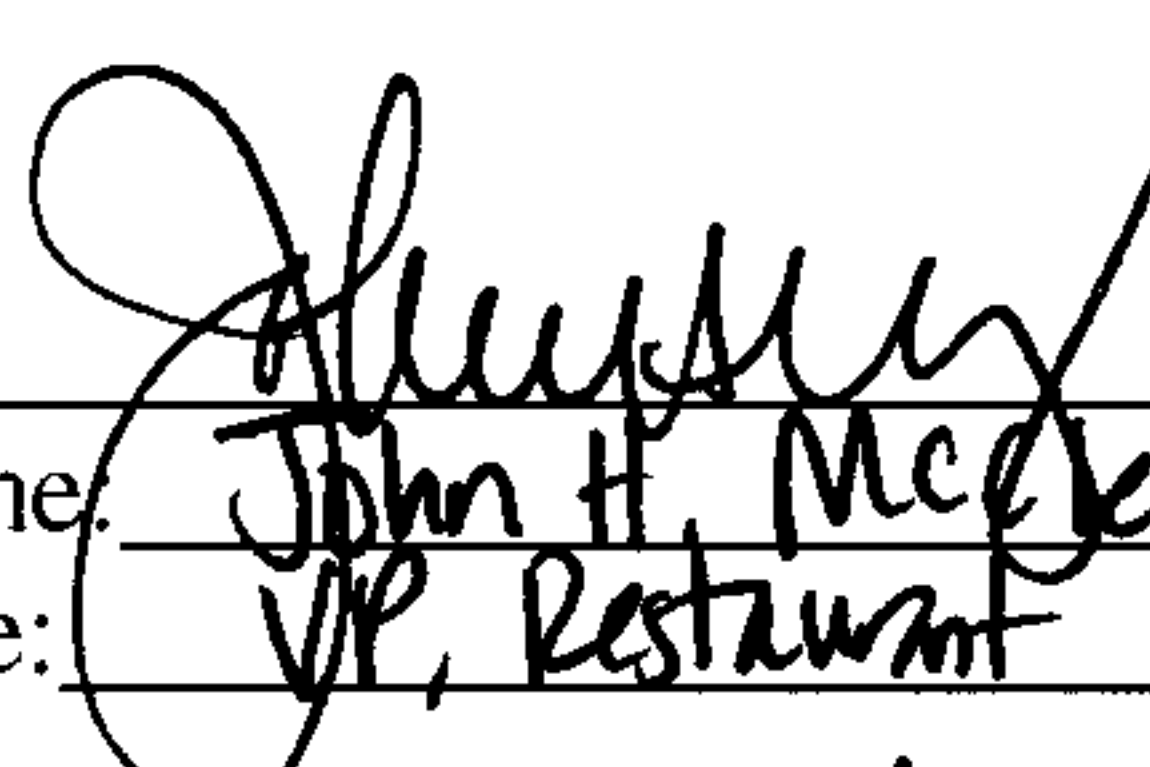
"TENANT"

CHICK-FIL-A, INC.

By:

Name:

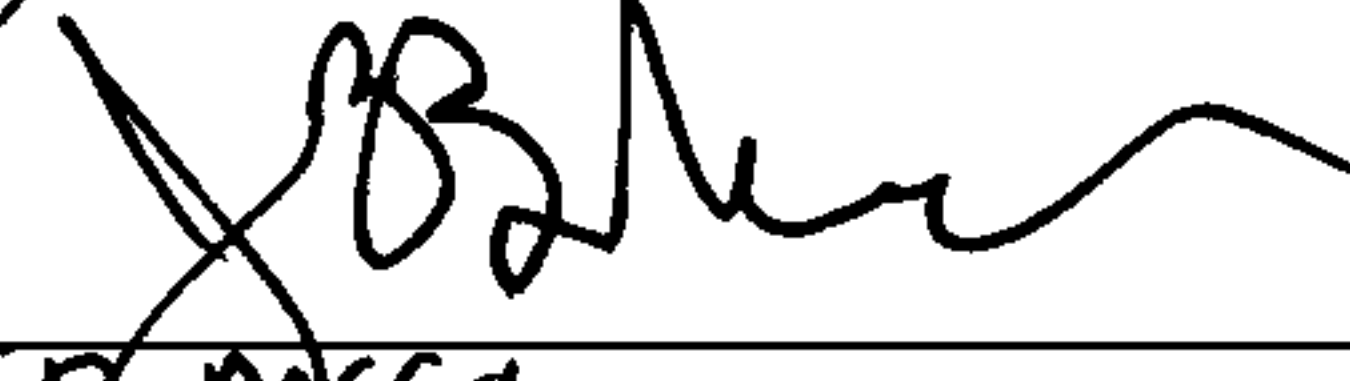
Title:


John H. McEsker
VP, Restaurant Development

Attest:

Name:

Title:


J. B. McCabe
Executive VP Finance/CFO

(CORPORATE SEAL)

[SIGNATURES CONTINUED ON NEXT PAGE]



20141017000328430 4/8 \$35.00
Shelby Cnty Judge of Probate, AL
10/17/2014 08:13:03 AM FILED/CERT

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on October ____, 2014, by _____, the _____ of OSGILIATH, LLC, an Alabama limited liability company, on behalf of said limited liability company.

Notary Public, State of _____

(SEAL)

Date commission expires: _____

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on October ____, 2014, by _____, the _____ of _____, a _____, on behalf of said _____.

Notary Public, State of _____

(SEAL)

Date commission expires: _____

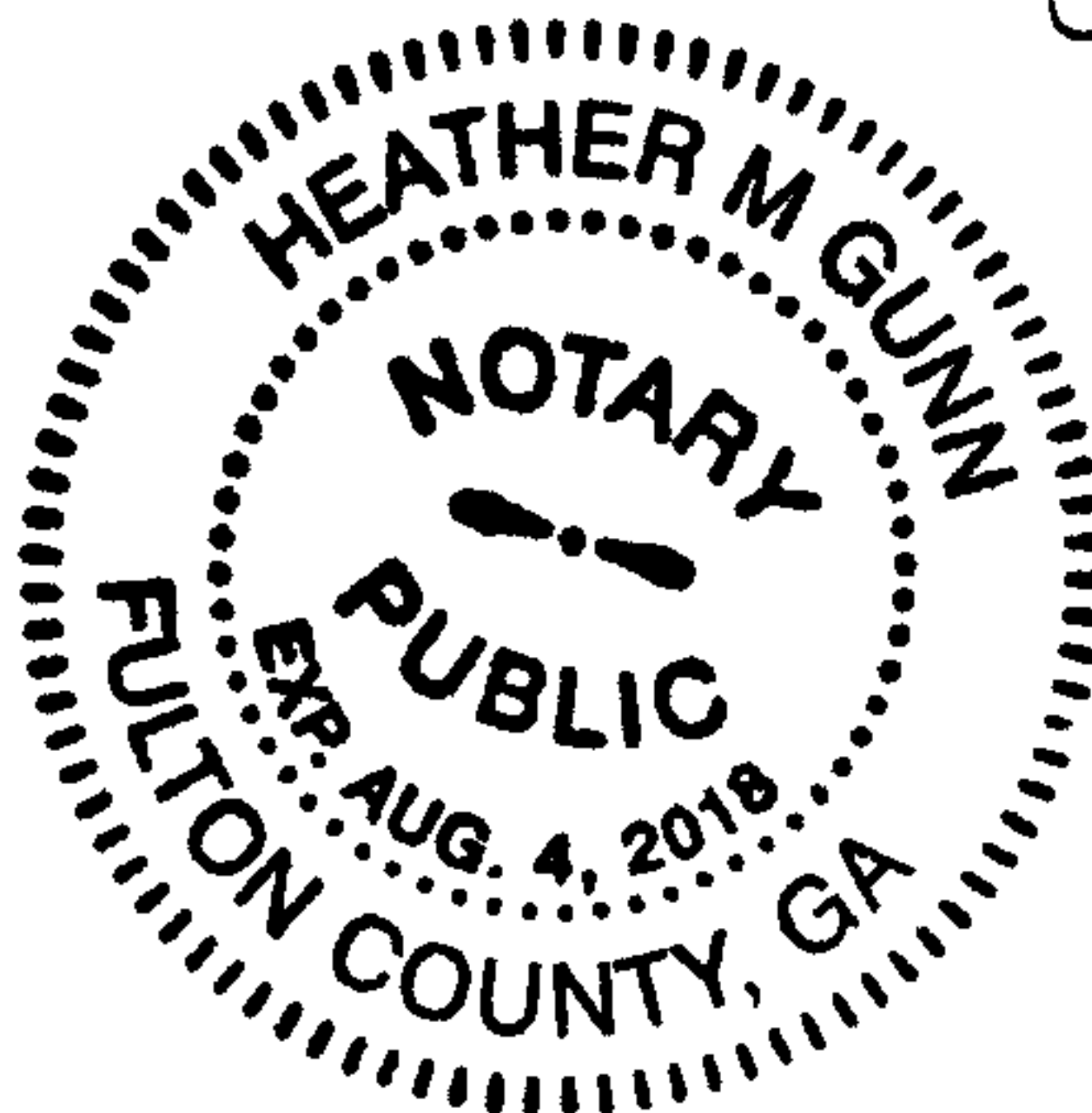
THE STATE OF GEORGIA §
COUNTY OF FULTON §

This instrument was acknowledged before me on October 8, 2014, by John H. McCleskey and J.B. McCabe, the VP and Executive VP of CHICK-FIL-A, INC., a Georgia corporation, on behalf of said corporation.

Heather M. Gunn
Notary Public, State of Georgia

(SEAL)

Date commission expires: 8/4/18



"LANDLORD"

LIBERTAE VITAE, LLC,
a Texas limited liability company

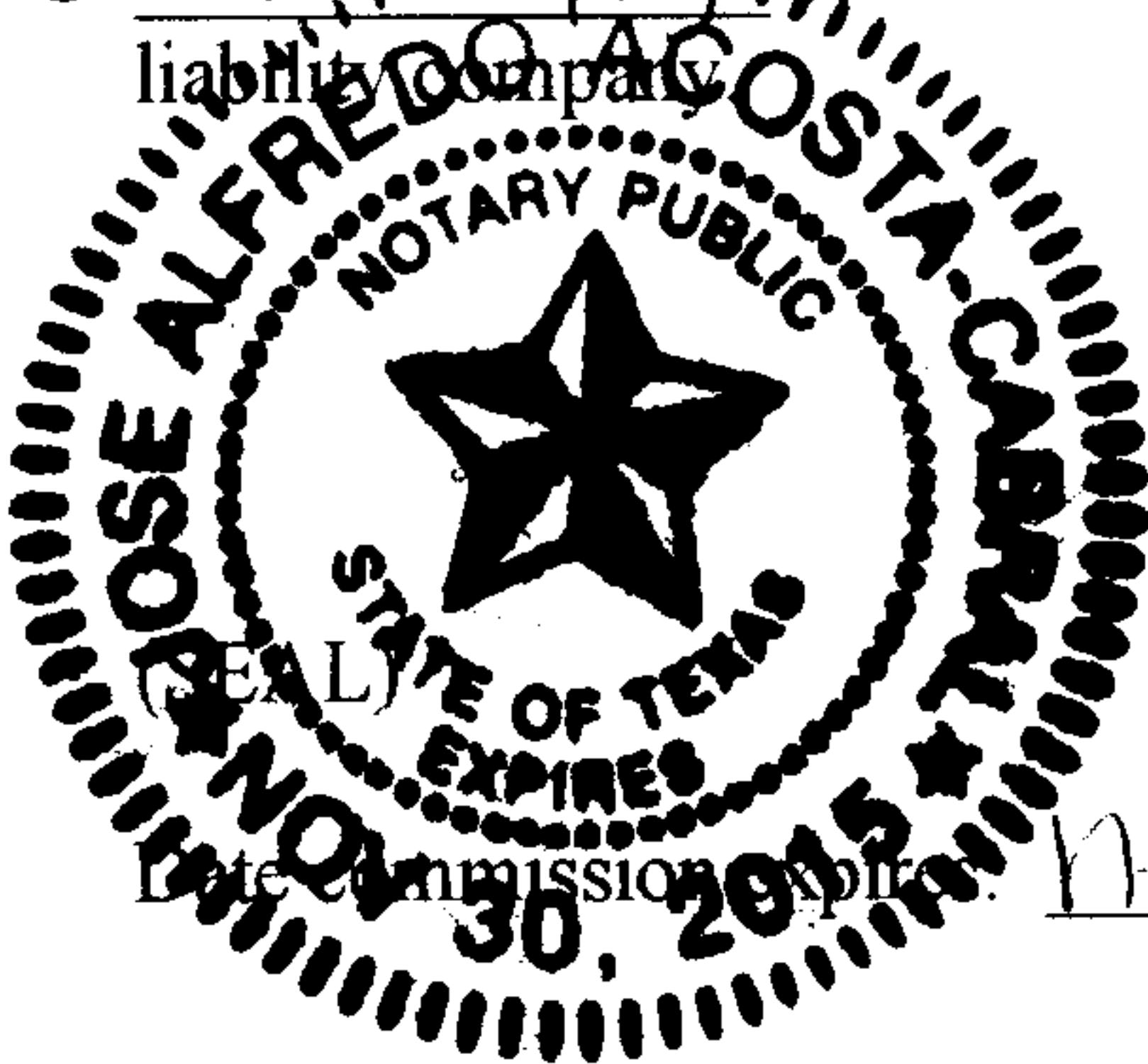
By:  (SEAL)

Name: J.T. McPherson

Title: Sole member / manager

THE STATE OF Texas §
COUNTY OF Dallas §

This instrument was acknowledged before me on October 6, 2014, by J.T. McPherson, the Sole member/manager of LIBERTAE VITAE, LLC, a Texas limited liability company, on behalf of said limited liability company.



[Signature]
Notary Public, State of Texas

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on October ____, 2014, by _____, the _____ of _____, a _____, on behalf of said _____.

Notary Public, State of _____

(SEAL)

Date commission expires: _____

THE STATE OF GEORGIA §
COUNTY OF FULTON §

This instrument was acknowledged before me on October ____, 2014, by _____ and _____, the _____ and _____ of CHICK-FIL-A, INC., a Georgia corporation, on behalf of said corporation.

Notary Public, State of _____

(SEAL)

Date commission expires: _____

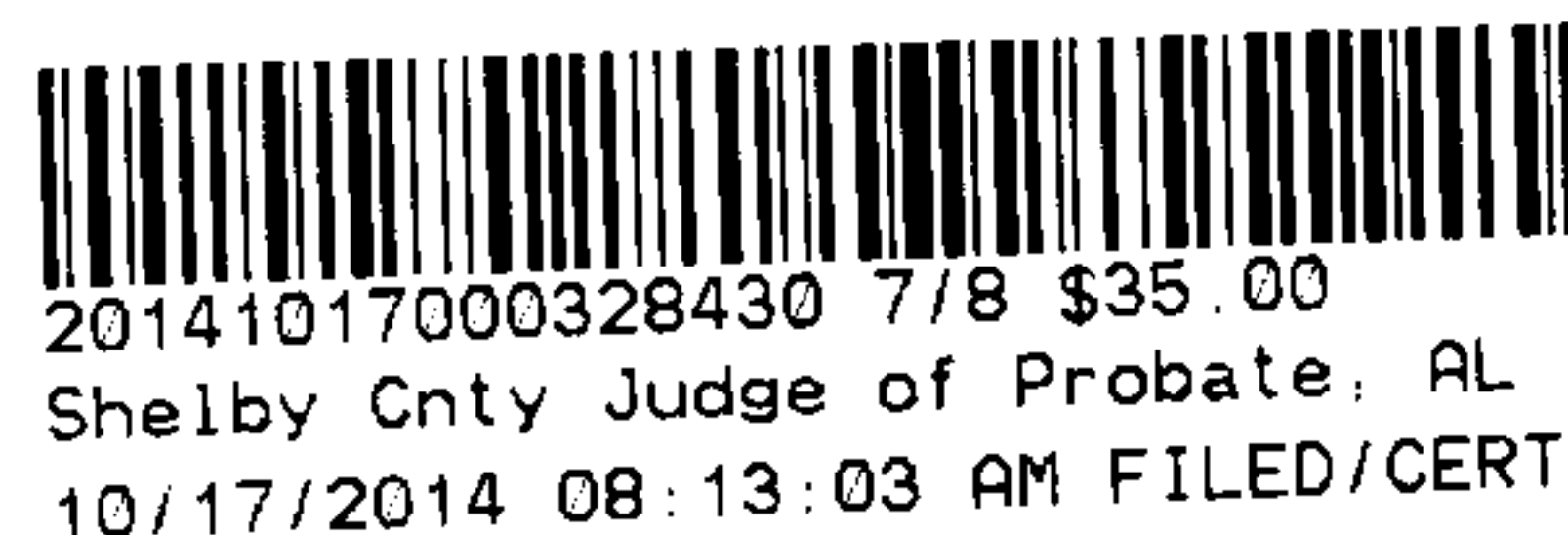


EXHIBIT "A" - LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Section 32, Township 18 South, Range 1 West, Shelby County, Alabama and being more particularly described as follows:

Beginning at the intersection of the Northern right-of-way of US Hwy 280 and the western right-of-way of Cahaba Valley Rd. (Variable R/W); thence with said right-of-way of Cahaba Valley Rd.; thence N 22°00'33" E a distance of 98.95' to a point; thence leaving said right-of-way N 64°36'32" W a distance of 274.22' to a 1/2" rebar w/ cap found; thence S 21°17'19" W a distance of 216.44' to a 1/2" rebar w/ cap found along Northern right-of-way of US Hwy 280; thence with said right-of-way S 59°43'46" E a distance of 80.52' to a point; thence S 80°33'59" E a distance of 125.81' to a 1/2" rebar w/ cap found; thence 60°44'12" E a distance of 109.56' to the Point of Beginning.

Previously described as follows:

Commence at the Southwest corner of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama; thence run North along the West line of said section for a distance of 1295.37 feet; thence run North 78°39'13" East for a distance of 590.19 feet to a concrete monument on the Northeasterly right of way of U.S. Highway No. 280 at station 181+00, said point being the point of beginning; from the point of beginning thus obtained run North 60°38'07" East along the Northwesterly right of way line of U.S. Highway No. 280 for a distance of 150.23 feet to a concrete monument on the Northwesterly right of way line of Alabama Highway No. 119 at station 13+24.60; thence run North 21°09'07" East along the Northwesterly right of way line of Alabama Highway No. 119 for a distance of 65.85 feet; thence run North 64°43'19" West for a distance of 298.82 feet; thence run South 21°09'07" West for a distance of 216.54 feet; thence run South 59°47'53" East along the Northeasterly right of way line of U.S. Highway No. 280 for a distance of 80.32 feet to a concrete monument at station 180+00; thence run South 80°42'35" East along the Northeasterly right of way line of U.S. Highway No. 280 for a distance of 125.89 feet to the point of beginning.

LESS AND EXCEPT that portion of the above property that was conveyed to the State of Alabama Department of Transportation in Instrument 20130801000313630 being more particularly described as follows:

A part of the NW ¼ of SW ¼, Section 32, Township 18-S, Range 1W, identified as Tract No. 13 on Project No NHF-0038() In Shelby County, Alabama and being more fully described as follows:

Commencing at a found capped rebar located on the southeast corner of the property referenced in Map Book 29, Page 1 in the Probate Office of Shelby County, thence S 64°34'46" E and along the grantor's north property line a distance of 274.21 feet to a point on the grantors said property line (said point on the acquired R/W line (said line offset 80' LT and parallel with centerline of project)), which is the point of BEGINNING; thence S 64°34'46" E and along the grantors said property line a distance of 24.08 feet to a point on the west present R/W line of SR-119; thence S 20°52'57" W and along the said present R-W line of SR-119 a distance of 65.85 feet to a point on the north present R/W flare of SR-38; thence S 60°46'11" W and along the said present R/W flare of SR-38 a distance of 40.54 feet to a point on the acquired R/W line (said point offset 80' LT and tied to the said present R/W flare of SR-38); thence N 22°2'4" E and along the acquired R/W line a distance of 98.89 feet to the point and place of BEGINNING.

Together with rights title and interest in and to that certain Access Easement Agreement between Bazaar 280, LLC, Osgiliath LLC and Chick-Fil-A, Inc, recorded in Instrument 20141017000328390, in the Probate Office of Shelby County, Alabama.

5375 Hwy 280 Birmingham, AL 35242



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Shelby Cnty Judge of Probate, AL
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