


**THIS INSTRUMENT PREPARED BY:**

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Sirote & Permutt, P.C.  
2311 Highland Avenue South  
Birmingham, Alabama 35205

  
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Shelby Cnty Judge of Probate, AL  
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**ASSUMPTION AGREEMENT**

**STATE OF ALABAMA**

**COUNTY OF SHELBY**

**THIS ASSUMPTION AGREEMENT** (this "Agreement") is effective as of the 15<sup>th</sup> day of October, 2014, by and among **Summer Classics Properties One, LLC**, an Alabama limited liability company (hereinafter sometimes referred to for convenience as the "New Owner"), **William Bew White, III** (hereinafter sometimes referred to for convenience as the "Original Borrower"), and **Oakworth Capital Bank** (hereinafter sometimes referred to for convenience as the "Lender").

**RECITALS:**

A. The Original Borrower obtained from Lender a loan in the original maximum principal amount of \$651,000.00 (the "Loan") on or about April 29, 2010, evidenced by a Promissory Note (together with all amendments, modifications, renewals, consolidations, the "Note") dated on or about April 29, 2010. The Loan and the Note are secured and supported by, among other things, that certain Mortgage and Security Agreement recorded in Instrument 20100503000134940 in the office of the Judge of Probate of Shelby County, Alabama (together with all amendments, modifications, renewals, consolidations, the "Mortgage"), that certain Assignment of Rents and Leases recorded in Instrument 20100503000134950 in the office of the Judge of Probate of Shelby County, Alabama (together with all amendments, modifications, renewals, consolidations, the "Assignment"), those certain UCC Financing Statements recorded in Instrument 20100503000134960 in the office of the Judge of Probate of Shelby County, Alabama and Instrument B 10-0235678 FS in the Office of the Secretary of State of Alabama (together with all amendments, modifications, renewals, consolidations, individually and collectively, the "UCC Financing Statements"), that certain Environmental Certificate and Indemnity Agreement executed by Original Borrower (together with all amendments, modifications, renewals, consolidations, the "Environmental Indemnity"), and other agreements, documents and instruments executed by the Original Borrower in connection therewith. For convenience, the Note, the Mortgage, the Assignment, the UCC Financing Statements, the Environmental Indemnity and all other agreements, documents, and instruments executed in connection with the Loan are hereinafter referred to as the "Loan Documents".

B. Original Borrower desires to transfer the real property described in the Mortgage and in Exhibit A attached hereto and all improvements thereon and all related personal property and fixtures of Original Borrower (collectively the "Property") to New Owner, and the Original Borrower and New Owner have requested that Lender consent to such transfer. Lender is willing to grant its consent to the requested transfer provided that Original Borrower and the New Owner enter into this Agreement and the other documents to be executed in connection herewith.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and conditions contained herein, the parties hereto hereby agree as follows:

1. **Assumption.** New Owner hereby unconditionally and irrevocably assumes liability for, and agrees to be bound by all of the Original Borrower's indebtedness and other obligations owing to Lender pursuant to the Note, the Mortgage and all of the other Loan Documents. New Owner's obligations shall be

performable as if New Owner were a maker and mortgagor originally named in the Note and Mortgage and a borrower and debtor originally named in all of the other Loan Documents to which Original Borrower is a party.

2. **Additional Documents.** Concurrently with the execution of this Agreement, and upon request of Lender at any time hereafter, New Owner and Original Borrower agree to execute and deliver to Lender all such other documents as Lender shall deem necessary or desirable, including, without limitation, all documents necessary or desirable in order to create and perfect or to continue Lender's first priority mortgage on and security interest in all collateral described in the Mortgage, the UCC Financing Statements, and the other Loan Documents. New Owner hereby authorizes Lender to record amendments to the UCC Financing Statements to reflect that New Owner is a debtor and to file new UCC Financing Statements in the office of the Judge of Probate of Shelby County, Alabama and the office of the Secretary of State of Alabama reflecting that New Owner is a debtor.

3. **Consent of Lender and Release of Original Borrower.** Lender hereby consents to the transfer of the Property to New Owner and agrees the Original Borrower shall have no further liability under the Loan Documents provided that (i) Lender is given and is at all times hereafter vested with a first priority mortgage on and security interest in and to all of the real and personal property described in the Mortgage, the UCC Financing Statements, and the other Loan Documents, (ii) Original Borrower and New Owner execute and deliver to Lender any and all documents requested at any time or from time to time in order for Lender to be assured that it is vested with a first priority mortgage on and security interest in all such collateral and (iii) Original Borrower and New Owner perform all of their obligations contained herein including, without limitation, payment of all costs and expenses of Lender. Original Borrower and New Owner shall (x) within thirty (30) days after date hereof record the deed transferring the Property from Original Borrower to New Owner and at the same time record this Agreement and a UCC Financing Statement acceptable to Lender, and (y) as soon as practical after recordation, furnish to Lender and The Title Group, Inc. a recorded copy of the Assumption Agreement and the UCC Financing Statement. Provided that Original Borrower and New Owner have performed their obligations under this Agreement and The Title Group, Inc. issues an endorsement to Lender's existing title policy to reflect the name of the New Owner in Schedule A, item 3 and the modification of the Mortgage to Lender in Schedule A, item 4 and there are no other changes in Lender's existing title policy, then Lender agrees to execute and deliver a release of the Original Borrower from Original Borrower's liability under the Note. Nothing contained herein shall be deemed to impair the right of Lender to name Original Borrower, for purposes of extinguishing Original Borrower's interest in the Property, as party defendant in any action or suit for foreclosure and sale under the Mortgage or for purposes of appointment of a receiver for the Property or for purposes of enforcement of the Mortgage or the Assignment.

4. **New Owner's Representations and Warranties.** Without limitation of any obligations, representations, warranties or liabilities assumed by New Owner pursuant to this Agreement, New Owner represents and warrants to Lender that:

(a) **No Secondary Financing.** No lien or other charge upon the Property, other than the first priority Mortgage of Lender, has been given or executed by New Owner, or has been contracted or agreed to be so given or executed.

(b) **Title to Properties, etc.** Upon the consummation of the transfer of the Property to New Owner, New Owner shall have good and indefeasible title to the Property. The Property is free and clear of mortgages, pledges, liens, charges and other encumbrances, except as reflected on the Lender's title insurance policy. Upon the consummation of the transfer of the Property to the New Owner, New Owner shall be the fee owner of the Property.

(c) **Litigation.** There are no actions, suits, or proceedings pending or, to the best knowledge of New Owner, threatened against or affecting New Owner, at law or in equity or by or before any federal, state, municipal or other governmental department, commission, board, bureau, agency of instrumentality, domestic or foreign, which involve any of the transactions contemplated in this Agreement or the possibility of any judgment or liability that may result in any material adverse change in the business, operations, properties or assets, or in the condition, financial or otherwise, of New Owner; and New Owner is not in default with respect to any judgment, writ, injunction, decree, rule or regulation of any court or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

(d) **Agreements.** New Owner is not a party to any agreement or instrument, materially and adversely affecting the businesses, properties, assets, operations or condition, financial or otherwise, of New Owner; and New Owner is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party, which default would have a material adverse effect upon the business, properties or assets, operations or condition, financial or otherwise of New Owner.

(e) **Loan Document Review.** New Owner hereby certifies that it has thoroughly reviewed the provisions of this Agreement, the Note, the Mortgage and other Loan Documents executed and delivered by Original Borrower or New Owner, respectively, in connection with the Loan, that it has been advised and represented by counsel of its own choice in said transaction (or has had the opportunity to obtain counsel of its own choice and has elected not to obtain such separate counsel) and that it understands and consents to the provisions of such instruments.

(f) **Organization.** New Owner is an Alabama limited liability company which is duly organized, validly existing and in good standing in the State of Alabama. New Owner has all requisite power and authority, and has taken or caused to be taken all necessary action necessary to execute, deliver, enter into and perform in accordance with this Agreement, the Mortgage, the Note and the other Loan Documents. Upon execution and delivery hereof and thereof, this Agreement, the Mortgage, the Note, and the other Loan Documents will constitute valid and binding obligations of New Owner and other parties thereto, and the Lender will be entitled to the benefits of this Agreement and the other Loan Documents.

5. **Original Borrower's Warranties.** Original Borrower warrants to Lender that it is in full compliance with all of its obligations under the Loan Documents and there are no unfulfilled obligations or liabilities under the Note, the Mortgage or any of the other Loan Documents which arose on or before the date of this Agreement, except the payment of the remaining balance due thereunder. There are no defenses, offsets, counterclaims or Events of Default (or events which with notice, lapse of time or both would constitute an Event of Default) under any of the Loan Documents. The provisions of the Loan Documents are in full force and effect and are enforceable against the Original Borrower and New Owner.

6. **No Future Transfers Without Lender's Consent.** New Owner agrees that the granting of consent by Lender to this transfer shall not constitute a waiver of any restriction on transfer contained in the Mortgage, and any such restriction shall continue in full force and effect. Any future transfer or sale by New Owner of all or any part of the Property or any interest therein without the prior written consent of Lender shall constitute a default under the Mortgage, and Lender, at its option, may exercise all remedies available to it under the terms of the Note, the Mortgage, and the other Loan Documents.

7. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

8. **Counterparts.** This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

9. **Entire Agreement.** This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement. Any amendments to this Agreement must be in writing and signed by the party against whom enforcement of that amendment is sought.

10. **Payment of Expenses.** Original Borrower and New Owner agree to pay or reimburse Lender for all costs and expenses incurred in connection herewith, including, without limitation, recording fees, title insurance fees, and legal fees. Original Borrower and New Owner authorize Lender to pay such costs, expenses, and fees by debit to Original Borrower's or New Owner's account at Lender or by advance or readvance of proceeds of the Loan and a corresponding increase of the principal balance due under the Note.

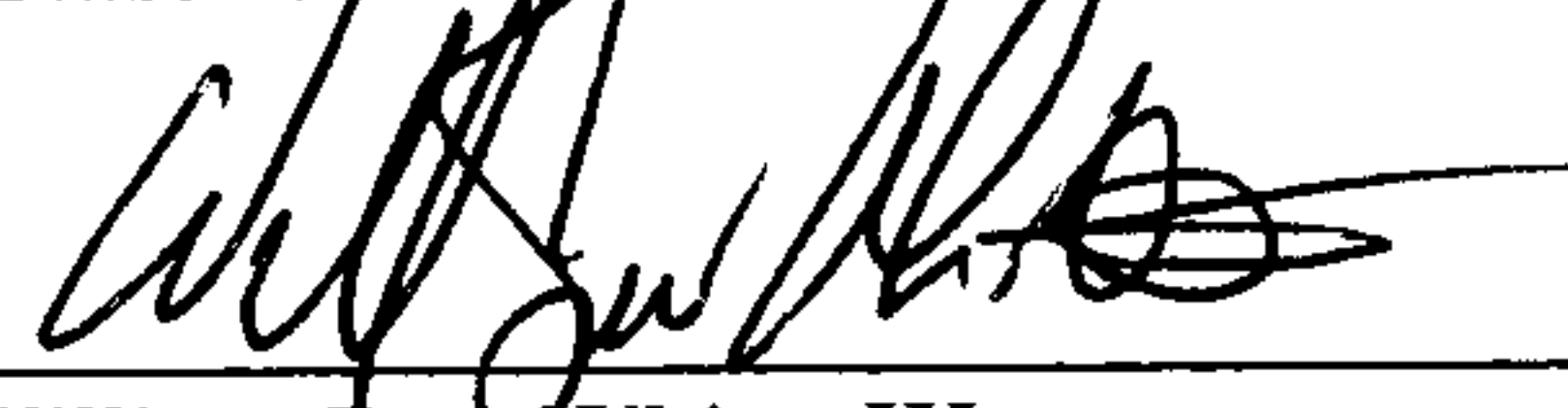


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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**"NEW OWNER"**

Summer Classics Properties One, LLC

By: 

Name: William Bew White, III

Title: Manager

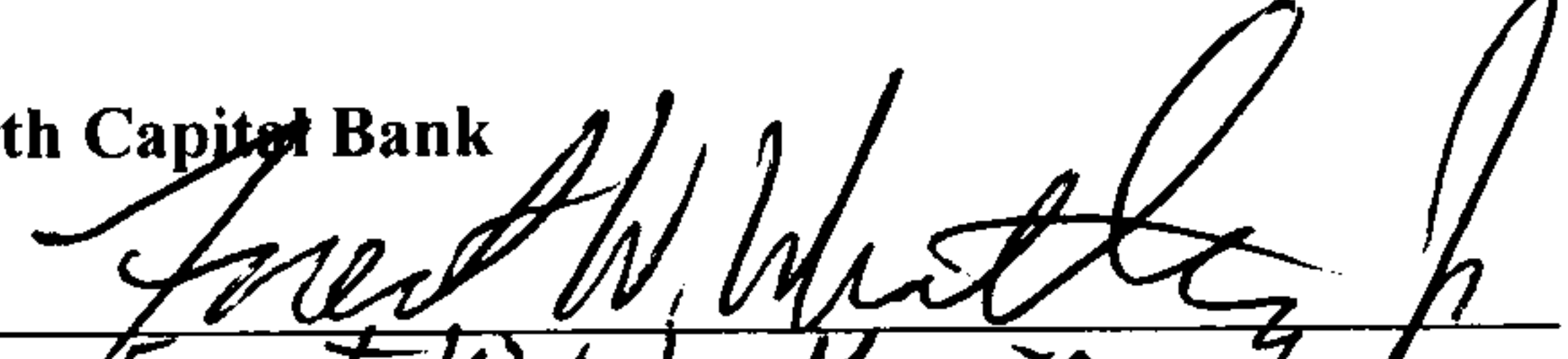
**"ORIGINAL BORROWER"**



William Bew White, III

**"LENDER"**

Oakworth Capital Bank

By: 

Name: Forest W. White, Jr.

Title: Managing Director

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

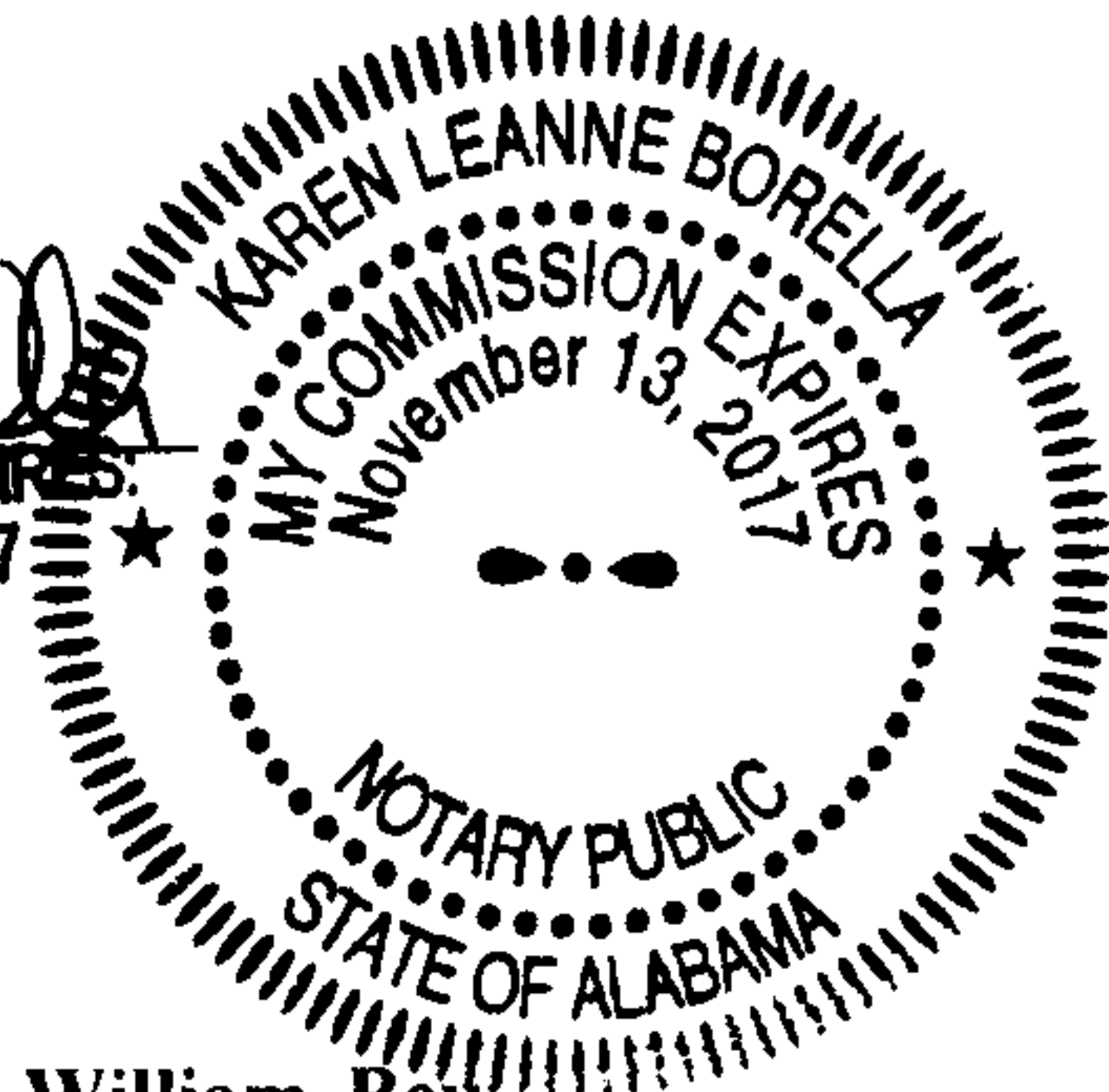
I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **William Bew White, III** whose name as the manager of **Summer Classics Properties One, LLC**, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 9<sup>th</sup> day of October, 2014.

Karen Leanne Borella  
Notary Public

My Commission Expires: \_\_\_\_\_

MY COMMISSION EXPIRES:  
November 13, 2017



STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

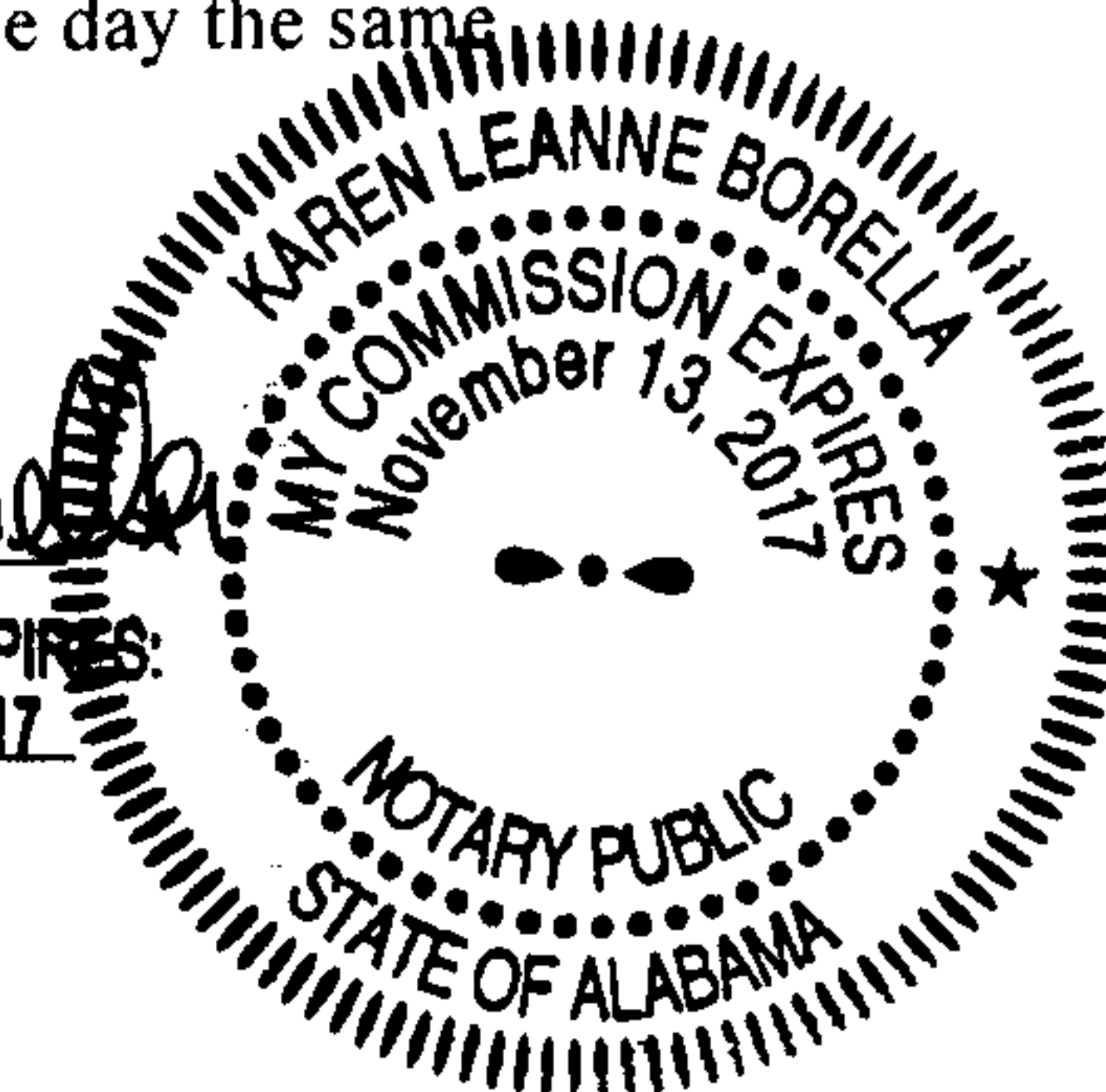
I, the undersigned, a Notary Public in and for said County and State, hereby certify that **William Bew White, III**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he voluntarily executed the same on the day the same bears date.

Given under my hand and seal this the 9<sup>th</sup> day of October, 2014.

Karen Leanne Borella  
Notary Public

My Commission Expires: \_\_\_\_\_

MY COMMISSION EXPIRES:  
November 13, 2017



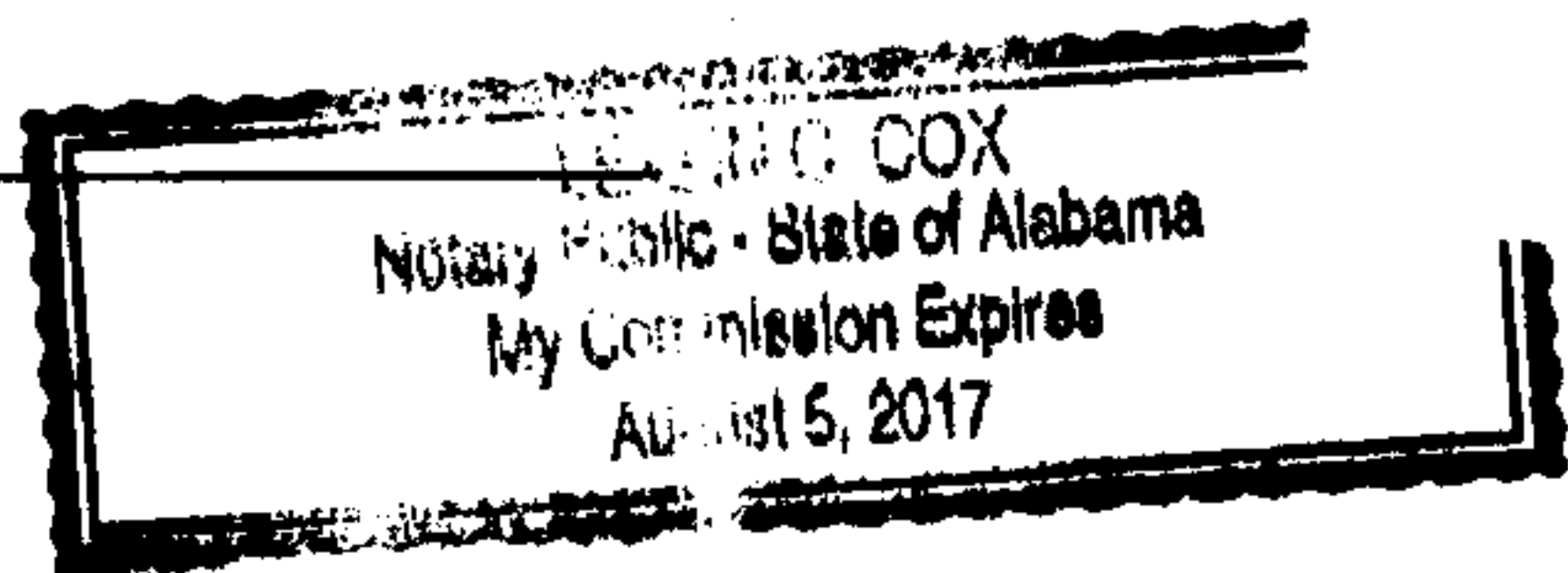
STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Forest W. Whitley, Jr.** whose name as the **Managing Director** of **Oakworth Capital Bank**, 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 and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 15<sup>th</sup> day of October, 2014.

Leana C. Cox  
Notary Public

My Commission Expires: \_\_\_\_\_



**EXHIBIT A**  
**DESCRIPTION OF REAL PROPERTY**

**Parcel I:**

Description of the Northerly part of Lot 6-B, according to a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Office of the Judge of Probate, Shelby County, Alabama, being more particularly described as follows: Begin at the most northerly corner of said Lot 6-B and run in an easterly direction along the Northerly line of Lot 6-B for a distance of 80 feet; thence turn an angle to the right of 54 degrees 26 minutes 50 seconds, and run in a southeasterly direction along the Northeasterly line of 6-B for a distance of 242.25 feet, thence turn an angle to the left of 1 degree, 52 minutes, 30 seconds and continue along the Northeasterly line of Lot 6-B in a Southeasterly direction for a distance of 50 feet; thence turn an angle to the right of 117 degrees, 21 minutes 07 seconds and run in a southwesterly direction for a distance of 69.85 feet; thence turn an angle to the right of 17 degrees, 35 minutes 53 seconds and run in a northwesterly direction along the common lot line between Lot 2-A and Lot 6-B of said survey for a distance of 154.85 feet; thence turn an angle to the right of 75 degrees 15 minutes 50 seconds and run in a northwesterly direction along the Westerly lot line of said Lot 6-B for a distance of 230.57 feet to the point of beginning.

**Parcel II:**

Lot 5-B, according to a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, but not including the following portion of Lot 5-B: Commence at the Southeast corner of the Northeast One-Quarter of the Northeast One-Quarter of Section 23, Township 20 South, Range 3 West; run thence in a Westerly direction along the South line of said Quarter-Quarter Section for a distance of 812.44 feet; thence turn an angle to the right of 70 degrees, 22 minutes 42 seconds and run in a northwesterly direction along the Southwesterly right of way line of a public road for a distance of 462.84 feet; thence turn an angle to the left of 71 degrees, 57 minutes, 40 seconds, and run in a Westerly direction along the North line of Lot 5-B of a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, page 89, in the Office of the Judge of Probate, Shelby County, Alabama, for a distance of 34.64 feet to the point of beginning. From the point of beginning thus obtained, thence continue along last described course for a distance of 167.31 feet; thence turn an angle to the left of 110 degrees, 17 minutes, 20 seconds and run in a southeasterly direction for a distance of 43.59 feet; thence turn an angle to the left of 84 degrees, 45 minutes and run in a northeasterly direction for a distance of 157.59 feet to the point of beginning.

**Parcel III:**

Commence at the Southeast corner of the Northeast One-Quarter of the Northeast One-Quarter of Section 23, Township 20 South, Range 3 West; run thence in a Westerly direction along the South line of said Quarter-Quarter Section for a distance of 812.44 feet; thence turn an angle to the right of 70 degrees, 22 minutes, 42 seconds and run in a Northwesterly direction along the Southwesterly right of way line of a public road for a distance of 462.84 feet to the Northeast corner of Lot 5-B of a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, page 89, in the Office of the Judge of Probate, Shelby County, Alabama, said point being the point of beginning. From the point of beginning thus obtained, thence continue along last described course for a distance of 9.0 feet; thence turn an angle to the left of 87°00' and run in a southwesterly direction for a distance of 32.98 feet to a point on the North line of said Lot 5-B; thence turn an angle to the left of 164°57' 40" and run in an Easterly direction along the North line of said Lot 5-B for a distance off 34.64 feet to the point of beginning.

**Parcel IV:**

Commence at the Southeast corner of the Northeast One-Quarter of the Northeast One-Quarter of Section 23, Township 20 South, Range 3 West; run thence in a westerly direction along the South line of said Quarter-Quarter Section for a distance of 812.44 feet; thence turn an angle to the right of 70°22'42" and run in a northwesterly direction along the Southwesterly right-of-way line of a public road for a distance of 462.84 feet; thence turn an angle to the left of 71°57'40" and run in a Westerly direction along the North line of Lot 5-B of a resurvey of Ralph



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Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Office of the Judge of Probate, Shelby County, Alabama, for a distance of 201.95 feet to the point of beginning. From the point of beginning thus obtained; thence turn an angle to the right of 69°42'40" and run in a northwesterly direction for a distance of 55.85 feet to a point on the Southeasterly right-of-way line of the Helena Highway; thence turn an angle to the left of 96°06'28" and run in a southwesterly direction along the Southeasterly right-of-way line of the Helena Highway for a distance of 102.23 feet to the point of beginning of a curve to the right, said curve having a central angle of 1°24'40" and a radius of 649.66 feet; thence run along the arc of said curve to the right, continuing in a southwesterly direction along the Southeasterly right-of-way line of the Helena Highway for a distance of 16.0 feet to the Northwest corner of Lot 6-B of a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Office of the Judge of Probate of Shelby County, Alabama; thence run in an easterly direction along the North line of Lot 6-B and Lot 5-B of said resurvey for a distance of 125.35 feet to the point of beginning.

**Parcel V:**

A part of the NE ¼ of the NE ¼ of Section 23, Township 20 South, Range 3 West, more particularly described as follows: Begin at the intersection of the North line of Lot 6-B, according to Resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, with the South right of way line of Pelham-Helena Highway and run in an Easterly direction along the North line of Map of Resurvey of Ralph Tully Industrial Park and Extension thereof, to the center of Buck Creek; thence in a Northerly direction along the meanderings of the center of Buck Creek to the South right of way line of Pelham-Helena Highway; thence run in a Southwesterly direction along the South right of way line of said Highway to the Point of Beginning; EXCEPTING that portion of above described property sold to Sharer, Door & Window, Inc., as recorded in Deed Book 311, Page 935, in the Probate Office of Shelby County, Alabama.

ALSO: A part of Lot 5-B, according to a Resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, more particularly described as follows: Commence at the Southeast corner of the NE ¼ of NE ¼ of Section 23, Township 20 South, Range 3 West, and run thence in a Westerly direction along the South line of said ¼ - ¼ section for a distance of 812.44 feet; thence turn an angle to the right of 70 deg. 22' 42" and run in a Northwesterly direction along the Southwesterly right of way line of a public road for a distance of 462.84 feet; thence turn an angle to the left of 71 deg. 57' 40" and run in a Westerly direction along the North line of said Lot 5-B of a Resurvey of Ralph Tully Industrial Park as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, for a distance of 34.64 feet to the point of beginning; from the point of beginning continue along last described course for a distance of 167.31 feet; thence turn an angle to the left of 110 deg. 17' 20" and run in a Southeasterly direction for a distance of 43.59 feet, thence turn an angle to the left of 84 deg. 45' and run in a Northeasterly direction for a distance of 157.59 feet to the point of beginning.

Situated in Shelby County, Alabama.