

This instrument prepared by
and after recording return to:

Ray D. Gibbons, Esq.
Gibbons Graham LLC
100 Corporate Parkway, Suite 125
Birmingham, Alabama 35242

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10/20/2015 02:57:06 PM
MORT 1/10

MORTGAGE AND SECURITY AGREEMENT

**THE MAXIMUM PRINCIPAL AMOUNT SECURED BY THIS MORTGAGE IS
\$7,750,000**

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made and entered into as of October 15, 2015, by **SCHILLECI WHITE STONE, LLC**, an Alabama limited liability company (the "Mortgagor"), whose address is 2400 Highway 280, Harpersville, Alabama 35078, Attention: Frank S. Schilleci, Jr., in favor of **SERVISFIRST BANK**, an Alabama banking corporation (the "Bank"), whose address is 850 Shades Creek Parkway, Suite 200, Birmingham, Alabama 35209, Attention: Layne B. Held. Any capitalized term used herein but not defined shall have the meaning ascribed to such term in that certain Credit Agreement of even date herewith among Mortgagor, Frank S. Schilleci, Jr. ("Schilleci") (Mortgagor and Schilleci hereinafter referred to collectively as the "Borrowers" and each singularly as a "Borrower") and Bank (as amended from time to time, the "Credit Agreement").

WITNESSETH:

WHEREAS, Borrowers are justly indebted to Bank pursuant to the provisions of the Credit Agreement, such indebtedness being evidenced by the Note, and payable to Bank with interest thereon as provided for in the Credit Agreement; and

WHEREAS, Mortgagor desires to secure the Obligations, including, but not limited to the obligations (i) to pay the principal of and interest on the Note in accordance with the respective terms thereof or of the other Loan Documents, including any and all extensions, modifications, and renewals thereof and substitutions therefor, and (ii) to pay, repay or reimburse Bank for all other amounts owing under any of the Loan Documents, including all Indemnified Losses and Default Costs.

NOW, THEREFORE, for and in consideration of Bank entering into the Credit Agreement, and to secure the prompt payment and performance of the Obligations, Mortgagor does hereby irrevocably CONVEY, WARRANT, GRANT, BARGAIN, SELL, ASSIGN, TRANSFER, PLEDGE and set over unto Bank, and the successors and assigns of Bank, all of Mortgagor's right, title and interest of whatever kind, nature or description, whether now existing or hereafter arising, and wherever located (the "Mortgagor's Interest"), in and to all of the following described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances and appurtenances, whether now owned or hereafter acquired, and including replacements and additions thereto (herein referred to collectively as the "Mortgaged Property"):

(a) All those certain tracts, pieces or parcels of land, and interests in land, located in Shelby County, Alabama, more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "Land");

(b) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to said buildings, structures or improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, vehicles and personal property of every kind and nature whatsoever now or hereafter owned by Mortgagor and located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Mortgaged Property, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing, and all building materials and supplies of every kind now or hereafter placed or located on the Land (collectively the "Improvements"), all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Mortgaged Property as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage;

(c) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Mortgaged Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor;

(d) All rents, issues, profits, revenues and proceeds from any sale or other disposition of the Mortgaged Property, or any part thereof, from time to time accruing (including without limitation all payments under leases, ground leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits and escrow funds), and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Mortgagor of, in and to the same;

(e) All leases presently existing or hereafter made, whether written or verbal, or any letting of, or agreement for the use or occupancy of, any part of the Mortgaged Property, and each modification, extension, renewal and guarantee thereof (collectively, the "Assigned Leases"), including, without limitation, all the rents, issues, and profits now due and which may hereafter become due under or by virtue of the Assigned Leases, together with all claims and rights to the payment of money at any time arising in connection with any rejection or breach of any of the Assigned Leases under Bankruptcy Law, including without limitation, all rights to recover damages arising out of such breach or rejection, all rights to charges payable by a tenant or trustee in respect of the leased premises following the entry of an order for relief under the

Bankruptcy Law in respect of a tenant and all rentals and charges outstanding under the Assigned Lease as of the date of entry of such order for relief; and

(f) All of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Mortgagor of, in and to any of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Property and all parts, rights, members and appurtenances thereof, to the use and benefit of Bank and the successors, successors-in-title and assigns of Bank, forever; and Mortgagor covenants that Mortgagor is lawfully seized and possessed of Mortgagor's Interest in the Mortgaged Property as aforesaid and has good right to convey the same, that the same are unencumbered except for those matters expressly set forth in Exhibit A hereto, and Mortgagor does hereby warrant and will forever defend the title thereto against the claims of all Persons whomsoever, except as to those matters set forth in said Exhibit A.

The Lien of this Mortgage automatically will attach to any further, greater, additional or different estate, rights, titles or interests in or to any of the Mortgaged Property at any time hereafter acquired by Mortgagor by whatsoever means and without any further action or filing or recording on the part of Mortgagor or Bank or any other Person.

MORTGAGOR HEREBY COVENANTS AND AGREES WITH BANK AS FOLLOWS:

ARTICLE I

1.01 Payment and Performance of Loan Documents. Mortgagor will perform, observe and comply with all the provisions hereof, and of each of the other Loan Documents, including, but not limited to, the due and punctual payment of the principal amount due under the Note, together with interest thereon, and all other sums of money required to be paid by Mortgagor pursuant to any one or more of the Loan Documents.

1.02 Security Agreement. With respect to all personal property (the "Personal Property") constituting part of the Mortgaged Property which is subject to the provisions of Article 9 of the Uniform Commercial Code as enacted in the state wherein the Land is situated (the "UCC"), this Mortgage is hereby made and declared to be a security agreement encumbering each and every item of such Personal Property in compliance with the provisions of the UCC, and Mortgagor hereby grants to Bank a security interest in Mortgagor's Interest in said Personal Property. Mortgagor authorizes Bank to file a financing statement or statements reciting this Mortgage to be a security agreement affecting all of such Personal Property. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage, or otherwise in respect of an Event of Default, shall be (a) as prescribed herein or in any other Loan Document with respect thereto, or (b) as prescribed by applicable Law, including the UCC, all at Bank's sole election. Mortgagor agrees that the filing of such financing statement(s) in the records normally having to do with personal property shall not in any way affect the agreement of Mortgagor and Bank that everything used in connection with the production of income from the Mortgaged Property or adapted for use therein or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all

proceedings both legal or equitable, shall be regarded as part of the real estate conveyed hereby regardless of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain items capable of being thus identified in an Exhibit to this Mortgage, or (iii) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to (A) the proceeds of any fire and/or hazard insurance policy, or (B) any award in eminent domain proceedings for taking or for loss of value, or (C) Mortgagor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Bank as determined by this instrument or affect the priority of Bank's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement(s) is solely for the protection of Bank in the event any court shall at any time hold, with respect to the foregoing items (A), (B), or (C), that notice of Bank's priority of interest, to be effective against a particular class of persons, must be filed in the UCC records. This Mortgage may be filed as a financing statement in any office where Bank deems such filing necessary or desirable and Mortgagor will promptly upon demand reimburse Bank for the costs therefor.

1.03 Use of Mortgaged Property. Mortgagor shall at all times operate the Mortgaged Property as a retail shopping center, and Mortgagor shall not be permitted to alter or change the use of the Mortgaged Property without the prior written consent of Bank.

1.04 Conveyance of Mortgaged Property. Except as otherwise expressly permitted by the Credit Agreement, Mortgagor shall not directly or indirectly encumber (by Lien, junior mortgage, or otherwise), pledge, convey, transfer or assign any or all of its interest in the Mortgaged Property without the prior written consent of Bank.

1.05 Acquisition of Collateral. Except as otherwise expressly permitted by the Credit Agreement, Mortgagor shall not acquire any Personal Property subject to any Lien taking precedence over the Lien of this Mortgage.

ARTICLE II

2.01 Events of Default. The term "Event of Default", wherever used in this Mortgage, shall mean an "Event of Default" as defined in the Credit Agreement.

2.02 Rights and Remedies.

(a) If an Event of Default shall have occurred, then in addition to the rights and remedies provided for under any other Loan Document or under applicable Law, then at the option of Bank this Mortgage may be foreclosed in any manner now or hereafter provided by Alabama law, and to the extent provided or allowed by Alabama law, Bank, or its agent, may sell the Mortgaged Property or any part of the Mortgaged Property at one or more public sales before the front or main door of the courthouse of the county or counties, as may be required, in which the Land or any part of the Land is situated, after having first given notice of the time, place and terms of sale at least once a week for three (3) successive weeks preceding the date of such sale in some newspaper published in said county or counties, as may be required. At any such sale,

Bank may execute and deliver to the purchaser a conveyance of the Mortgaged Property or any part of the Mortgaged Property. Bank shall have the right to enforce any of its remedies set forth herein without notice to Mortgagor, except for such notice as may be required by law. In the event of any sale under this Mortgage by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceedings or otherwise, the Mortgaged Property may be sold as an entirety or in separate parcels and in such manner or order as Bank in its sole discretion may elect, and if Bank so elects, Bank may sell the personal property covered by this Mortgage at one or more separate sales in any manner permitted by the UCC, and one or more exercises of the powers herein granted shall not extinguish or exhaust such powers, until the entire Mortgaged Property is sold or the Obligations are paid in full. If the Obligations are now or hereafter further secured by any chattel mortgages, pledges, contracts of guaranty, assignments of lease or other security instruments, Bank at its option may exhaust the remedies granted under any of said security instruments or this Mortgage either concurrently or independently, and in such order as Bank may determine.

Said sale may be adjourned by Bank, or its agent, and reset at a later date without additional publication; provided that an announcement to that effect be made at the scheduled place of sale at the time and on the date the sale is originally set.

(b) In the event of any sale of the Mortgaged Property as authorized by this Section, all prerequisites of such sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the non-payment or non-performance of the Obligations or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

2.03 Purchase by Bank. Upon any foreclosure sale or sale of all or any portion of the Mortgaged Property under the power herein granted, Bank may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the Obligations as a credit to the purchase price.

2.04 Mortgagor as Tenant Holding Over. In the event of any such foreclosure sale or sale under the powers herein granted, Mortgagor (if Mortgagor shall remain in possession) and all Persons holding under Mortgagor shall be deemed tenants holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.

2.05 Waiver of Appraisement, Valuation, Etc. Mortgagor agrees, to the full extent permitted by law, that in case of a default on the part of Mortgagor hereunder, neither Mortgagor nor anyone claiming through or under Mortgagor will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and Mortgagor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Mortgage marshaled upon any foreclosure or sale under the power herein granted.

2.06 Waiver of Homestead. Mortgagor hereby waives and renounces all homestead and exemption rights provided for by the Constitution and the laws of the United States and of any state, in and to the Mortgaged Property as against the collection of the Obligations, or any part thereof.

2.07 Leases. Bank, at its option, is authorized to foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Mortgagor, a defense to any proceeding instituted by Bank to collect the sums secured hereby.

2.08 Discontinuance of Proceedings. In case Bank shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Bank, then in every such case, Mortgagor and Bank shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Bank shall continue as if no such proceedings had occurred.

2.09 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Bank by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

2.10 Suits to Protect the Mortgaged Property. Bank shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Lien of this Mortgage; (b) to preserve or protect its interest in the Mortgaged Property and in the Rents; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Bank.

2.11 Proofs of Claim. In the case of any receivership, insolvency, Bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor, its creditors or its property, Bank, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Bank allowed in such proceedings for the entire amount due and payable by Mortgagor under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Mortgagor hereunder after such date.

ARTICLE III

3.01 Successors and Assigns. This Mortgage shall be binding upon Mortgagor, its successors and assigns and subsequent owners of the Mortgaged Property, or any part thereof, and shall inure to the benefit of Bank, its successors and assigns and any holder of the Obligations.

3.02 Applicable Law. This Mortgage shall be interpreted, construed and enforced according to the laws of the State of Alabama.

3.03 Notices. All notices provided for herein shall be given and deemed received when given and received in accordance with the terms of the Credit Agreement.

3.04 Assignment. This Mortgage is assignable by Bank and any assignment of this Mortgage by Bank shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Bank.

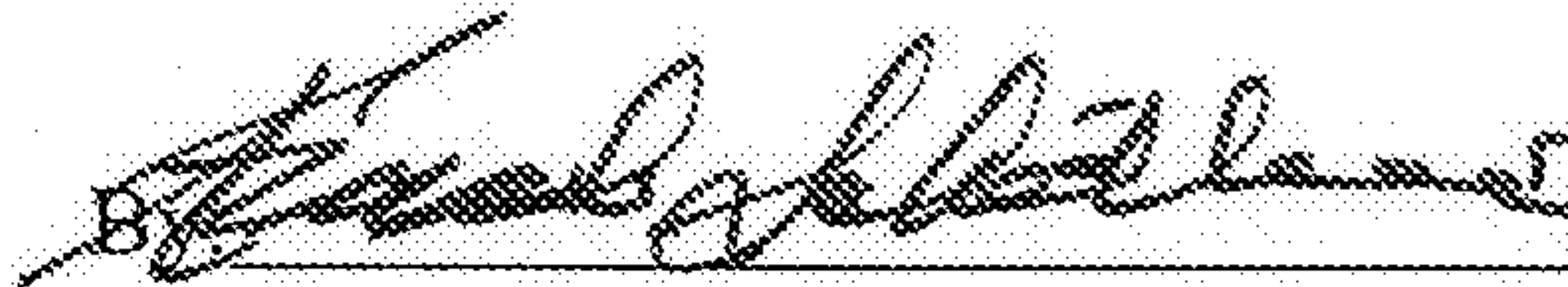
3.05 Future Advances. Upon request of Borrowers, Bank, at Bank's option so long as this Mortgage secures indebtedness held by Bank, may make future advances to Borrowers. Such future advances, with interest thereon, shall be secured hereby if made under the terms of this Mortgage, the Note or the Credit Agreement, or if made pursuant to any other promissory note, instrument or agreement stating that sums advanced thereunder are secured hereby.

* * * * *

IN WITNESS WHEREOF, this Mortgage has been duly executed and delivered as of the day and year first above written.

SCHILLECI WHITE STONE, LLC,
an Alabama limited liability company

By: SCHILLECI WHITE STONE
MANAGEMENT, INC.,
an Alabama corporation, its Manager

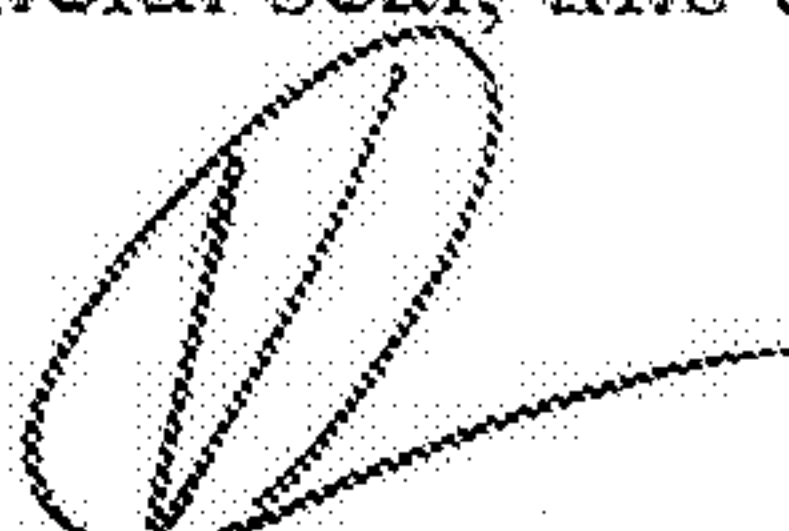


Frank S. Schilleci, Jr., its President

STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Frank S. Schilleci, Jr., whose name as President of Schilleci White Stone Management, Inc., an Alabama corporation, in its capacity as the Manager of Schilleci White Stone, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation in its capacity as aforesaid.

Given under my hand and official seal, this the 15th day of October, 2015.



[SEAL]

Notary Public

My Commission Expires:

9/2/18

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

PARCEL 1:

Lot 7, according to the Map of the White Stone Center Subdivision, as said map appears of record in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 33, at Pages 138-A and 138-B, (hereinafter referred to as "Lot 7").

PARCEL 2:

SLOPE EASEMENT FOR THE BENEFIT OF PARCELS 1 THRU 7 AS CREATED BY THAT CERTAIN EASEMENT AGREEMENT BETWEEN DOUGLAS M. KENT AND NINA KENT AND ALABASTER RETAIL PROPERTY, L.L.C., DATED JANUARY 27, 2003, RECORDED IN INSTRUMENT NUMBER 20030210000081000, OVER, UNDER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

An easement located in the Northeast quarter of the Northwest quarter of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Northwest corner of Section 14; thence run South 89 degrees 03 minutes 42 seconds East and along the section line 2343.49 feet; thence run South 25 degrees 30 minutes 31 seconds West 617.60 feet to the POINT OF BEGINNING; thence continue South 25 degrees 30 minutes 31 seconds West 589.55 feet; thence run North 44 degrees 42 minutes 44 seconds East 69.92 feet; thence run North 25 degrees 30 minutes 31 seconds East 355.71 feet; thence run North 17 degrees 42 minutes 15 seconds East 169.38 feet to the POINT OF BEGINNING.

PARCEL 3:

Non-exclusive and perpetual right, privilege and easement for vehicular and pedestrian access, ingress, and egress over and across all roadways, driveways, entrance ways and sidewalks from time to time located on the Common Area of the Shopping Center Tract, each of Outparcels 1 thru 5, both inclusive, and Future Development Area #2 for the purpose of providing pedestrian and vehicular access, ingress, and egress, but not parking, between the Shopping Center Tract, each of Outparcels 1 thru 5, both inclusive, and Future Development Area #2 and for providing such access, ingress and egress to and from publicly dedicated rights of way abutting the Shopping Center Tract, each of Outparcels 1 thru 5, both inclusive, and Future Development Area #2 and the non-exclusive and perpetual right, privilege and easement in, to, over, along, and across those portions of the Common Area on each Tract necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation and removal of utility lines, including but not limited to sanitary sewers, storm drains, water (fire and domestic), gas, electrical, telephone and communication lines, all as set forth in the Declaration of Restrictions, Covenants and Conditions and Grant of Easements as recorded under Instrument Number 20031124000768400, and as clarified by clarification regarding curb-cuts between Outparcel 2 and the Shopping Center Tract as recorded under Instrument Number 20040329000157920.

PARCEL 4:

TOGETHER WITH the use and benefit of all of the rights, easements, covenants, restrictions and conditions for the use or benefit of said Lot 7 under or by virtue of the following declarations, easements, restrictive covenants, conveyances and other instruments:

- (a) DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS AND GRANT OF EASEMENTS (WHITE STONE SHOPPING CENTER) DATED MAY 14, 2003, AND RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA, IN INSTRUMENT NUMBER 20031124000768400, AS CLARIFIED BY THAT CERTAIN CLARIFICATION REGARDING CURB-CUTS BETWEEN OUTPARCEL 2 AND THE SHOPPING CENTER TRACT DATED MARCH 23, 2004, AND RECORDED IN SAID PROBATE OFFICE IN INSTRUMENT NUMBER 20040329000157920;
- (b) DECLARATION OF RESTRICTIONS (Outparcel) dated November 20, 2003, and recorded in said Probate Office in Instrument Number 20031124000768410;
- (c) DECLARATION OF RESTRICTIONS (Outparcel) dated March 23, 2004, and recorded in said Probate Office in Instrument Number 20040329000157910;
- (d) DECLARATION OF RESTRICTIONS (Outparcel) dated August 31, 2004, and recorded in said Probate Office in Instrument Number 20040903000495500;
- (e) DECLARATION OF RESTRICTIONS (Outparcel) dated March 10, 2004, and recorded in said Probate Office in Instrument Number 20040316000133490;
- (f) DECLARATION OF NON-EXCLUSIVE ACCESS AND UTILITY EASEMENTS dated March 10, 2004, and recorded in said Probate Office in Instrument Number 20040609000308960; and
- (g) DECLARATION OF RESTRICTIONS dated October 5, 2005 and recorded in said Probate Office in Instrument Number 20051010000525290.



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
10/20/2015 02:57:06 PM
\$11666.00 CHERRY
20151020000366510

A handwritten signature in black ink, appearing to be "J. Fuhrmeister", is written over the printed name of the Probate Judge.