

20151117000397000
11/17/2015 10:01:40 AM
MORTAMEN 1/5

WHEN RECORDED, RETURN TO:

Emily K. Head, Esq.
Kutak Rock LLP
1650 Farnam St.
Omaha, NE 68102

THIS INSTRUMENT PREPARED BY:

Emily K. Head, Esq.
Kutak Rock LLP
1650 Farnam St.
Omaha, NE 68102

NOTES TO CLERK: (1) THE MAXIMUM AMOUNT OF OBLIGATIONS SECURED BY THE MORTGAGE HAS NOT CHANGED AND REMAINS \$456,000; (2) THIS IS AN AMENDMENT TO THAT CERTAIN AMENDED AND RESTATED CONSTRUCTION MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, FINANCING STATEMENT, AND FIXTURE FILING RECORDED UNDER INSTRUMENT NUMBER 20150116000017650 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA; AND (3) MORTGAGE TAXES WERE PAID WITH THE RECORDING OF THE MORTGAGE AND THEREFORE NO ADDITIONAL MORTGAGE RECORDING TAX IS DUE.

**MODIFICATION
OF AMENDED AND RESTATED CONSTRUCTION MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF LEASES AND RENTS, FINANCING STATEMENT, AND FIXTURE FILING**

This **MODIFICATION OF AMENDED AND RESTATED CONSTRUCTION MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, FINANCING STATEMENT, AND FIXTURE FILING** (the "**Modification**") is made as of November 2, 2015 by MJB REAL ESTATE, LLC, a Kentucky limited liability company ("**Mortgagor**"), whose mailing address is 2501 Crossings Blvd., Bowling Green, Kentucky 42101; and **GENERAL ELECTRIC CAPITAL CORPORATION**, a Delaware corporation, as administrative agent (in such capacity, together with its successors and permitted assigns, "**Agent**") for the Lenders and each other Secured Party (each as defined in the hereafter described Loan Agreement), whose mailing address is 8377 East Hartford Drive, Suite 200, Scottsdale, Arizona 85255, as mortgagee and secured party (hereinafter, referred to as "**Mortgagee**").

RECITALS

A. Agent and the Lenders a party thereto made certain loans to Mortgagor (collectively, the "**Loans**") pursuant to the Amended and Restated Loan Agreement dated December 26, 2014 (as amended, the "**Loan**").

GEFF smartDocs Form 6005
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Asset No. 069381
Pelham, AL

FINAL EXECUTION COPY

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Agreement”), the Loans being evidenced by certain promissory notes made by Mortgagor and payable to the order of the Lender(s) named therein (collectively, the “*Note*”).

B. The obligations pursuant to the Loan Agreement and Note are secured by the Amended and Restated Construction Mortgage, Security Agreement, Assignment of Leases and Rents, Financing Statement, and Fixture Filing dated December 26, 2014 (the “*Security Instrument*”), executed by Mortgagor in favor of Mortgagee, and recorded on January 16, 2015, under Instrument Number 20150116000017650, records of Shelby County, State of Alabama. The Security Instrument encumbers, among other property, the real property described on *Exhibit A* to this Modification.

C. Mortgagor, Mortgagee and Lenders have, concurrently herewith, amended the Loan Agreement and Note pursuant to the Loan Modification Agreement dated on or about the date hereof (the “*Modification Agreement*”).

D. Mortgagor and Mortgagee desire to modify and supplement the Security Instrument in connection with the execution and delivery of the Modification Agreement.

AGREEMENT:

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor and Mortgagee agree as follows:

1. Accuracy of Recitals. Mortgagor and Mortgagee acknowledge the accuracy of the Recitals and agree that the Recitals are a part of this Modification.

2. Modification. The Security Instrument is modified and supplemented as follows:

(a) The reference in *Section 2.1(a)* of the Security Instrument to \$36,500,000 as the stated principal balance of the Loans is hereby replaced with \$46,800,000.

3. Entire Agreement. The Security Instrument, as modified by this Modification, remains in full force and effect and contains the entire understanding and agreement of the parties in respect of the Security Instrument and supersedes all prior representations, warranties, agreements and understandings. No provision of this Modification may be changed, discharged, supplemented, terminated or waived except in a writing signed by Mortgagee. The execution, delivery, recordation, terms and conditions of this Modification shall not subordinate or otherwise adversely affect the lien, encumbrance and priority of the Security Instrument.

4. Binding Effect. The Security Instrument, as modified by this Modification, shall be binding upon, and inure to the benefit of, Mortgagor and Mortgagee and their respective successors and assigns.

5. Further Assurances. Mortgagor shall execute, acknowledge (as appropriate) and deliver to Mortgagee such additional agreements, documents and instruments as are reasonably required by Mortgagee to carry out the intent of this Modification.

6. Counterpart Execution. This Modification may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Modification to physically form one document.

7. Governing Law. This Modification shall be governed by and construed in accordance with the same law as that governing the Security Instrument.

[SIGNATURE PAGE FOLLOWS]

Executed and effective as of the date first set forth above.

MORTGAGEE:

**GENERAL ELECTRIC CAPITAL CORPORATION, a
Delaware corporation**

By: [Signature]
Name: Sharon Tele
Title: Its Duly Authorized Signatory

STATE OF IL)
COUNTY OF COOK) SS

On Oct. 28th, 2015, before me, the undersigned, a Notary Public, in and for said State personally appeared Sharon Tele known to me to be the Authorized Signatory of **GENERAL ELECTRIC CAPITAL CORPORATION**, a Delaware corporation, and acknowledged to me that such individual executed the within instrument on behalf of said company.

WITNESS my hand and official seal.

[Signature]

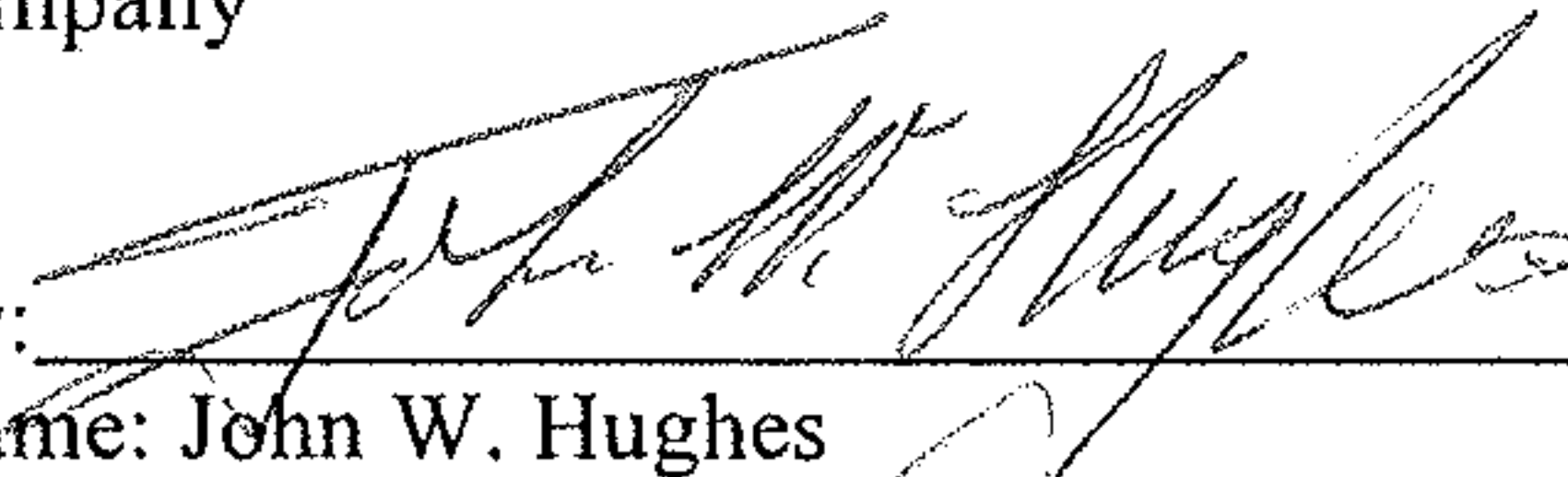
Notary Public in and for
said County and State

[SEAL]



MORTGAGOR:

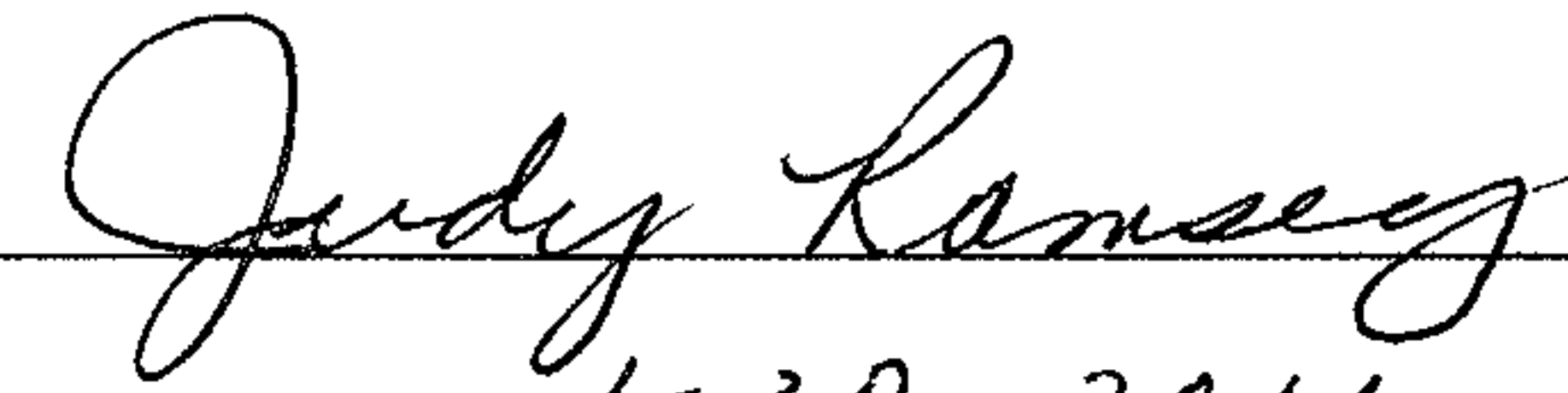
MJBJ REAL ESTATE, LLC, a Kentucky limited liability company

By: 
Name: John W. Hughes
Title: Authorized Member

STATE OF Kentucky)
COUNTY OF Warren) SS

On October 26, 2015, before me, the undersigned, a Notary Public in and for said State personally appeared John W. Hughes known to me to be the Authorized Member of **MJBJ REAL ESTATE, LLC**, a Kentucky limited liability company and acknowledged to me that such individual executed the within instrument on behalf of said company.

WITNESS my hand and official seal.


1-30-2016
Notary Public in and for
said County and State

[SEAL]

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EXHIBIT A
LEGAL DESCRIPTION

A parcel of land situated in the SW ¼ of the NW ¼ of Section 25, T20S, R3W, being more particularly described as follows:

Commence at the point of intersection of the South line of said ¼ - ¼ Section and the Westerly right of way of Highway 31; thence run Northeasterly 161.16 feet along said light of way to the Point of Beginning; thence continue along last described course 138.0 feet; thence left 103 degrees 00' 35" and Westerly 171.86 feet; thence right 90 degrees and run Northerly 69.79 feet; thence left 90 degrees and run Westerly 52.14 feet; thence left 90 degrees and run Southerly 203.94 feet; thence left 83 degrees 59' 25" and run Easterly 194.00 feet to the Point of Beginning. Together with access, driveway, parking and drainage easement described in the Easement Agreement between Sherman Holland, Jr. and D & T Associates, comprised of Duane L. Hoover and Patricia Anne Hoover as shown in Real Volume 107, Page 951, Probate Office of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
11/17/2015 10:01:40 AM
\$27.00 CHERRY
20151117000397000

A handwritten signature in black ink, appearing to read "James W. Fuhrmeister", is written over the official text.