

THIS INSTRUMENT PREPARED BY:
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McGlinchey Stafford PLLC
505 20th Street North, Suite 800
Birmingham, AL 35203

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STATE OF ALABAMA
COUNTY OF SHELBY

LOAN #401983300

ASSUMPTION AND AMENDMENT AGREEMENT

THIS ASSUMPTION AND AMENDMENT AGREEMENT (this "Agreement") is entered into by **LME PROPERTIES, LLC**, an Alabama limited liability company, whose address is 215 Narrows Parkway, Suite C Birmingham AL 35242 (hereinafter "Assumptor") for the benefit of **USAMERIBANK** (formerly known as **ALIANF BANK**, a division of **USAMERIBANK**), a Florida banking corporation (hereinafter "Lender") and is effective as of May 26th, 2017 (the "Effective Date").

WHEREAS, Lender made a loan (the "Loan") to Brady Construction, LLC (formerly known as Brady Residential Construction, LLC), an Alabama limited liability company (hereinafter "Original Borrower"), evidenced by that certain Promissory Note dated September 2, 2015 (the "Loan Date"), in the principal amount of \$749,632, payable to Lender, which Promissory Note was amended by that certain Change in Terms Agreement dated September 2, 2016 (the "Change in Terms Agreement"), by and among Original Borrower, Original Guarantors (as defined below), and Lender (hereinafter, along with all other change in term agreements, amendments, renewals, and extensions thereof, collectively the "Note").

WHEREAS, the Loan (i) was made in connection with a Construction Loan Agreement by and between Original Borrower and Lender dated the Loan Date, which was amended by the Change in Terms Agreement (hereinafter, along with all other change in term agreements and all amendments thereto, the "Loan Agreement"); (ii) is guaranteed, jointly and severally, by those certain Commercial Guaranties, all dated the Loan Date (hereinafter collectively, the "Original Guaranties"), from William David Brady, Ridge Crest Properties, LLC, an Alabama limited liability company, and Ridge Crest Homes, LLC, an Alabama limited liability company (hereinafter collectively, the "Original Guarantors") in favor of Lender; and (iii) is secured by (a) that certain Construction Mortgage dated the Loan Date, from Original Borrower to Lender, recorded as Instrument 20150908000312080, in the Office of the Judge of Probate of Shelby County, Alabama; (hereinafter, the "Mortgage"), and (b) that certain Commercial Security Agreement dated the Loan Date, from Original Borrower to Lender (hereinafter, the "Security Agreement"). This Agreement, the Note, the Loan Agreement, the Guaranties (as defined below), the Mortgage, the Security Agreement and all the other documents evidencing, guaranteeing, securing, or executed or delivered in connection with the Loan, along with the Change in Term Agreements and all other amendments thereto, are hereinafter referred to as the "Loan Documents".

WHEREAS, Assumptor desires to acquire the Property, and in connection therewith assume the Loan.

WHEREAS, Lender is agreeable to this assumption, provided Assumptor assumes the Loan and enters into this Agreement and Original Borrower guarantees the Loan by executing a Commercial Guaranty in connection herewith.

WHEREAS, Assumptor has requested that Lender make a new loan to Assumptor in the principal amount of \$500,000 (the "Second Mortgage Loan") to construct improvements on the real property covered by the Mortgage, and Lender has agreed to make the Second Mortgage Loan provided, among other things, the Loan and the Loan Documents are cross-defaulted and cross-collateralized with the Second Mortgage Loan and the Second Mortgage Loan Documents (as defined below) and the Second Mortgage Loan is also guaranteed by Original Borrower .

NOW THEREFORE, in consideration of the premises, to induce Lender to consent to Assumptor's assumption of the Loan and to make the Second Mortgage Loan, and for \$10.00 and other good and valuable consideration, it is agreed as follows:

1. **ASSUMPTION OF THE LOAN:** Assumptor hereby assumes the Loan and the obligation to pay the amount outstanding on the Loan in accordance with the terms of the Note. Assumptor further assumes and agrees to pay the indebtedness and perform every act and obligations of Original Borrower under the terms of the Loan Documents in the same manner and with the same effect as though it had originally joined in the execution thereof. Upon execution of this Agreement, Assumptor shall become a "Borrower" and a "Mortgagor" as those terms are defined in the Loan Documents.

2. **NO RELEASE OF ORIGINAL BORROWER OR GUARANTORS; ORIGINAL BORROWER TO EXECUTE GUARANTY:** Neither the Original Borrower nor any Guarantor, is released from its obligations under the Loan Documents, and nothing contained herein should be in any way construed as a release of Original Borrower and/or Guarantors. Original Borrower (hereinafter, together with the Original Guarantors, jointly, severally, and collectively, "Guarantors") shall guarantee the Loan by executing a Commercial Guaranty in connection herewith (hereinafter, together with the Original Guaranties, collectively, the "Guaranties"). By the execution hereof, Guarantors, among other things, guarantee to Lender the full and prompt payment of the Loan, the Note, and all loans, overdrafts, notes, bills, and all other debts, obligations, and liabilities of every kind and description, whether now owing or hereafter arising out of credit previously, contemporaneously, or hereafter granted by Lender to the Assumptor, whether arising from dealings between the Lender and the Assumptor, or from dealings by which the Lender may become, in any manner whatever, a creditor of the Assumptor. Guarantors further agree to be, without deduction by reason of setoff, defense, or counterclaim of the Assumptor, primarily liable for the due performance and prompt payment of all of the obligations of the Assumptor to Lender, no matter when or how arising, whether under a note, or any other past, present or future agreement with Lender, or otherwise, including debts and obligations incurred by the Assumptor to others and pledged, sold, transferred, assigned and/or in which security interests are granted to Lender for any purpose whatsoever, and specifically including any and all interest, attorneys' fees, and cost pertaining thereto, or which accrue after an order for relief is entered against Assumptor in any bankruptcy proceedings.

Guarantors further consent to and hereby waive any and all notice of the making of any modification, amendment, renewal or extension of the Note or any note or agreement or any supplement thereto; the making of any other agreement; the incurring of any other debts or obligations by the Assumptor to Lender or others and/or of the pledge, sale, transfer, and/or assignment thereof; the granting of security interests therein to Lender; the granting to the Assumptor or to any obligor or debtor of any obligation or debts assigned to Lender, of any extensions of time to make any payments to perform or discharge any of Assumptor's obligations (or waive such performances and/or discharge); the compounding, compromising, and/or adjusting of any claim against the Assumptor or any such obligor or debtor; the accepting or releasing of any security either of Assumptor or of any third party; and all other notices to which the Guarantors may otherwise be entitled. No act on Lender's part and nothing other than the full payment, performances, and discharge of all of Assumptor's obligations shall operate to discharge or satisfy the liability of the Guarantors hereunder. The liability of the Guarantors hereunder is primary, direct and unconditional and may be enforced without first resorting to any rights or remedies Lender may have against the Assumptor, any other person, any other entity, or against any security. Guarantors further agree that this Agreement and all obligations guaranteed or secured hereby, shall remain in full force and effect and in its original tenor at all times hereinafter during the term hereof, notwithstanding i) the unenforceability, non-existence, invalidity, or non-perfection of any of the obligations, or any instrument or agreement guaranteeing or securing the obligations, or of any lien, pledge, assignment, security interest or conveyance given as security for the obligations; ii) the failure of Lender to pursue any collateral securing the obligations or the failure to file a claim against the Assumptor or any other guarantor of the obligations in any proceeding pertaining to the death, insolvency, of bankruptcy of such person or entity; or iii) any action or undertakings by, or against, Lender or Assumptor or concerning any collateral which is secured, pledged or assigned to the Lender in connection with the obligations in any proceeding in the United States Bankruptcy Court; including without limitation, matters relating to valuation of collateral, election or imposition of secured or unsecured claim status upon claims by the Lender pursuant to any Chapter of the Bankruptcy Code, as may be applicable from time to time.

3. **TAXES, ASSESSMENTS, AND OTHER CHARGES.** Assumptor will pay all taxes, assessments, or governmental charges levied, assessed, or imposed against Assumptor or Assumptor's properties or arising out of Assumptor's operations promptly as they become due and payable, provided, however, that if Assumptor shall have set aside on Assumptor's books reserves deemed adequate therefor, Assumptor shall have the right to contest in good faith, by appropriate proceedings, any such taxes, assessments or governmental charges or levies, and pending such contest may delay or deter the payment thereof unless thereby the property in which Lender has a mortgage or security interest will be in danger of being forfeited or lost.

4. **INCORPORATION OF LOAN DOCUMENTS.** Assumptor acknowledges receipt of a copy of all the Loan Documents, and agrees to be bound under the terms of each and every Loan Document, just as if Assumptor executed each Loan Document. Assumptor will comply with each and every term, condition, agreement, representation, and covenant in the Loan Documents, just as if Assumptor executed the same.

5. **COST AND EXPENSES.** Assumptor agrees to pay all recording fees, reasonable attorneys' fees (including reasonable fees of the attorneys retained by Lender to

prepare or review the instruments relating to this Agreement), and all other reasonable expenses and costs of every kind which may be incurred by Lender in related to this assumption, and in maintaining unimpaired its security and lien, or otherwise connected with or growing out of this transaction.

6. **NEW LOAN, AMENDMENT TO LOAN DOCUMENTS TO ADD CROSS-DEFAULT AND CROSS-COLLATERALIZATION.** Contemporaneously herewith, Lender is making Second Mortgage Loan to Assumptor, which will be guaranteed by the Guarantors and secured by a second mortgage on the real property covered by the Mortgage and a second priority security interest in the collateral covered by the Security Agreement. The promissory note, construction loan agreement, commercial guaranties, construction mortgage, commercial security agreement and all the other documents evidencing, guaranteeing, securing, or executed or delivered in connection with the Second Mortgage Loan are hereinafter referred to as the "Second Mortgage Loan Documents". The Loan and the Loan Documents shall be cross-defaulted and cross-collateralized with the Second Mortgage Loan and the Second Mortgage Loan Documents. Without limiting the generality of the foregoing, the Loan Documents are hereby amended to provide (i) that a "default" or "Event of Default" (as defined therein) under the Second Loan Documents shall constitute a "default" or "Event of Default" (as defined therein) under the Loan Documents, and (ii) that the Second Mortgage Loan shall be included in the term "Indebtedness" as used in the Loan Documents and that the Second Mortgage Loan shall be secured by, and entitled to all the benefits of, the Loan Documents.

7. **ASSUMPTOR TO FURNISH TAX RETURNS.** Assumptor shall be required to furnish its business tax returns to Lender annually within 30 days of filing.

8. **HEADINGS, MATERIALITY, WAIVERS, SURVIVAL OF COVENANTS, MISCELLANEOUS:**

8.1 The headings of the articles, sections, paragraphs, and subdivision of this Agreement are for convenience or reference only, and are not to be considered a part hereof, and shall not limit or affect any of the terms hereof.

8.2 All agreements and representations, made herein shall be deemed to be material and relied on by Lender, notwithstanding any investigation made by or on behalf of Lender, and shall survive the execution and delivery to Lender of this Agreement, or any agreement referred to herein.

8.3 No delay or failure on Lender's part in exercising any right, privilege, or option hereunder or under any other written agreement to which Assumptor is a party, shall operate as a waiver of such right, privilege, or option and no waiver whatsoever shall be valid unless in writing signed by Lender and then only to the extent therein set forth.

8.4 ASSUMPTOR CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN BIRMINGHAM, ALABAMA AND WAIVES ANY OBJECTION ASSUMPTOR MAY HAVE BASED UPON IMPROPER VENUE OR FORUM NON CONVENIENS OR TO THE CONDUCT OF ANY PROCEEDINGS

IN ANY SUCH COURT. IN ANY JUDICIAL PROCEEDING BROUGHT WITH RESPECT TO THIS AGREEMENT, THE NOTE, THE MORTGAGES, THE ASSIGNMENTS, THE GUARANTIES OR ANY OTHER LOAN DOCUMENT, ASSUMPTOR WAIVES ANY RIGHT TO TRIAL BY JURY.

8.5 This Agreement, and the Loan Documents shall continue in full force and effect until terminated by full payment of all of Assumptor's obligations to Lender.

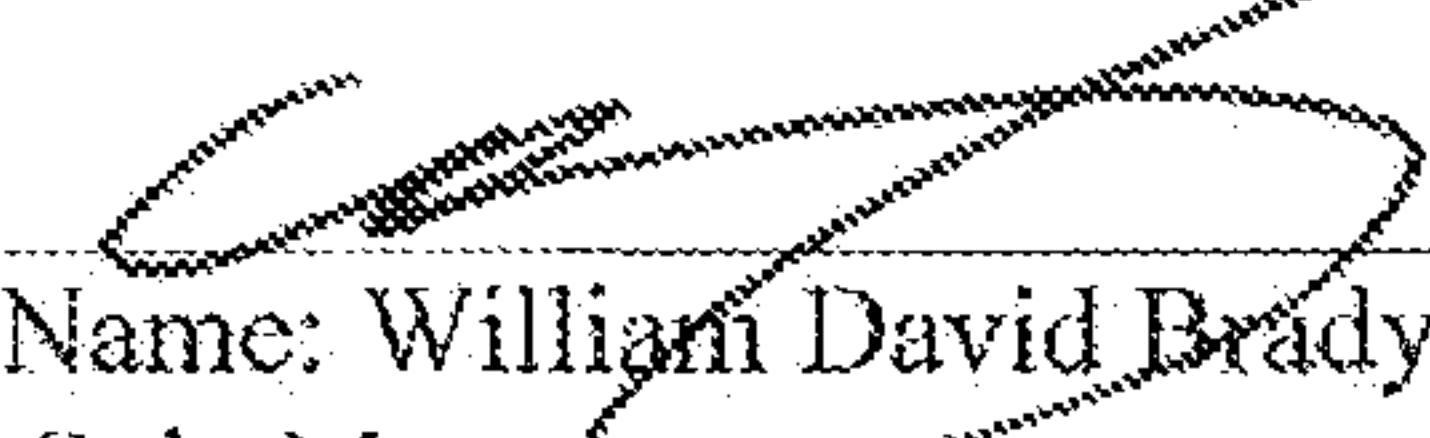
8.6 This Agreement amends the Loan Documents as specifically stated above. This is an amendment to such documents and not a novation thereof. All terms and conditions of the Loan Documents, not specifically amended herein, or hereby reaffirmed, ratified, and shall continue in full force and effect.

[signatures begin on following page]

IN WITNESS WHEREOF, we have hereunto set our hands and seals, effective as of the Effective Date.

ASSUMPTOR:

LME PROPERTIES, LLC

By: 
Print Name: William David Brady
Title: Sole Manager

STATE OF ALABAMA)

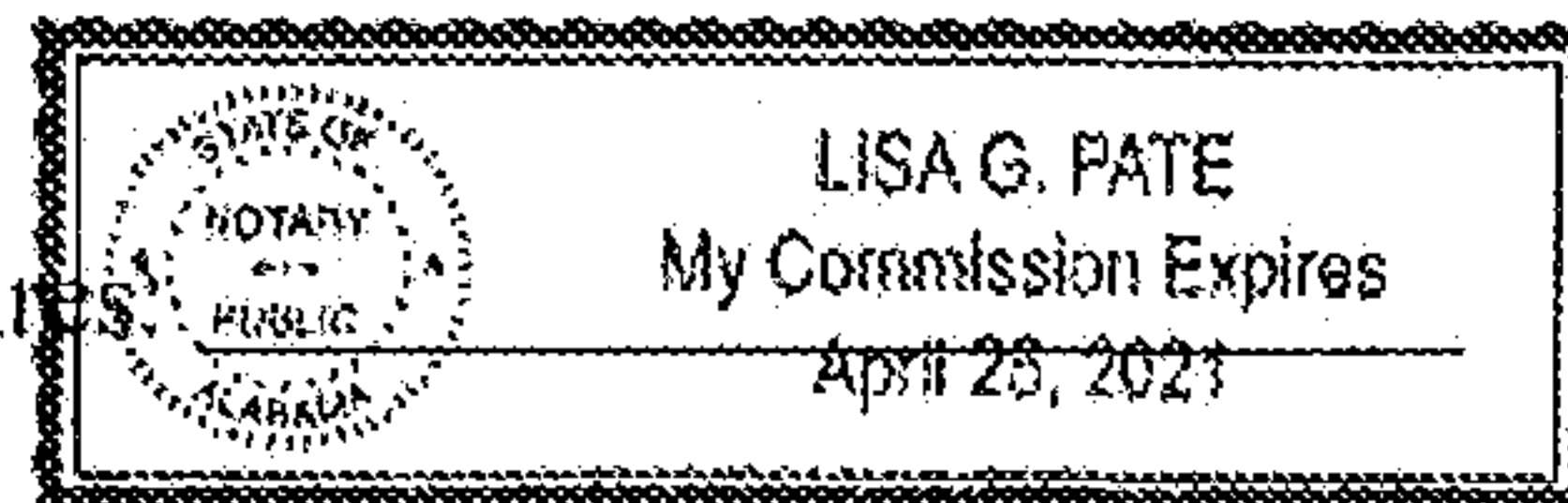
COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for the State of Alabama at Large, hereby certify that William David Brady, whose name as Sole Manager of LME Properties, 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 as the act of said limited liability company.

Given under my hand and official seal this the 26th day of May, 2017.


Notary Public

My Commission Expires



[Notary Seal]

[signatures continued on following page]

CONSENT AND ACKNOWLEDGMENT

The Guarantors, do each hereby acknowledge and consent to this Assumption and Amendment Agreement, agree to be bound by the terms hereof, confirm their obligations as to the Loan and reconfirm and ratify the Guaranties, just as if the same was fully set forth herein.

GUARANTORS:


William David Brady

STATE OF ALABAMA)

COUNTY OF Shelby)

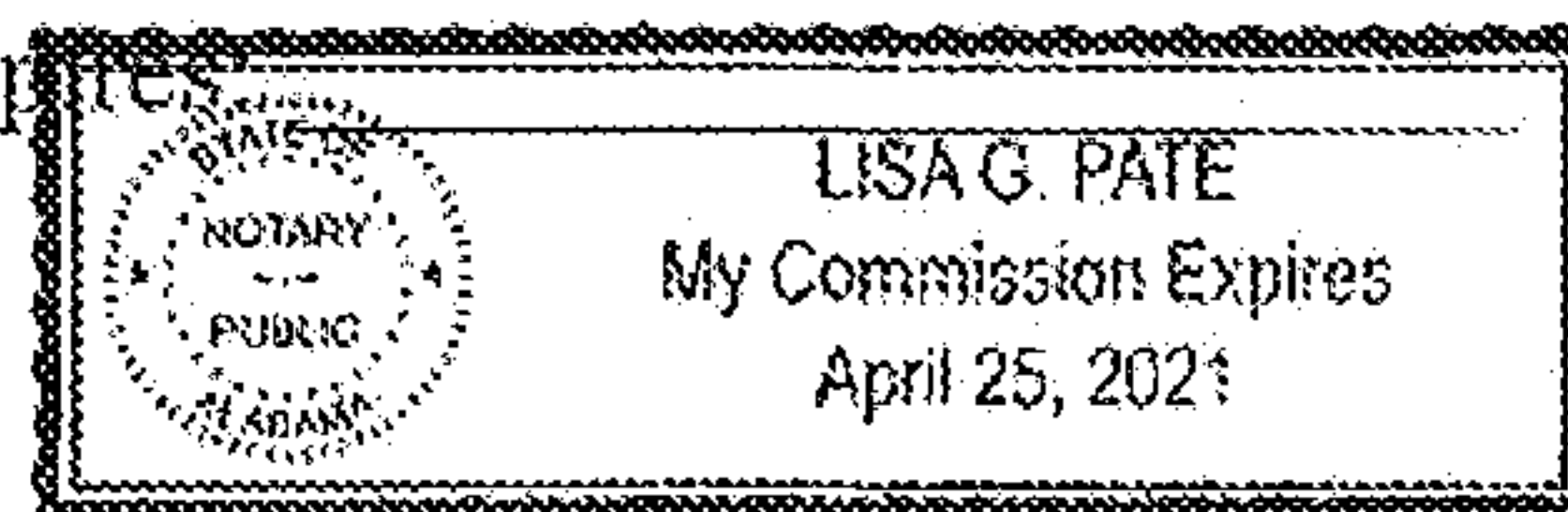
I, the undersigned, a Notary Public in and for the State of Alabama at Large, hereby certify that William David Brady, whose name is signed to the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 25th day of May, 2017.


Notary Public

My Commission Expires

[Notary Seal]



[signatures continued on following page]

BRADY CONSTRUCTION, LLC

By: [Signature]
Print Name: William David Brady
Title: Sole Member

STATE OF ALABAMA)

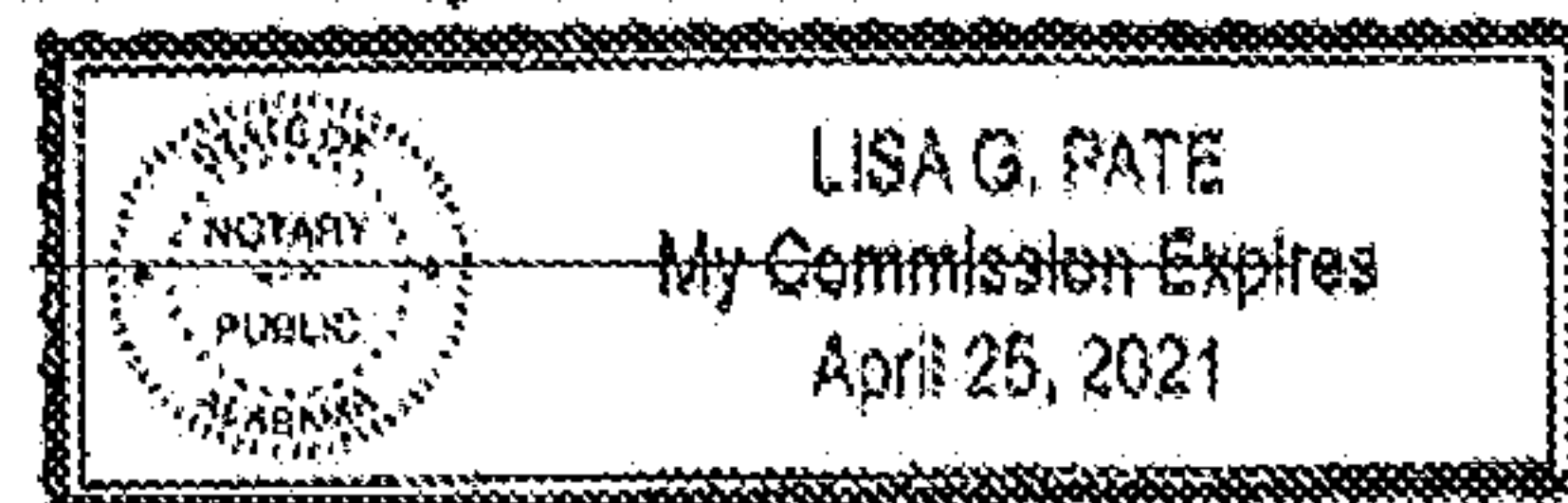
COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for the State of Alabama at Large, hereby certify that William David Brady, whose name as Sole Member of Brady Construction, 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 member and with full authority, executed the same voluntarily as the act of said limited liability company.

Given under my hand and official seal this the 26th day of May, 2017.

Lisa D Pate
Notary Public in and for said County and State

My Commission Expires:



[Notary Seal]

[signatures continued on following page]

RIDGE CREST PROPERTIES, LLC

By: [Signature]
Print Name: William David Brady
Title: Sole Manager

STATE OF ALABAMA)

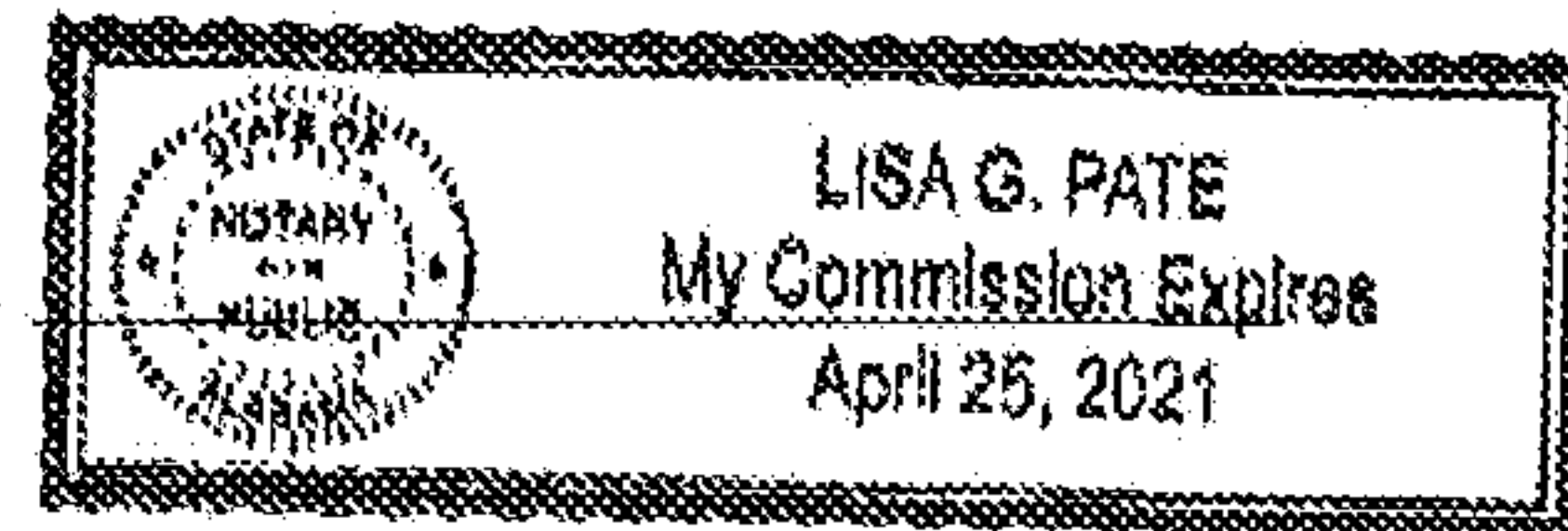
COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for the State of Alabama at Large, hereby certify that William David Brady, whose name as Sole Manager of Ridge Crest Properties, 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 as the act of said limited liability company.

Given under my hand and official seal this the 25th day of May, 2017.

[Signature]
Notary Public

My Commission Expires:



[Notary Seal]

[signatures continued on following page]

RIDGE CREST HOMES, LLC

By: 

Print Name: William David Brady

Title: Sole Manager

STATE OF ALABAMA)

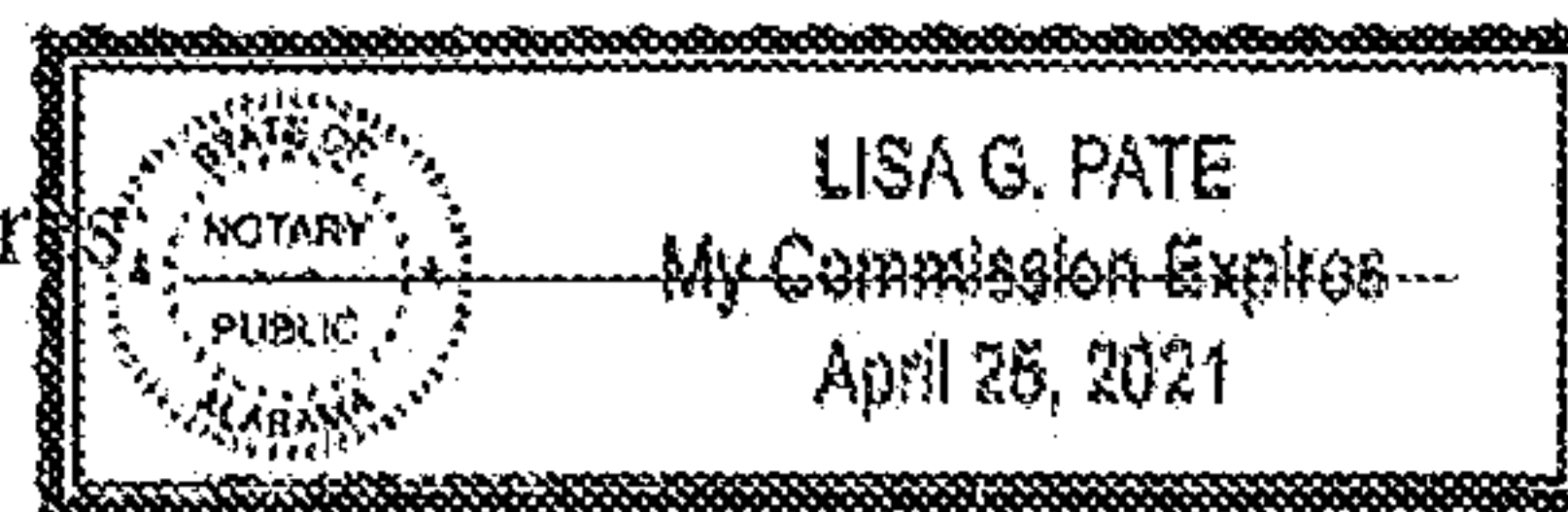
COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for the State of Alabama at Large, hereby certify that William David Brady, whose name as Sole Manager of Ridge Crest Homes, 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 as the act of said limited liability company.

Given under my hand and official seal this the 26th day of May, 2017.


Notary Public

My Commission Expires



[Notary Seal]



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
06/01/2017 11:15:30 AM
\$42.00 CHARITY
20170601000191910

