

JUNIOR ASSIGNMENT OF RENTS AND LEASES

The following terms shall have the meanings set forth below, as used in this instrument:

Effective Date:	July <u>6</u> , 2018	County Division Code: AL040 Inst. # 2018070857 Pages: 1 of 7 I certify this Instrument filed on 7/6/2018 4:18 PM Doc: XFRL Alan L.King, Judge of Probate Jefferson County, AL. Rec: \$34.00
Lender:	ServisFirst Bank	
Lender's Notice Address:	2500 Woodcrest Place Birmingham, Alabama 35209	
Loan Amount:	\$1,300,000.00	Clerk: CRONANL
Mortgage:	The Junior Mortgage and Security Agreement executed by Owner in favor of Lender this date to further secure the Note (defined below).	
Owner:	Exchange Place CCS Development, LLC; Trace Crossing CCS Development, LLC; and Valleydale CCS Development, LLC	
Owner's Notice Address:	300 Cahaba Park Circle, Suite 101 Birmingham, Alabama 35242	

1. **BY THIS ASSIGNMENT**, the Owner, for value received, hereby assigns to the Lender all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, now existing or hereafter made and affecting the real property described in Exhibit A attached hereto and incorporated herein by reference and the improvements and equipment thereon (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph 1, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter collectively and severally referred to as the "Lease".

2. **OWNER'S PURPOSE** in making this assignment is to relinquish, convey, and assign to Lender its right to collect and enjoy the rents, royalties, issues, profits, income and other benefits at any time accruing by virtue of the Lease (hereinafter called "Rents and Profits") as security for (i) payment of the outstanding indebtedness to Lender in connection with the Loan (as defined in the Mortgage) as evidenced by the Note (as defined in the Mortgage) payable to Lender, in the aggregate original principal sum equal to the Loan Amount, (ii) payment of all Other Indebtedness (as defined in the Mortgage), and (iii) performance of the Owner's obligations under the Mortgage, the other Loan Documents (as defined in the Mortgage) and the Other Indebtedness Instruments (as defined in the Mortgage).

3. **THE PARTIES INTEND** that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on the Note, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth below and in the Loan Documents, the Rents and Profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Note, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Lender or by a

receiver, shall be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered into actual possession of the Property.

4. **UPON THE OCCURRENCE OF ANY DEFAULT** under the terms and conditions of the Note, the Mortgage, this Assignment or any of the other Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

5. **OWNER WARRANTIES:**

- (a) that no default exists on the part of Owner under any Lease;
- (b) that no rent or other payment has been or will be collected under any Lease more than one month in advance;
- (c) that neither the Lease nor any interest therein has been previously or will be assigned or pledged by Owner, unless approved of by Lender;
- (d) that no concession has been or will be granted to any Lessee in the form of a waiver, release, reduction, discount or other alteration of rent or other payment due or to become due.

All of the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

6. Owner agrees that nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease. Owner does not delegate or assign to Lender, and Lender does not accept or assume any of the duties, obligations, or liabilities of Owner as provided in the Lease. Despite the present and absolute assignment by Owner to Lender of the Lease, Lender will not be required to perform any of the agreements or conditions contained in the Lease and nothing in this Agreement will impose any obligation upon Lender (including any liability under any covenant of quiet enjoyment as provided in the Lease). Owner retains and will perform all duties, obligations, and liabilities of Owner as provided in the Lease, provided that Lender, in the sole and absolute option of Lender may cure any default as provided in the Lease on behalf of Owner, and Owner will reimburse Lender on demand for all amounts paid and expended by Lender to cure the defaults of Owner as provided in the Lease.

7. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

8. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.

9. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Lender, any third parties now or hereafter acquiring any interest in the Note or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors, and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the County in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Note to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

10. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.

11. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Mortgage, Note, and guarantees, this Assignment shall be void and of no further effect.

12. All notices given hereunder shall be given in the manner set forth in the Mortgage.

13. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

14. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama.

15. **WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, OWNER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR IN CONNECTION WITH THE TRANSACTIONS RELATED THERETO OR CONTEMPLATED THEREBY OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. OWNER AGREES THAT LENDER MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF OWNER IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN OWNER AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

IN WITNESS WHEREOF, this instrument has been executed by the undersigned under seal as of the Effective Date stated above.

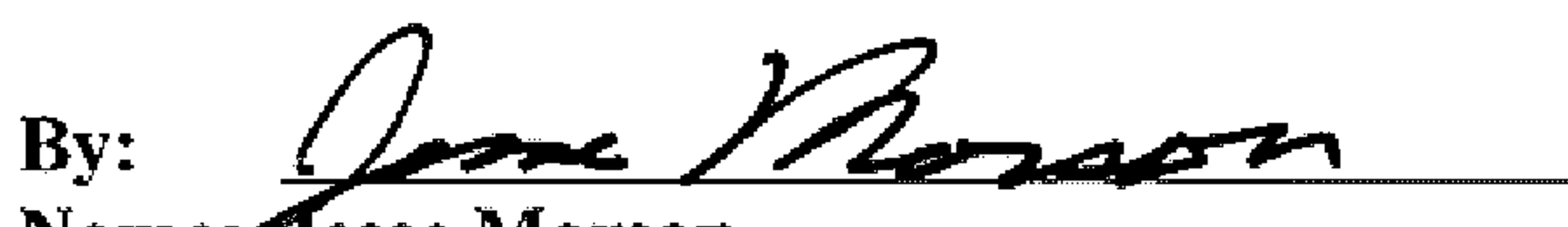
“OWNER:”

Exchange Place CCS Development, LLC
Trace Crossing CCS Development, LLC
Valleydale CCS Development, LLC

By: 

Name: John LaBreche

Title: Manager

By: 

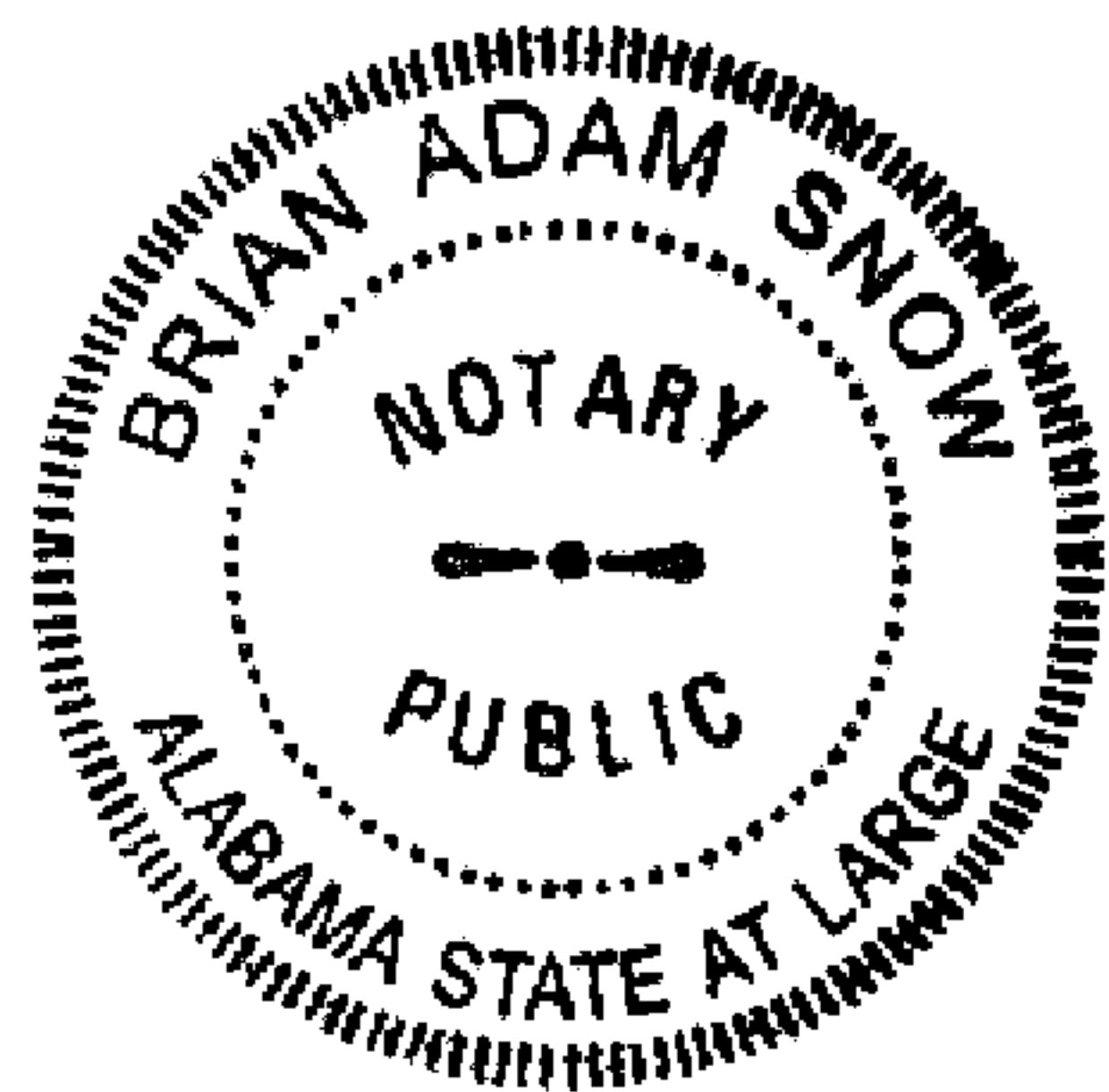
Name: Jesse Morson

Title: Manager

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **John LaBreche**, whose name as a Manager of each of **Exchange Place CCS Development, LLC**, **Trace Crossing CCS Development, LLC**, and **Valleydale CCS Development, LLC**, each 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 each of said limited liability companies.

Given under my hand this 6th day of July, 2018.





Notary Public

My Commission Expires:

MY COMMISSION EXPIRES OCTOBER 11, 2021

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Jesse Morson**, whose name as a Manager of each of **Exchange Place CCS Development, LLC**, **Trace Crossing CCS Development, LLC**, and **Valleydale CCS Development, LLC**, each 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 each of said limited liability companies.

Given under my hand this 6th day of July, 2018.

Brian Adam Snow

Notary Public

My Commission Expires: MY COMMISSION EXPIRES OCTOBER 11, 2021

THIS INSTRUMENT PREPARED BY:

James E. Vann, Esquire
Sirote & Permutt, P.C.
2311 Highland Avenue South - 35205
P.O. Box 55727
Birmingham, Alabama 35255-5727
(205) 930-5484

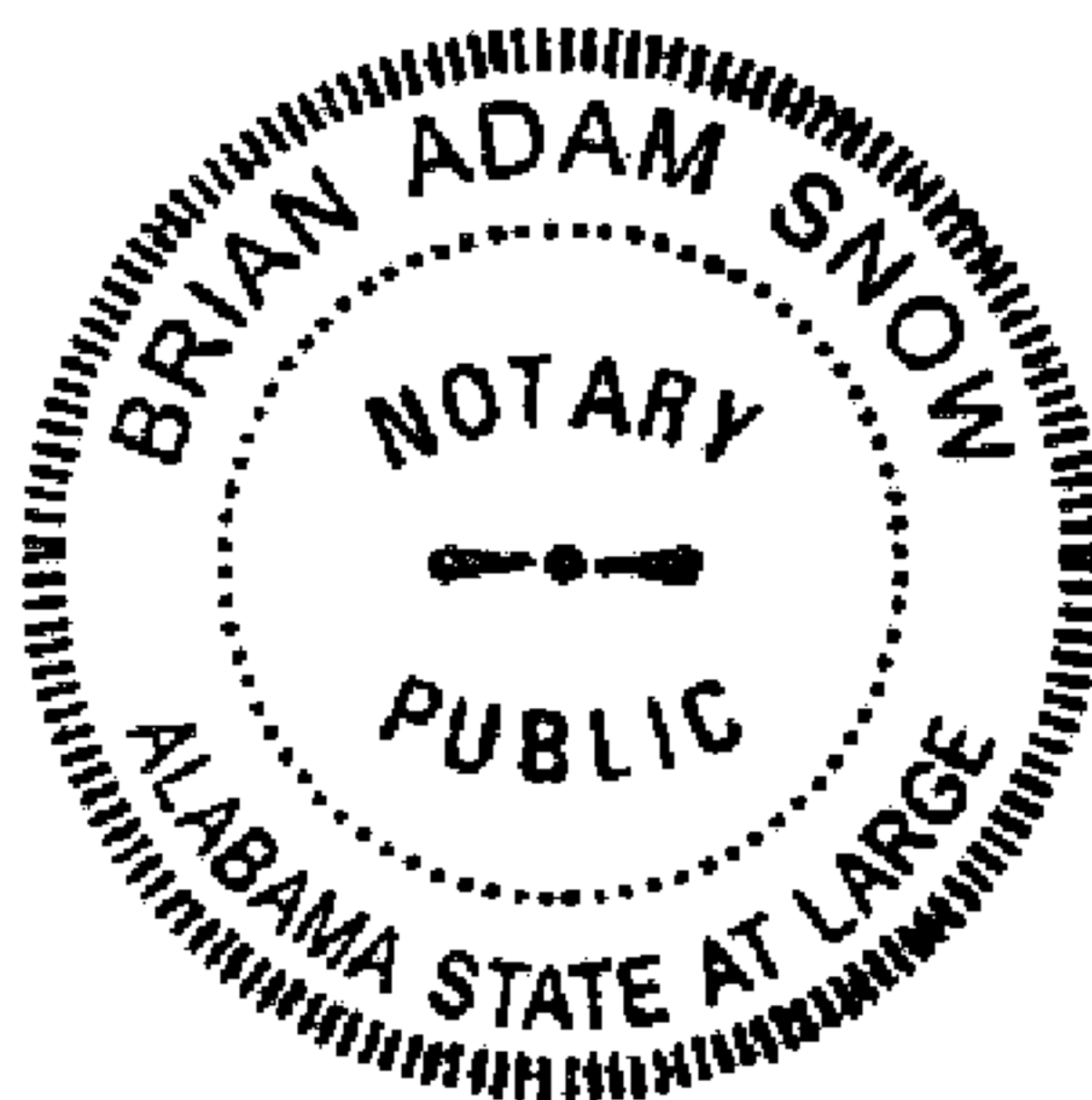


EXHIBIT A

PARCEL I:

Lot 5-A, according to the Resurvey of Lots 4, 5 and 6, Village on Valleydale at Southlake, as recorded in Map Book 13, Page 65, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

PARCEL II:

Tract 1:

Part of the SW 1/4 of the SW 1/4 of Section 27, Township 19 South, Range 3 West, Jefferson County, Alabama, being more particularly described as follows:

From an existing iron pin being the locally excepted Northwest corner of said SW 1/4 of SW 1/4, run in an Easterly direction along the North line of said 1/4 1/4 Section for a distance of 367.10 feet to an existing iron rebar set by Laurence D. Weygand and being the point of beginning; thence continue in an Easterly direction along last mentioned course for a distance of 148.09 feet to an existing iron rebar set by Laurence D. Weygand and being on the West right of way line of Stadium Trace Parkway and being on a curve, said curve being concave in a Westerly direction and having a deflection angle of 0 deg. 25 min. 02.5 sec. and a radius of 591.59 feet; thence turn an angle to the right (95 deg. 42 min. 07 sec. to the chord of said curve) and run in a Southerly direction along the West right of way line of said Stadium Trace Parkway and along the arc of said curve for a distance of 8.62 feet to an existing iron rebar set by Laurence D. Weygand and being a point of compound curve, said newest curve being concave in a Northwesterly direction and a central angle of 93 deg. 48 min. 39 sec. and a radius of 25.0 feet; thence turn an angle to the right and run in a Southerly, Southwesterly and Westerly direction along the arc of said curve for a distance of 40.93 feet to the point of ending of said curve; thence run in a Westerly direction along the line tangent to the end of said curve for a distance of 119.62 feet to an existing iron rebar set by Laurence D. Weygand; thence turn an angle to the right of 78 deg. 41 min. 02 sec. and run in a Northerly direction for a distance of 9.91 feet, more or less, to the point of beginning; being situated in Jefferson County, Alabama.

Tract 2:

Part of Lot I, T. C. Limited Addition to Trace Crossing, Map Book 28 page 68, Bessemer Division, Jefferson County, Alabama.

Being a part of the NW 1/4 of the SW 1/4 of Section 27, Township 19 South, Range 3 West, Jefferson County, Alabama, being more particularly described as follows:

From an existing iron pin being the locally excepted Southwest corner of said NW 1/4 of SW 1/4 of said Section 27, run in an Easterly direction along the locally excepted South line of said 1/4 1/4 Section for a distance of 367.10 feet to an existing iron rebar set by Laurence D. Weygand and being the point of beginning; thence continue in an Easterly direction along last mentioned course for a distance of 148.09 feet to an existing iron rebar set by Laurence D. Weygand and being on the West right of way line of Stadium Trace Parkway and being on a curve, said curve being concave in a Westerly direction and having a deflection angle of 3 deg. 20 min. 7 sec. and a radius of 591.59 feet; thence turn an angle to the left (88 deg. 03 min. 03 sec. to the chord of said curve) and run in a Northerly direction along the West right of way line of Stadium Trace Parkway and along the arc of said curve for a distance of 68.87 feet to the point of ending of said curve; thence run in a Northerly direction along the West right of way line of said Stadium Trace Parkway and along the line tangent to the end of said curve for a distance of 282.45

feet to an existing iron rebar; thence turn an angle to the left of 90 deg. and run in a Westerly direction for a distance of 152.05 feet to an existing iron rebar set by Laurence D. Weygand; thence turn an angle to the left of 90 deg. and run in a Southerly direction for a distance of 347.59 feet, more or less, to the point of beginning; being situated in Jefferson County, Alabama.

Tract 3:

A parcel of land situated in the W 1/2 of the SW 1/4 of Section 27, Township 19 South, Range 3 West, Jefferson County, Alabama and being more particularly described as follows:

Begin at the SW corner of Lot 1-D, Upton's Resurvey, as recorded in the Office of the Judge of Probate of Jefferson County, Alabama, Bessemer Division in Map Book 34, Page 57; thence run northerly along the West line of said lot 357.50' to the NW corner of said lot; thence turn an interior angle to the right of 90°00'00" and run westerly 335.83' to a point; thence turn an interior angle to the right of 90°03'13" and run southerly 149.39' to a point on the centerline of a 100' Alabama Power Company right of way; thence turn an interior angle to the right of 124°40'18" and run southeasterly along said right of way 254.42' to a point; thence turn an interior angle to the left of 165°54'54" and run southeasterly 51.96' to a point on the northerly right of way of Magnolia Trace, said point being on a curve to the right with a radius of 50.00' and an interior angle of 100°41'44"; thence along said curve 87.87' to a point on a curve to the left with a radius of 25.00' and an interior angle of 48°11'23"; thence along said curve 21.03' to the point of beginning.

ALSO KNOWN AS:

Lot 1-E, according to the Covenant Classical Resurvey, as recorded in Map Book 47, Page 47, in the Probate Office of Jefferson County, Alabama, Bessemer Division.

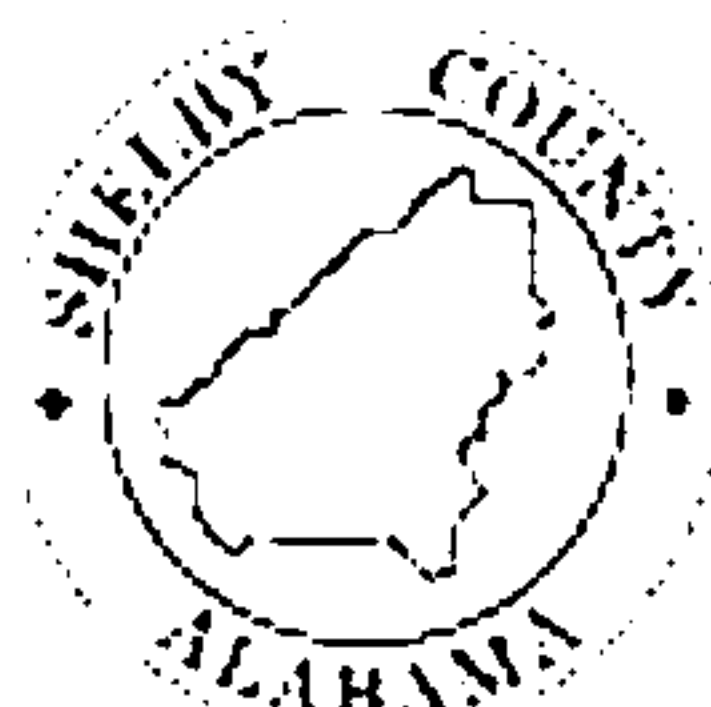
PARCEL III:

Tract 1:

Lot 1-A, Block 2, of the resubdivision of Lot 1, Block 1, and Lot 1, Block 2, of Exchange Center, Huntsville, Madison County, Alabama, as shown on the Plat recorded in Plat Book 21, Page 68, Probate records of Madison County, Alabama.

Tract 2:

Lot 1-B, Block 2, according to the Survey of Exchange Center, a resubdivision of Lot 1, Block 1, and Lot 1, Block 2, as recorded in Map Book 21, Page 68, in the Office of the Judge of Probate of Madison County, Alabama



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
07/09/2018 09:57:13 AM
\$33.00 CHERRY
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