

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR TOWN SIDE SQUARE SECTOR TWO,
A SUBDIVISION TO THE CITY OF CALERA, ALABAMA**

KNOW ALL MEN BY THESE PRESENTS:

That ARG III, LLC ("Declarant/Developer"), an Alabama limited liability company, being the owner and developer of the following-described property located in the City of Calera, Shelby County, Alabama, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO (the "Property")

said Property having been duly platted as Lots # 1-41, Town Side Square Sector Two Subdivision, an addition to the City of Calera, Shelby County, Alabama, a copy of said Plat (as defined below) being attached hereto as Exhibit "B", and hereinafter referred to as "Town Side Square" ("the Subdivision"), this Declaration of Covenants, Conditions and Restrictions ("Declaration" or "Covenants") being for the benefit of Declarant and each successive owner of any Lot within the Property, and to provide for the efficient preservation and maintenance of the Property and Common Areas (as defined below) contained therein, the Declarant desires to impose upon the Property the covenants, conditions, restrictions, easements, and charges contained in this Declaration.

And the said Declarant, as owner and developer of said Property and Subdivision, does hereby state that these Covenants shall establish covenants running with the land for the period of time hereinafter set forth, as provided by law, and shall be binding upon all purchasers and owners of Lots within the Subdivision, and upon such owners' heirs, personal representatives, successors and assigns, and upon all persons claiming under them.

1. Definitions.

The following words, when used in these Covenants or any amendments or supplements hereto shall have the respective concepts and meanings set forth below:

"Addition" or **"Subdivision"** shall mean and refer to the Property described above.

"Builder" shall mean a residential builder licensed under Alabama law.

"City" shall mean the city of Calera, Alabama.

"Common Areas" shall mean and refer to the areas of mutual enjoyment and benefit within the Subdivision as identified on the Plat and to any and all other areas which service the Subdivision or which is intended for or devoted to the common use, service and enjoyment of the Owners, including but not limited to recreational facilities, trails, all sidewalks, easements, perimeter fencing, entryways and drainage retention/detention ponds. The Declarant reserves the right to

affect minor redesigns or reconfigurations of the Common Areas and execute any open space declarations applicable to the Common Areas.

"Declarant" and **"Developer"** shall mean and refer to ARG III, LLC an Alabama limited liability company, and its successors and assigns.

"Lot" or **"Lots"** shall mean and refer to any plot or tract of land which is properly identified or designated as a lot on the Plat.

"Owner(s)" shall mean the owner of a Lot and refer to each and every person or business entity who or which is a record owner or subsequently becomes a record owner of a fee or undivided fee interest in any Lot subject to these Covenants.

"Plat" shall refer to the plat of Town Side Square Sector Two, filed of record in Shelby County, on November 1, 2019, Book 51, Page 79, and as attached as Exhibit "B".

2. Easements.

Other than for primary service of the Subdivision and within platted easements, there shall be no above-ground service for utilities except those lines or poles that shall be approved, in writing, by a majority vote of the Board. Each Owner shall be responsible for the protection of underground utilities located on his or her Lot and shall prevent and be precluded from any alteration of grade or construction activity which may interfere with said utilities.

3. Use and Division of Lots.

Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, one or more subdivision plats setting forth such information as Developer may deem necessary with regard to the Property, including, without limitation, the locations and dimensions of all Lots, Common Areas, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, lakes, retention ponds and drainage basins. Except as set forth in the preceding sentence, no Lot may be divided or split. The Subdivision (and each Lot situated therein) shall be constructed, developed, occupied and used as follows:

(a) **Residential Lots.** Except as otherwise specifically set forth in this Declaration, all Lots within the Subdivision shall be used, known and described as Residential Lots. Only one single family residential dwelling shall be permitted on each Lot. In addition, only customary and usual necessary structures may be constructed on each Lot as may be permitted by the City. No building or structure intended for or adopted to business purposes shall be erected, placed, permitted or maintained on any Lot. This Covenant shall be construed as prohibiting the engaging in or practice of any commerce, industry, business, trade or profession within the Subdivision and/or within any Lot. The restrictions on use herein contained shall be cumulative of and in addition to such restrictions on usage as may from time to time be applicable under and pursuant to the statutes, rules, regulations and ordinances of the City or any other governmental authority or political subdivision having jurisdiction over the Subdivision.

(b) Residential Purposes. By acquisition of any Lot within the Subdivision, each Owner (excluding bona fide home builders) covenants with and represents to the Declarant and to the Association that the Lot is being specifically acquired for the specific and singular purpose of constructing and using a single family residential dwelling thereon, or as a residence for such owner and/or owner's immediate family members.

(c) Minimum Square Footage. The minimum heated and cooled square footage for any single family home construction on the Lot within the Subdivision shall be determined by the Committee.

(d) Architectural Requirements.

- (i) Each dwelling shall front a dedicated public street.
- (ii) No building shall be located closer to the street than the minimum building or set-back lines shown on the recorded Plat.
- (iii) All residences shall have roof shingles that are grey or black in color, preferably Weatherwood. Deviation from this color requires approval from the Committee.

(e) Surface Drainage. Each Lot shall receive and drain in an unobstructed manner the storm and surface waters from Lots and drainage areas of higher elevation and from public streets and easements. No Lot Owner shall construct or permit to be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across his Lot. The foregoing covenants set forth in this paragraph shall be enforceable by any affected Lot Owner and by the City.

(f) Garage and Detached Structures and Storage Buildings. All residences constructed in the Subdivision shall have a private garage to accommodate a minimum of one (1) automobile. No carports are allowed on the side, rear or front yards of any Lots. Each garage shall be fully enclosed and contain a full-length overhead style door. All garage doors are to be kept closed when not entering or exiting the garage. Any detached structure to be built on a Lot, such as a covered entertainment area, guest house, pool house, storage building, or other structure, shall conform to the basic styling and materials of the residential dwelling.

(g) Temporary Structures. No trailer, mobile home, tent, construction shack, or other outbuilding shall be erected on any Lot in the Subdivision except for temporary use by construction contractors for a reasonable period of time.

(h) Fences. No fence shall be constructed on any said Lot in the area between the front building line of any dwelling and the front lot line of any said Lot. No fence on a corner lot shall be constructed beyond the side set-back line toward the street except for the community entry. Any privacy fence shall be constructed so that the framing shall be toward the inside of the owner's lot. All fences must be installed by a professional installer and shall be six foot (6') wood privacy fencing with vertical boards (not horizontal) and no chain-link fences, wire, hog wire, or other similar materials shall be permitted.

(i) Mailboxes. All mailboxes shall be approved by the United States Postal Service. The type of construction shall be consistent with the design established by the Developer.

Community mailbox is an approved alternative subject to approval of the United States Postal Service.

(j) Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign advertising the Property for sale, resale or rent, or signs used by builder or agent to advertise the Property during the construction and sale of a dwelling thereon. In no event shall any such sign stand more than seven (7) feet above ground level, nor be more than five (5) square feet in size, nor be lighted at night. These signage restrictions and requirements shall not apply to Declarant.

(k) Parked Vehicles. All vehicles parked in the front of the front building line must be parked on the driveway. No inoperative vehicles of any nature shall be permitted to remain on any Lot or Lots for a period in excess of one (1) day. It is the intention of the Declarant that, except on special occasions such as holidays or events at an Owner's residence that all parking shall be in driveways and not on a street or on any yard. Accordingly, no vehicle shall be parked on the street for more than two (2) consecutive days and shall not be parked overnight on a street. Any violation of this Section may result in a towing of the vehicle at the owner's expense per municipal regulations. No vehicle maintenance shall be performed on the streets or in the front yards or on parking pads of any Lot.

(l) Appearance of Lot. All Owners shall be required to keep their Lot in a clean and sanitary condition whether or not they have constructed a residence on the Lot. All open areas on Lots shall be kept mowed to a height of not more than six (6) inches. No playgrounds, swing sets, trampolines, swimming pools, picnic tables, or other similar equipment is allowed in the front yards of any Lot.

(m) Recreational Vehicles and Accessories. No boats, trailers, recreational vehicles, and vehicles used for recreational purposes are allowed in the subdivision unless they will fit entirely into a private garage.

(n) Storage and Construction Materials. Construction materials may only be stored on a Lot for thirty (30) days prior to the commencement of and only during construction of the improvements on the Lot. Thereafter, construction is to be completed within a reasonable period of time. The Declarant shall be allowed to store materials on a Lot in an orderly fashion as long as may be reasonably necessary.

(o) Garbage/Dumping. Dumping is prohibited in the Subdivision. All trash, garbage or other waste shall be kept in sanitary containers that shall be located at the rear of each residential unit or enclosed garages and must be out of sight from the street. All Lots shall be maintained in a neat and orderly condition at all times.

(p) Model Home and Construction Facilities. Model homes for the purposes of home sales are permitted by the Declarant. The garage of model homes may be used as sales offices. One trailer or temporary building may be located on a residential lot by the Declarant and used as a construction office until the Subdivision reaches one-hundred percent (100%) occupancy.

4. Nuisances

No noxious or offensive activity shall be carried on in, upon, or around any residence or Lot or in or upon any Common Areas or easement areas, nor shall anything be done thereon

which may be or may become an annoyance or a nuisance to the remaining Owners or their tenants or licensees or any of them, which shall in any way interfere with the quiet enjoyment of such of the Owners, tenants, or licensees of his respective residence of Lot or which shall in any way increase the rate of insurance for the Property.

5. Regulations.

Reasonable regulations concerning the use of the Property, regardless of fee ownership, may be made and amended from time to time by the Declarant.

6. Common Areas.

(a) The owner of the Common Areas (currently the Declarant) shall have the right, but not the obligation, to levy assessments (the "Assessments") against all Owners for the cost of any maintenance, repair or replacement of the Common Areas.

(i) Each Owner of a Lot is and shall be deemed to covenant and agree to pay all Assessments levied as provided herein. All Assessments, together with any late charges, interest, costs and reasonable attorney's fees required to collect the same, if any, shall be an equitable charge and continuing lien upon each Lot for which the Owner thereof is responsible for the payment of the same. Each Owner shall be personally liable for the payment of any Assessments that are due while he or she is the Owner of a Lot and his or her grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor.

(ii) In the event that any Assessments are not paid by any Owner within thirty (30) days following the due date for the payment of such Assessments, then, the owner of the Common Areas may commence and maintain a suit at law or in equity against an Owner for a personal money judgment to enforce such charges and obligations for Assessments, may enforce the lien on the relevant Lot, and may exercise any other rights and/or remedies provided at law or in equity to secure payment.

(b) Declarant, at Declarant's option, may convey and transfer (or cause to be conveyed and transferred), fee simple title to the Common Areas (including without limitation, to a Property Owner's Association). If such a conveyance occurs, such subsequent owner(s) shall have the power and authority to levy assessments against all Owners for the cost of any maintenance, repair or replacement of the Common Areas. The benefit and burdens set forth herein shall run with the land, burdening the Owners, and benefitting the owner of the Common Areas. Notwithstanding the foregoing, it is contemplated that the Declarant will establish a property owner's association ("Association") which will be delegated and assigned the power and obligation of maintaining the Property and Common Areas and other Association. In the event of the establishment of such Association and notwithstanding anything contained herein, the following shall apply automatically without any further action by the Declarant:

(i) Every Owner of a Lot shall automatically become a member of the Association. In the event the Owner of a Lot is a corporation or partnership, a partner or corporate officer shall be designated to cast the vote on behalf of the partnership or corporation.

- (ii) The Association shall have the right to assess the Lots and each Lot shall be subject to liens for unpaid assessments in accordance with Ala. Code § 35-20-12 (2016) and as set forth herein.
- (iii) The Association shall become responsible for the maintenance of the Common Areas.

Upon the formation of the Association, the Declarant shall make available to the Owner all materials required pursuant to the Alabama Homeowners' Association Act.

7. Enforcement of Obligations; Miscellaneous.

(a) Each Owner shall be governed by and shall comply with the terms of these Covenants. Upon failure of an Owner to so comply, the Declarant, any mortgagees having a first lien, or other Owners shall have the right to institute legal proceedings, and the prevailing party shall be entitled to recover its or his legal costs, including reasonable attorney's fees. The failure of any of the foregoing named entities or persons to enforce any right, requirement, restriction, covenant, or other provision of the hereinabove named documents, shall not be deemed to be a waiver of the right to seek judicial redress against subsequent noncompliance therewith.

(b) Any and all of the provisions contained in these Covenants may be changed or amended at any time by a written instrument signed and acknowledged by the Declarant during such period that the Declarant is the record owner of at least one (1) Lot, or alternatively these Covenants may be amended or terminated at any time by a written instrument signed and acknowledged by the Owners of sixty percent (60%) of the Lots. In the event of any conflict between an amendment or termination properly executed by the Declarant (during its ownership of at least one (1) Lot) and any amendment or termination properly executed by the Owners of sixty percent (60%) of the Lots, the instrument executed by the Declarant shall prevail during the time of the Declarant's ownership of at least one (1) Lot. The provisions of any instrument amending or terminating these Covenants shall be effective from and after the date it is properly recorded.

(c) Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of these Covenants shall be determined by the Declarant. These determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners.

(d) Subject to Section 14(c), these Covenants shall run with the land and shall be binding on all parties and all persons claiming under the land and the Property for a period of twenty (20) years from the date this instrument is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then-Owners of the Lots has been recorded agreeing to change said Covenants in whole or in part.

(e) If any provision of this Declaration or any section, clause, phrase, word or application thereof in any circumstance is held to be invalid, the validity of the remainder of these Covenants and of the application of the remaining provisions shall not be affected thereby.

IN WITNESS WHEREOF, ARG III, LLC, an Alabama limited liability company, has authority to cause these presents to be duly executed by the undersigned on this 8th day of November, 2019.

ARG III, LLC

By 

Title: MANAGER

ACKNOWLEDGMENT

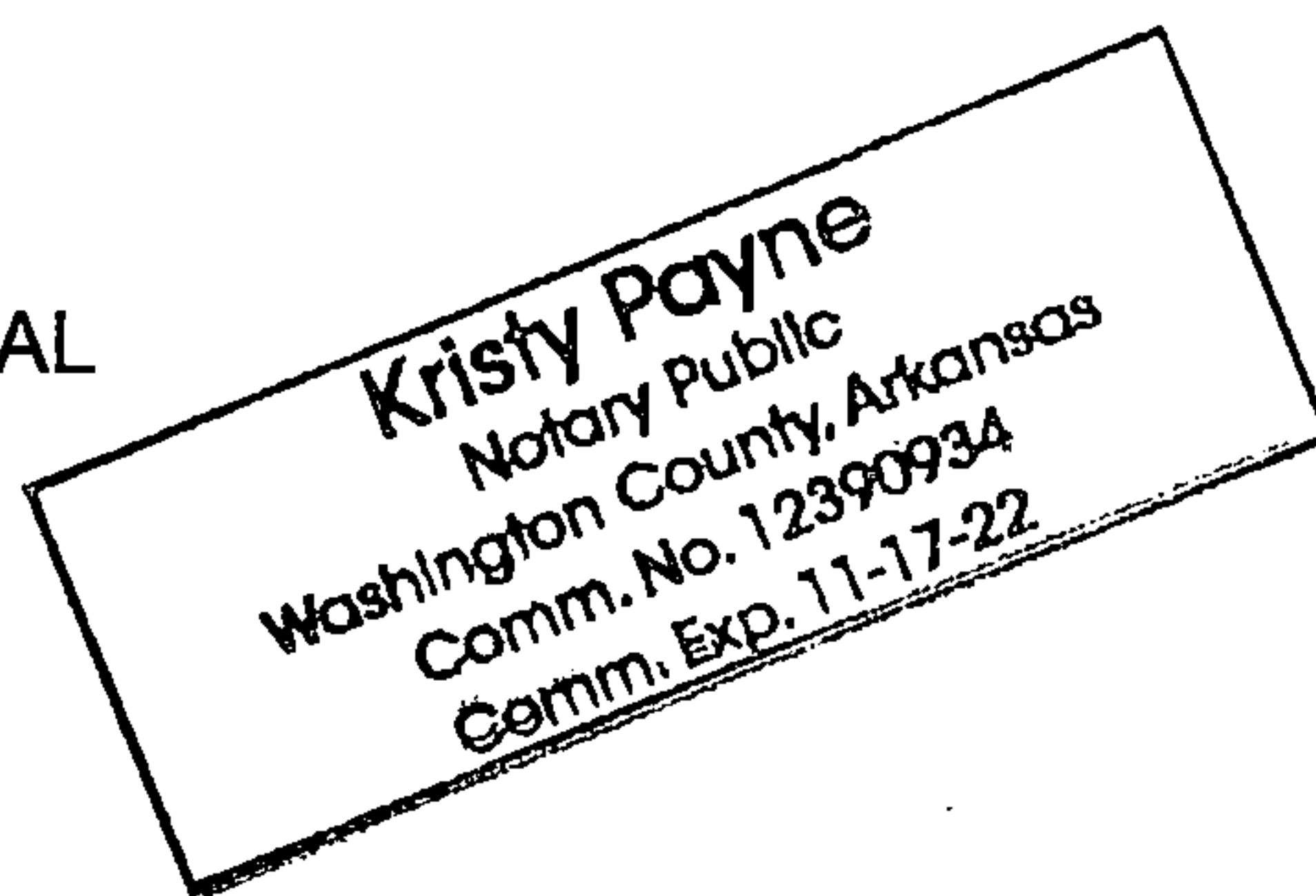
STATE OF ARKANSAS)

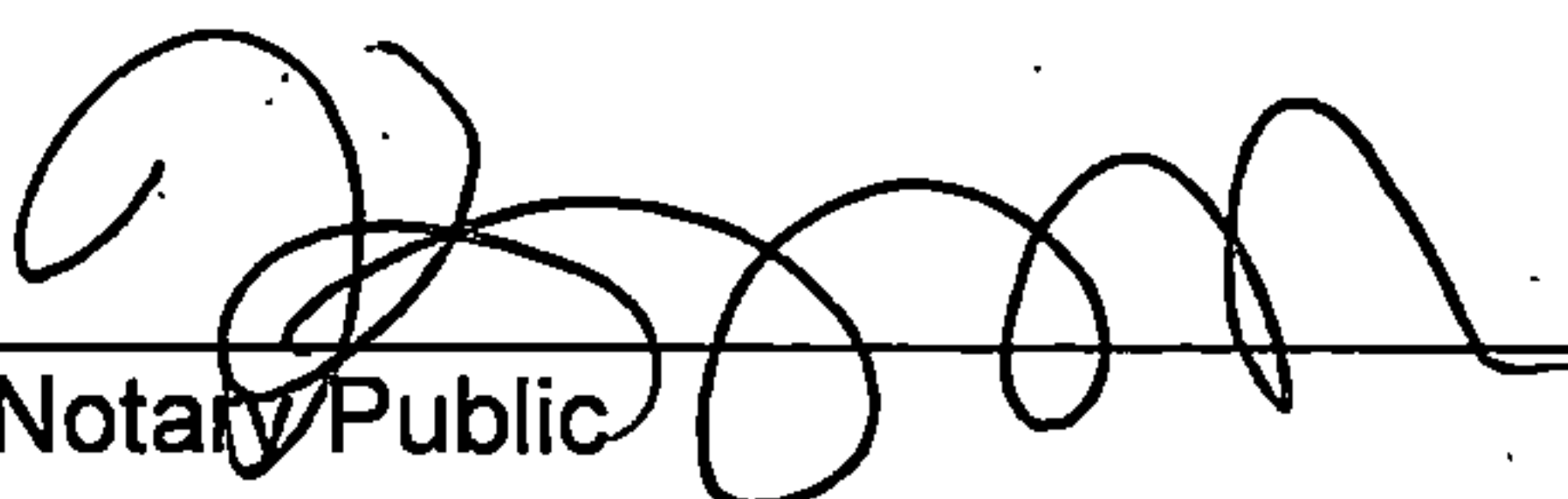
WASHINGTON COUNTY)

I, the undersigned, a Notary Public in and for said county in said State, hereby certify that David Frye, whose name as manager of ARG III, LLC, 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 document.

Given under my hand and official seal this 8th day of November, 2019.

AFFIX SEAL




Notary Public

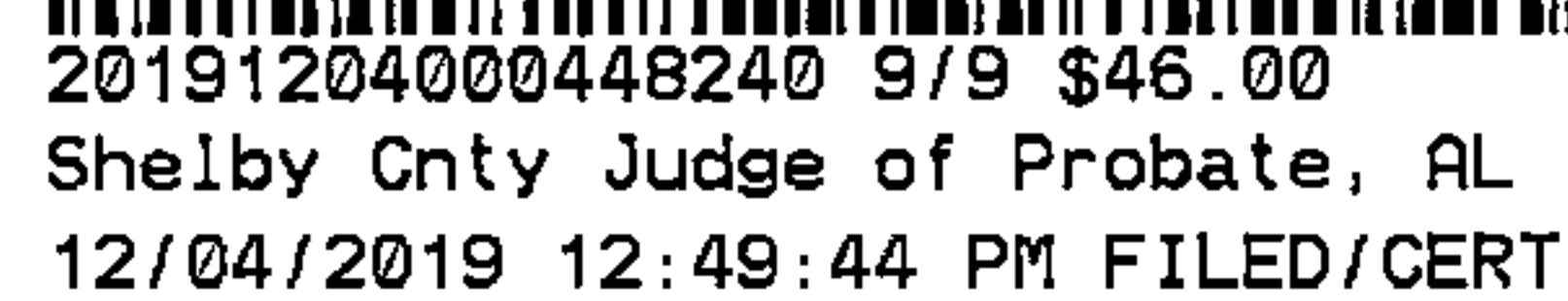


20191204000448240 8/9 \$46.00
Shelby Cnty Judge of Probate, AL
12/04/2019 12:49:44 PM FILED/CERT

EXHIBIT A

I, James M. Ray, a Registered Land Surveyor in the State of Alabama, hereby certify that all parts of this survey and plat (or drawing) have been completed in accordance with the requirements of the Standards for the Practice of Surveying in the State of Alabama, being more particularly described as follows, to-wit: Commence at a 3" capped pipe in place being the Southeast corner of Section 31, Township 22 South, Range 2 West, Shelby County, Alabama; thence proceed North 87° 38' 48" West along the South boundary of said Section 31 for a distance of 683.15 feet, said point being located on the Westerly boundary of a 50 foot drainage easement as shown on the plat of Townside Square, Sector One, as recorded in the office of the Judge of Probate of Shelby County, Alabama, in Map Book 38 at Page 120, said point also being the point of beginning. From this beginning point continue North 87° 38' 48" West along the South boundary of said Section 31 and along the North boundary of Stone Creek Phase 3 as shown by map of said subdivision on record in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 36 at Page 37 for a distance of 663.57 feet to a ½" capped rebar in place; thence proceed North 00° 17' 54" West for a distance of 665.13 feet to a ½" pipe in place; thence proceed South 88° 03' 12" East for a distance of 786.81 feet to a point on the Westerly boundary of said 50 foot drainage easement; thence proceed South 20° 31' 21" West along the Westerly boundary of said 50 foot drainage easement for a distance of 99.98 feet; thence proceed South 02° 44' 41" West along the Westerly boundary of said 50 foot drainage easement for a distance of 445.95 feet; thence proceed South 26° 33' 54" West along the Westerly boundary of said 50 foot drainage easement for a distance of 141.91 feet to the point of beginning.

The above described land is located in the Southeast one-fourth of the Southeast one-fourth of Section 31, Township 22 South, Range 2 West, Shelby County, Alabama and contains 11.26 acres.



MapBook 51 Page 79

[illegible]

FIVE CAT
LION KING SUBJECT MATTER TWO
A RESEMBLING, LITERATURE
CONCERN IN SECTION 31
FOLLOWUP AT FURTHER SOURCE - WTS
SULLY COUNTY AT

COVER PHOTOGRAPH BY
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