

SBA Loan No. 96546250-00

**STATE OF ALABAMA
COUNTY OF SHELBY**

SUBORDINATION AGREEMENT

WHEREAS, GOOCH DEVELOPMENT, LLC, hereinafter referred to as "Borrower", is presently indebted to the U. S. Small Business Administration, an agency of the Government of the United States of America, hereinafter referred to as "SBA", as evidenced by that certain promissory Note executed by said "Borrower" dated October 3, 2018, in the original principal amount of \$1,459,000.00 in favor of BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT COMPANY, hereinafter referred to as "CDC", and assigned by CDC to SBA; and

WHEREAS, the Note is secured by, among other things, a Mortgage, hereinafter referred to as the "SBA Mortgage" executed by **GOOCH DEVELOPMENT, LLC**, hereinafter also referred to as "Owner", in favor of CDC dated October 3, 2018, and recorded as Instrument No. 20181004000355170, with the Judge of Probate, Shelby County, Alabama, and assigned by CDC to SBA in accordance with the terms of an Assignment of Note and Security dated October 3, 2018 and recorded as Instrument No. 20181004000355460, with the Office of the Judge of Probate, Shelby County, Alabama; and

WHEREAS, said Borrower is desirous of obtaining an additional loan in the amount of \$1,769,500.00 from BBVA USA, an Alabama banking corporation, hereinafter referred to as "Lender", for the purpose of refinancing and paying off the existing obligations to SERVISFIRST BANK evidenced by that promissory note and loan having a current principal balance in the amount of \$1,737,006.34 and secured by a mortgage on the real estate described on Exhibit "A" attached hereto and incorporated herein by this reference, which is superior to the SBA Mortgage; and

WHEREAS, the Lender requires the Borrower to secure the loan with a Mortgage on the real estate described on Exhibit "A", and further requests that SBA subordinate its Mortgage to that Mortgage having been taken or to be taken by said Lender.

NOW THEREFORE, in and for good and valuable consideration, and in order to induce said Lender to make said loan to said Borrower, SBA does herewith **subordinate** its Mortgage, to that Mortgage taken or to be taken by the Lender, which secures said loan, subject to the following:

- (1) Except as expressly provided herein, this agreement shall not operate or be construed to alter the priority of the SBA Mortgage with regard to any legal or equitable interest in the property. Owner and Lender shall hold SBA harmless from any impairment of its lien (with regard to any third party) which is occasioned by this subordination.
- (2) Use of Proceeds. All proceeds of Lender's loan, if a refinance, shall be applied to satisfy debt secured by a lien(s) presently superior to the lien of the SBA Mortgage, plus customary closing costs. Any other use of proceeds not described herein shall void this

agreement.

- (3) This subordination agreement is void if not duly executed by Owner, Lender, SBA, the Borrower and all Guarantors of the Borrower.
- (4) Compliance With 504 Loan Program Requirements. Lender confirms that the note evidencing Lender's loan, any lien instruments securing Lender's loan, and all other documents executed in connection with Lender's loan ("Lender's Loan Documents") (a) have no open-ended features and allow reasonable future advances only for the costs of collection the obligor is liable for under the Lender's Loan Documents, maintaining collateral, and/or protecting the lien(s) securing the Lender's loan, (b) are not cross-collateralized with any other financing now or hereafter to be provided by Lender, (c) have no early call features, (d) are not payable on demand unless the Lender's loan is in default, (e) have a term that at least equals, and do not require a balloon payment prior to, the term of the previous Third Party Lender's loan unless SBA has approved a shorter term, (f) have a reasonable interest rate that does not, and will not, exceed the maximum interest rate for a Third Party Loan as published by SBA and in effect as of the date of this Agreement, and (g) do not establish a preference in favor of Lender, as compared to CDC and SBA, related to making, servicing, or liquidating the Lender's loan (including but not limited to, with respect to repayment, collateral, guarantees, control, maintenance of a compensating balance, purchase of a certificate of deposit, or acceptance of a separate or companion loan) other than Lender's senior lien position(s) on the collateral. Lender agrees that if Lender's Loan Documents or any provision therein does not comply with these requirements, then Lender waives its right to enforce any such non-complying document or provision unless Lender has obtained the prior written consent of CDC and/or SBA permitting such enforcement.
- (5) Subordination of Default Charges. "Default Charges" mean any prepayment penalties, fees, or charges incurred in prepaying the Lender's loan, in whole or in part, prior to the stated maturity; any late fees or charges due in connection with the Lender's loan; any escalated, increased, or default interest charged in excess of the rate of interest in Lender's note absent a default, event of default, or other delinquency; and any other default charges, penalties, or fees of any nature whatsoever due because of a default, event of default, or other delinquency in connection with the Lender's loan. Lender hereby subordinates the collection of any Default Charges to the collection by CDC and/or SBA of the loan made by the CDC to Borrower, hereinafter referred to as the "504 Loan" and, to the extent that Lender's Loan Documents secure any Default Charges, Lender hereby subordinates such lien(s) to the lien(s) securing the 504 Loan.
- (6) Notice of Default Under the Lender Loan. If any default, event of default or delinquency, upon which Lender intends to take action, occurs under the Lender's Loan Documents, then Lender agrees to give CDC and SBA written notice of such default, event of default or delinquency and the opportunity to cure the default, event of default, or delinquency and bring the Lender's loan current or to purchase Lender's note, provided that the amount to bring the Lender's loan current or to purchase Lender's note will be net of all amounts attributable to Default Charges. Lender further agrees that if Lender receives from CDC or SBA any amounts attributable to Default Charges, then Lender will

immediately remit such amounts to SBA. Notice hereunder must be given within thirty (30) days after the default, event of default or delinquency upon which Lender intends to take action and at least sixty (60) days prior to the date of any proposed sale of collateral and Lender will not sell all or any portion of its collateral without giving CDC and the SBA such notice. A default in the obligation secured by the mortgage to Lender may be cured (including purchase of the property at foreclosure sale) by the SBA via cash, certified funds, or a United States Treasury check, at the option of the SBA. Notice under this Agreement shall be deemed to have been given when sent by certified or registered mail, return receipt requested, addressed, as the case may be, to BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT COMPANY (CDC) at 1500 1st Avenue North, Suite 12, Birmingham, Alabama 35203, Attention: Servicing, and also to the SBA at 2120 Riverfront Drive, Suite 100, Little Rock, Arkansas 72202.

- (7) Collection and Liquidation. In the event that either the Lender's loan or the 504 Loan is declared in default; Lender, CDC and SBA agree to cooperate in liquidating and/or selling the collateral. Lender agrees (a) to accept cash, certified funds or a U.S. Treasury check(s) in connection with any purchase of Lender's note or any foreclosure or liquidation bid by CDC or SBA; (b) to provide CDC and SBA with the loan payment status, loan payment history, and an itemized payoff statement of the Lender's loan; (c) to provide CDC and SBA with copies of any appraisals, environmental investigations, or title examinations or searches of the collateral conducted by or for Lender; and (d) to provide any other information about Borrower or the Lender's loan requested by CDC and/or SBA in writing.
- (8) No Implied Third Party Beneficiaries. Except to the extent stated in this Agreement, this Agreement does not modify or affect otherwise any other agreement that either party may have with third parties, including but not limited to, Borrower. This Agreement also does not grant any right, benefit, priority, or interest to any third parties, including but not limited to, Borrower.
- (9) Successors and Assigns. This Agreement shall inure to the benefit of and bind the respective parties to this Agreement and their respective heirs, successors and assigns, including any party acquiring the Lender's loan or Lender's Loan Documents by sale, assignment, or other transfer.
- (10) Federal Law. When SBA is the holder of the note evidencing the 504 Loan, this agreement and all documents evidencing or securing the 504 Loan will be construed in accordance with federal law. CDC or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax, or liability. No Borrower or guarantor of the 504 Loan may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to the 504 Loan.
- (11) Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, and all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, the Administrator has caused this Subordination Agreement to be executed on this the 26th day of February, 2020.

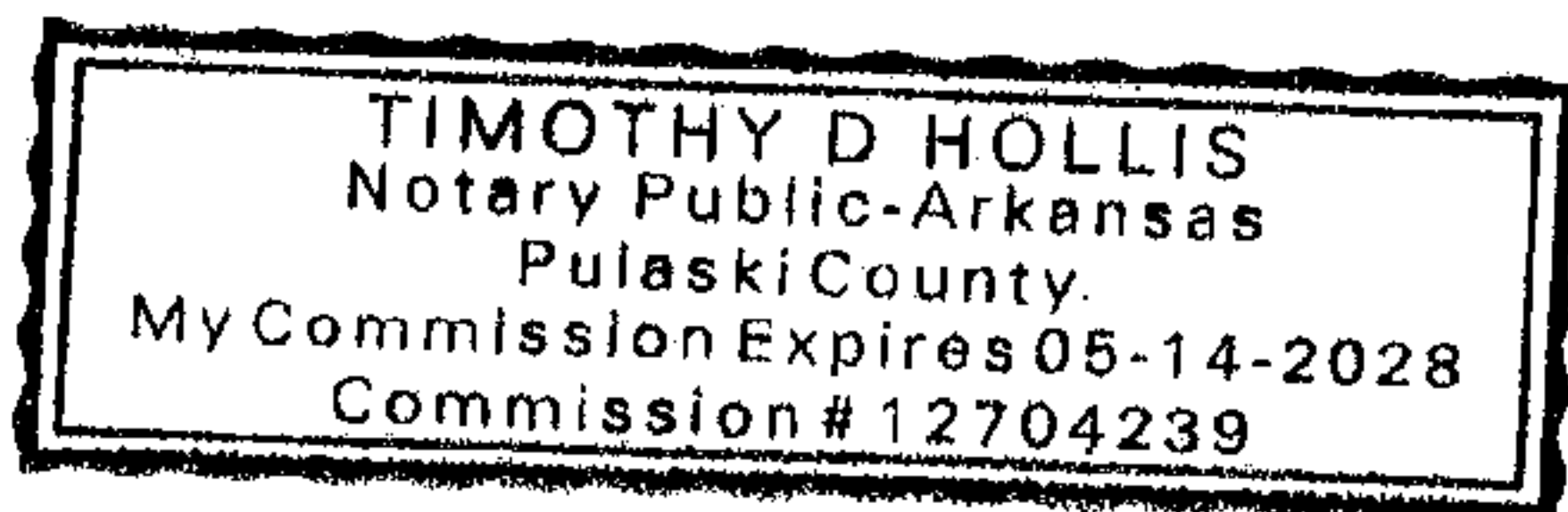
U.S. SMALL BUSINESS ADMINISTRATION

By: *Nique Carrington*
Name: NIQUE CARRINGTON
Title: DIRECTOR - LRCWSC

STATE OF ARKANSAS
COUNTY OF PULASKI

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that NIQUE CARRINGTON whose name as DIRECTOR - LRCWSC of the U.S. Small Business Administration, an agency of the U.S. Government, 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/she, as such agent/officer, and with full authority, executed the same voluntarily, as an act of said agency, acting in its capacity as such agent/officer as aforesaid.

GIVEN UNDER MY HAND and seal of office this, the 26th day of February, 2020.



Timothy D Hollis
Notary Public
My commission expires: 5-14-2028

IN WITNESS WHEREOF, the undersigned parties have consented to the contents, terms and conditions of this Subordination Agreement, this 6th day of February, 2020

OWNER

GOOCH DEVELOPMENT, LLC, an
Alabama limited liability company

By: 


Print Name: Gregory Burton Gooch

Title: Sole Member

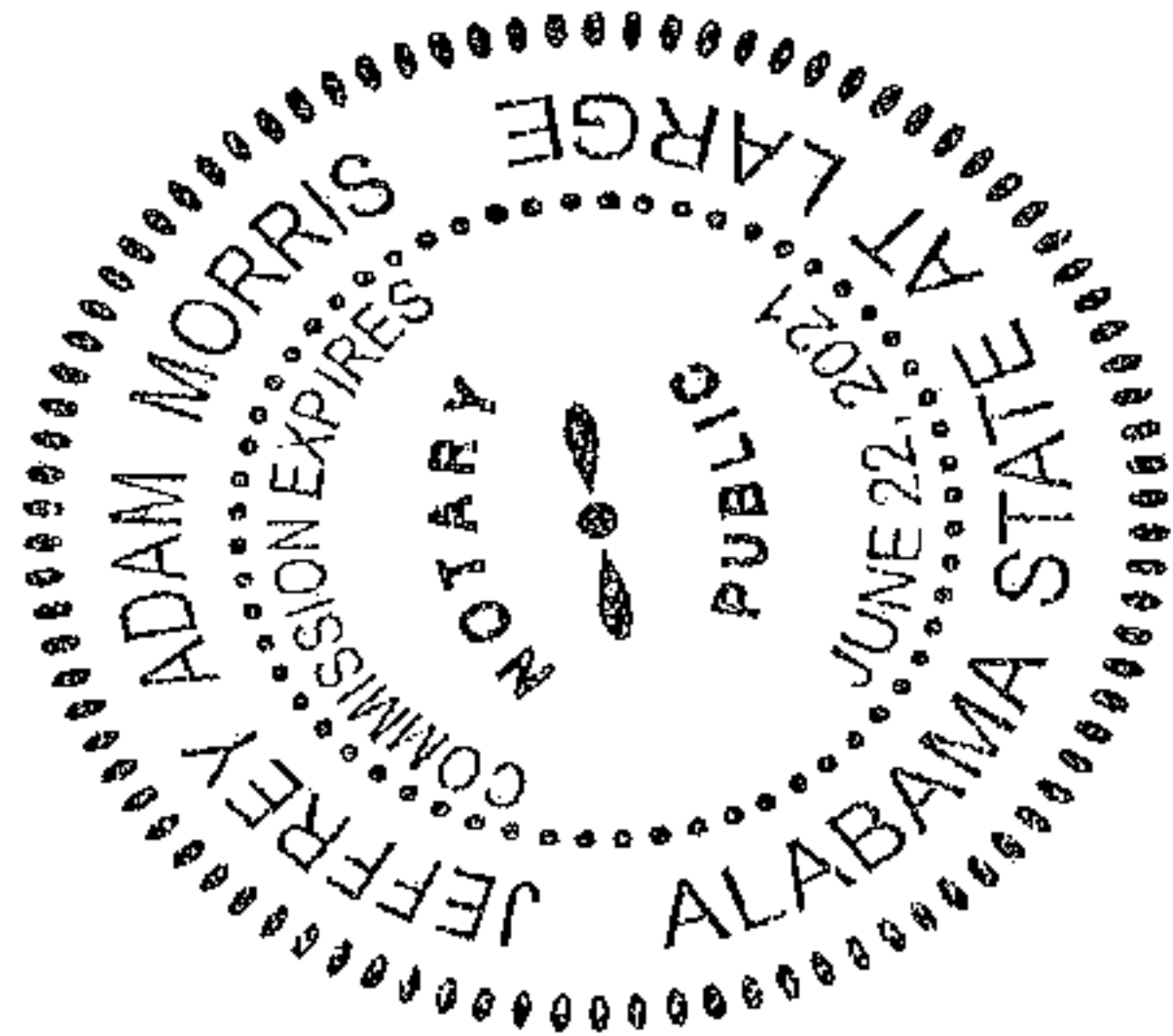
STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Gregory Burton Gooch, whose name as Member of GOOCH DEVELOPMENT, 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 member, and with full authority, executed the same voluntarily, as an act of said company, acting in her capacity as aforesaid.

Given under my hand and official seal, this the 6th day of February, 2020.


NOTARY PUBLIC

My Commission Expires: 6/22/21



LENDER:

BBVA USA, an Alabama banking corporation

BY: Deanna Norwood

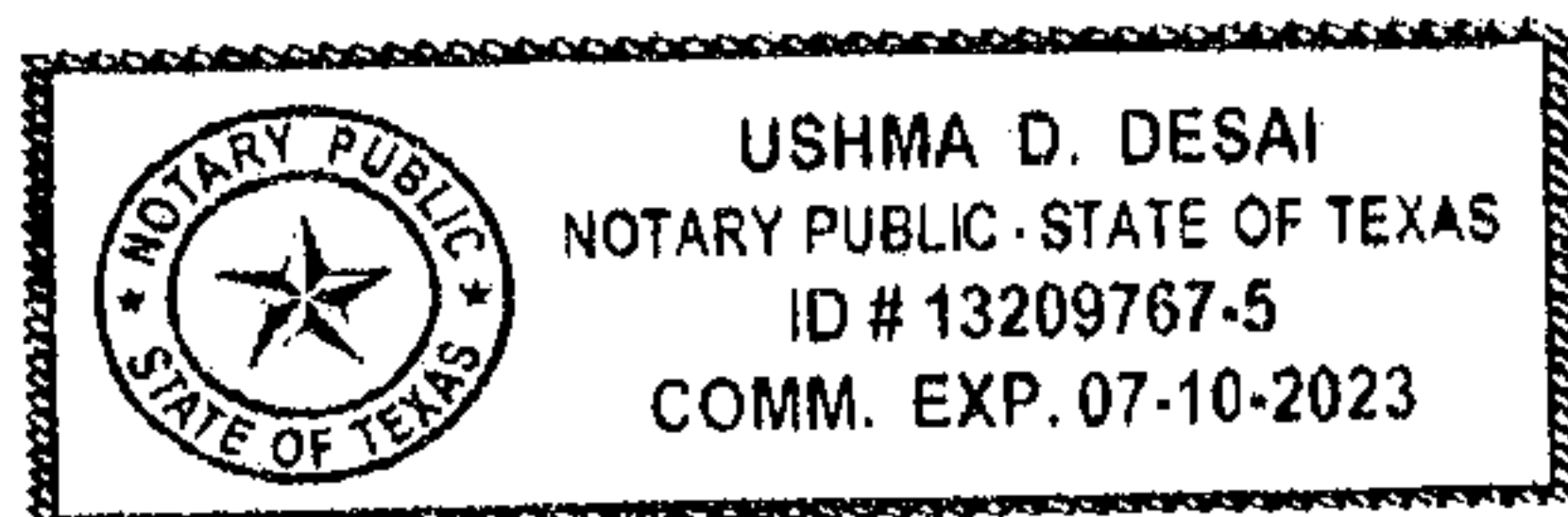
Print Name: Deanna Norwood

Title: Vice President

STATE OF Texas
COUNTY OF Dallas

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Deanna Norwood whose name as Vice President of BBVA USA, an Alabama banking corporation, 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/she, as such officer, and with full authority, executed the same voluntarily, as an act of said corporation, acting in his/her capacity as aforesaid.

Given under my hand and official seal, this the 3rd day of March, 2020.



U. Desai
NOTARY PUBLIC
My Commission Expires: 7-10-2023

THIS INSTRUMENT PREPARED BY AND AFTER
RECORDATION SHOULD BE RETURNED TO
William C. Brown
ENGEL HAIRSTON & JOHANSON, P.C.
4th Floor 109 North 20th Street
P.O. Box 11405
Birmingham, Alabama 35202
(205) 328-4600

Following recordation the CDC should retain a copy of this agreement and the original should be mailed to the SBA as follows:

Little Rock Commercial Loan Servicing Center
Attn: Collateral Cashier
2120 Riverfront Drive, Suite 100
Little Rock, Arkansas 72202

The undersigned Guarantor(s)/Borrower(s) hereby consent to all terms above and acknowledge their liability for the above referenced SBA loan is in no manner diminished by this agreement.

BORROWER

GOOCH DEVELOPMENT, LLC, an
Alabama limited liability company

By: 

Print Name: Gregory Burton Gooch

Title: Sole Member

GUARANTORS


Gregory Burton Gooch, Individually

GOOCH FAMILY DENTAL, LLC, an Alabama
limited liability company

By: 

Print Name: Gregory Burton Gooch

Title: Sole Member

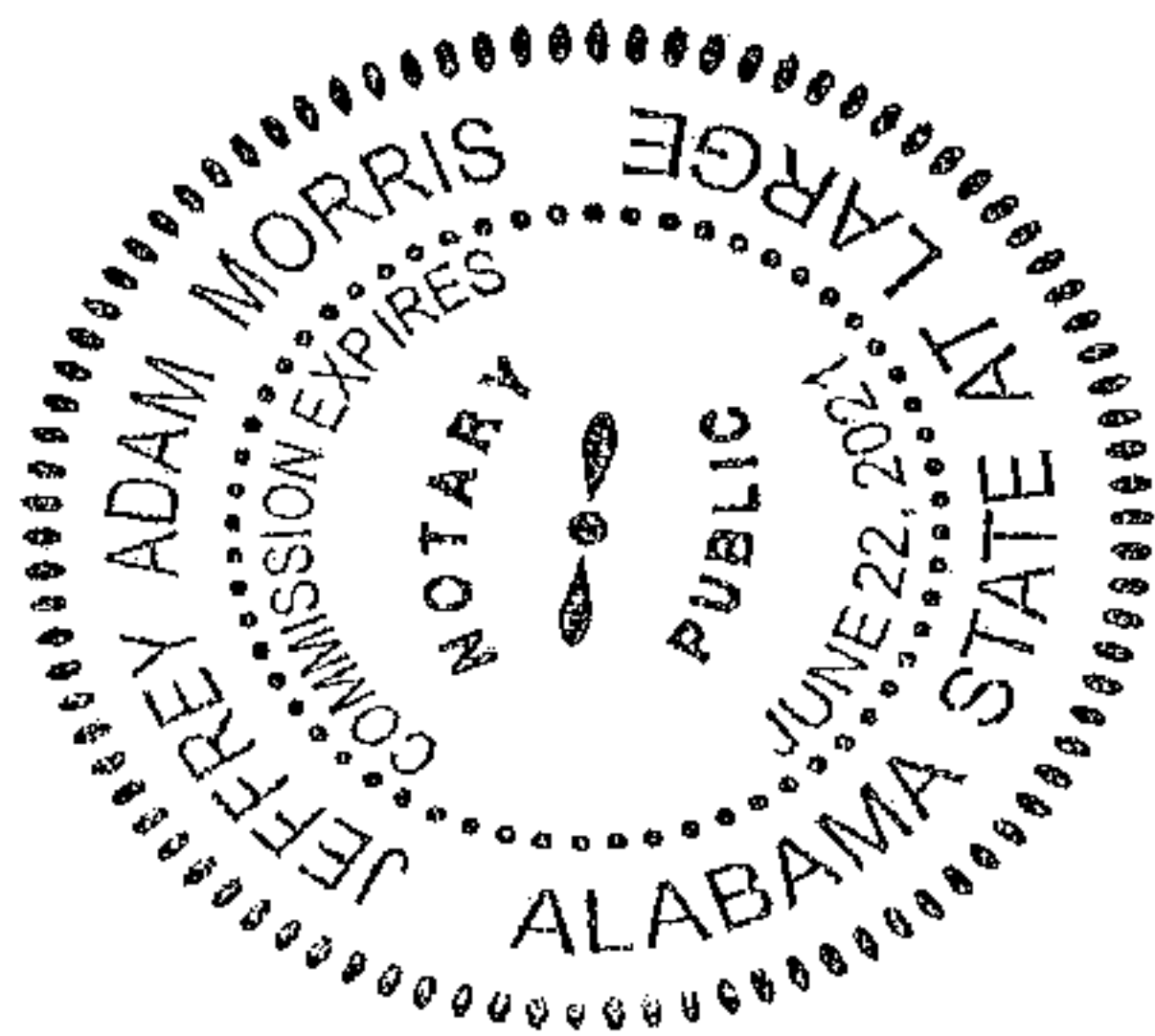
STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Gregory Burton Gooch, whose name as Member of GOOCH DEVELOPMENT, 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 member, and with full authority, executed the same voluntarily, as an act of said company, acting in her capacity as aforesaid.

Given under my hand and official seal, this the 6th day of February, 2020.

NOTARY PUBLIC

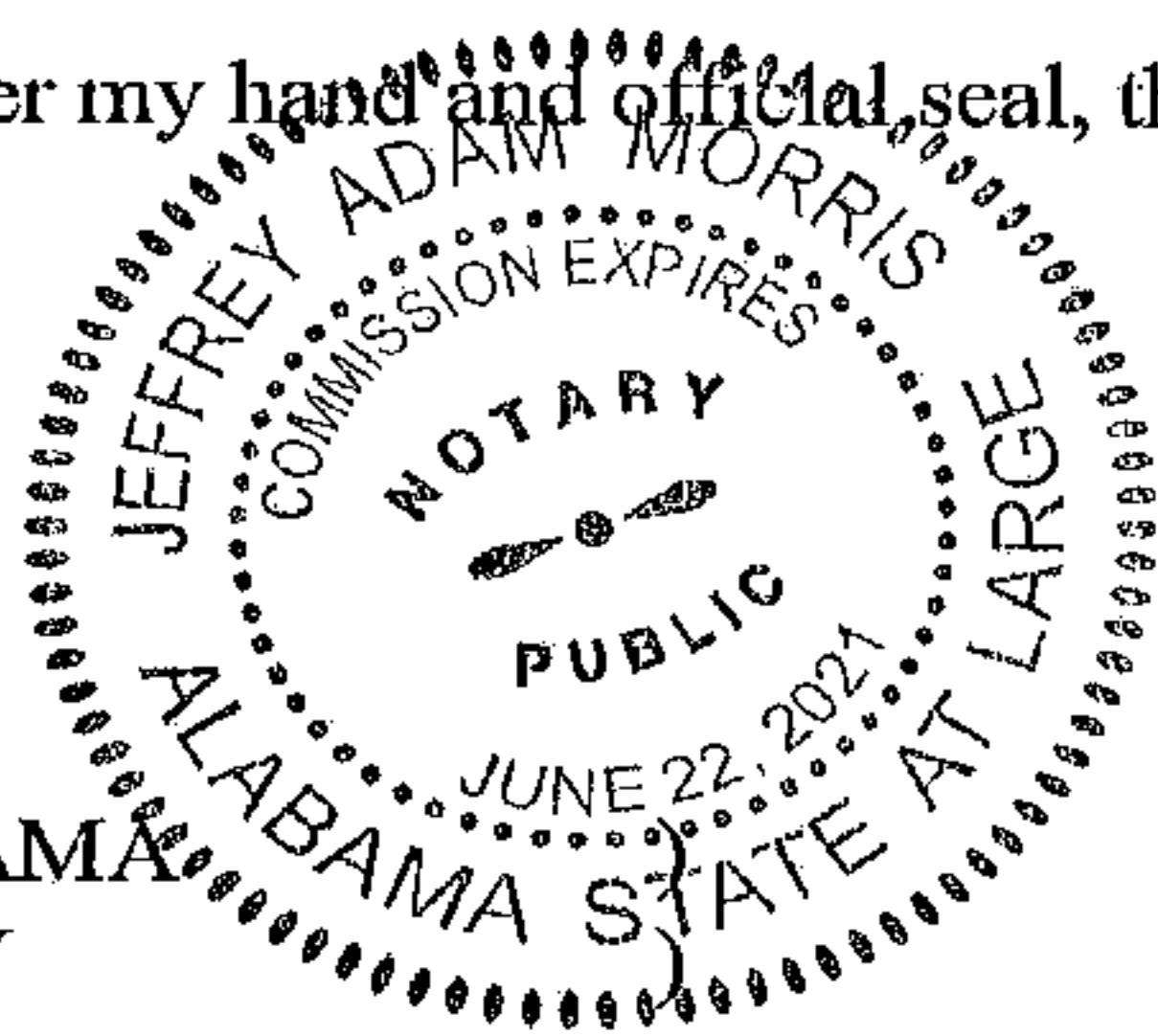
My Commission Expires: 6/22/21



STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Gregory Burton Gooch, whose name as Member of GOOCH FAMILY DENTAL, 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 member and with full authority, executed the same voluntarily, as an act of said company, acting in its capacity as aforesaid.

Given under my hand and official seal, this the 6th day of February, 2020.



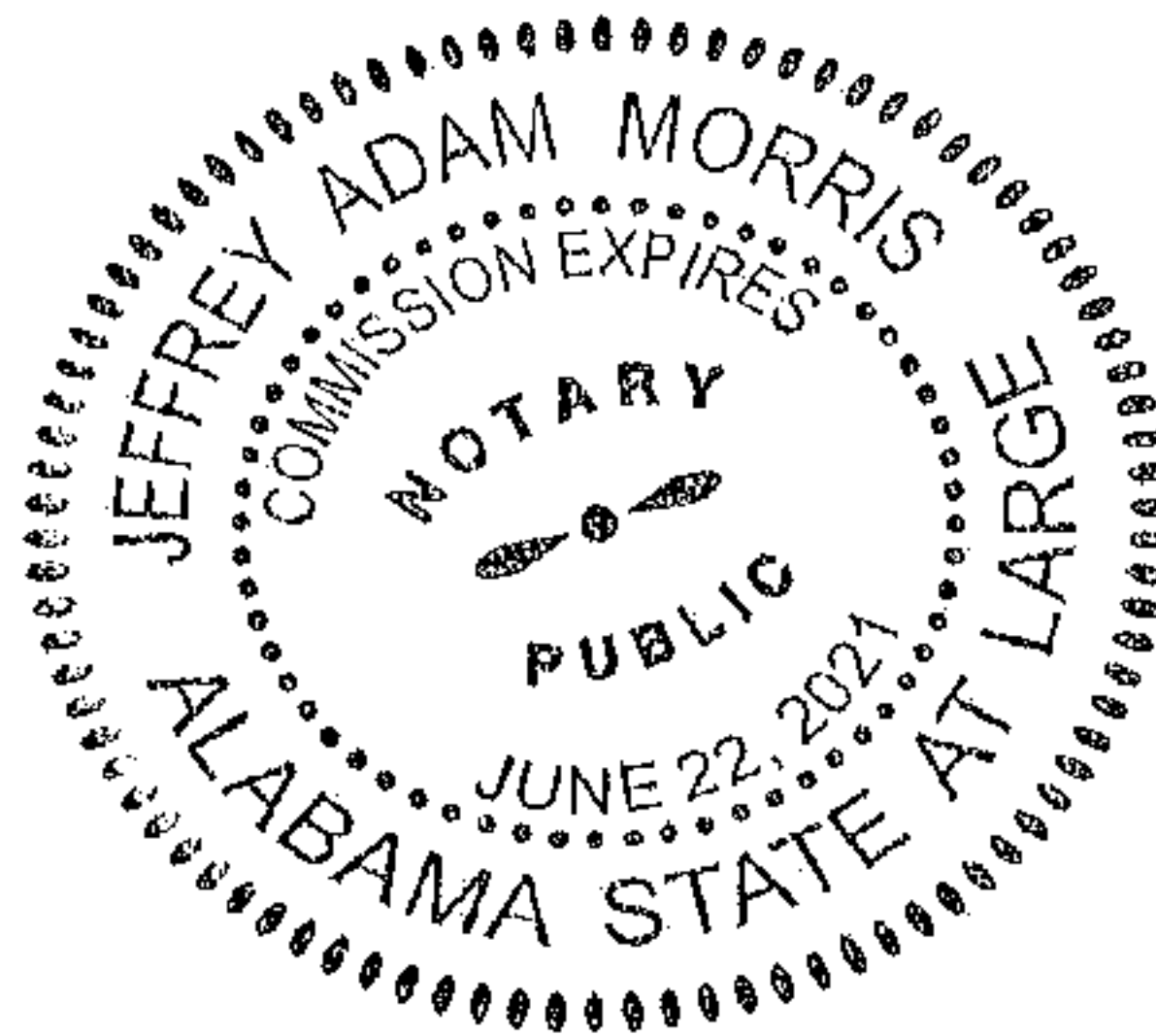
NOTARY PUBLIC

My Commission Expires: 6/22/21

STATE OF ALABAMA
SHELBY COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Gregory Burton Gooch, whose name 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 this instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 6th day of February, 2020.



NOTARY PUBLIC

My Commission Expires: 6/22/21

EXHIBIT "A"

Lot 2-B, according to the Survey of Tattersall Park Resurvey No. 1, as recorded in Map Book 48, page 8, in the Probate Office of Shelby County, Alabama.

TOGETHER WITH easement rights granted in that certain Access Easement dedicated in Map Book 48, page 8, in the Probate Office of Shelby County, Alabama.

TOGETHER WITH access and other easements and privileges set forth in Greystone Commercial Declaration of Covenants, Conditions and Restrictions as recorded in Real 314, page 506, First Amendment to Declaration as recorded in Instrument 1996-531, Second Amendment to Declaration as recorded in Instrument 1996-532, Third Amendment to Declaration as recorded in Instrument 2000-38942, Assignment of Developers as recorded in Instrument 2001-35832, Confirmation of Approval as recorded in Instrument 20020911000436060, Assignment of Developers rights as recorded in Instrument 20160512000163130, in the Probate Office of Shelby County, Alabama, including an access easement to that certain road lying between said Lot 2 and Lot 1 as shown on Map Book 14, page 79, and referred to as Greystone Way on Map Book 48, page 8.

TOGETHER WITH rights in and to easements granted in that certain Restrictive Use and Reciprocal Easement Agreement as recorded Instrument 20170921000343260, in the Probate Office of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
03/09/2020 11:42:51 AM
\$46.00 CHERRY
20200309000091650

Allen S. Bayl