

This Instrument was prepared by:
Justin R. Markley, Attorney-at-Law
Legal Department
Southeastern Grocers, LLC
8928 Prominence Parkway, #200
Jacksonville, Florida 32256(Reserved for Clerk)

LOAN NO.: _____

**SUBORDINATION, NONDISTURBANCE,
AND ATTORNMENT AGREEMENT
(Winn-Dixie Store #445)**

THIS SUBORDINATION, NONDISTURBANCE, AND ATTORNMENT AGREEMENT
(this "**Agreement**") is made this 18 day of August 2016, between:

CITIZENS BANK, NATIONAL ASSOCIATION, a national banking association, whose address is 5955 Carnegie Boulevard, Suite 200, Charlotte, North Carolina 28209, together with its successors, assigns, and transferees ("**Lender**");

WINN-DIXIE MONTGOMERY LEASING, LLC, a Florida limited liability company, whose address is 8928 Prominence Parkway, #200, Jacksonville, Florida 32256 Attention: Legal Department, together with its successors and assigns, ("**Winn-Dixie**"); and

BRANCH INVERNESS ASSOCIATES, LP, a Delaware limited partnership, whose address is c/o Branch Properties, LLC, 3340 Peachtree Road, NE, Suite 600, Atlanta, Georgia 30326, together with its successors and assigns ("**Landlord**").

RECITALS:

A. Lender has made or is about to make a loan to Landlord, secured by a mortgage, deed of trust, security deed, or other financing instrument recorded or to be recorded in the Public Records of Shelby County, State of Alabama, together with any modifications, consolidations, extensions, replacements, or renewals thereof (the "**Mortgage**"), encumbering Landlord's interest in that certain real property known as Inverness Corners Shopping Center located at

Highway 280 & Valleydale Road in Hoover, Alabama, as more particularly described on **Exhibit "A"** attached hereto and incorporated herein (**the "Shopping Center"**).

B. By Lease dated February 14, 2013, between Landlord, as landlord, and Winn-Dixie, as tenant, as evidenced by Short Form Lease dated February 14, 2013, and recorded in the Office of the Judge of Probate of Shelby County, Alabama, under Instrument No. 20130319000112840, as amended from time to time (**the "Lease"**), Winn-Dixie possesses a leasehold interest in those certain premises which constitute a portion of the Shopping Center and are more particularly described in the Lease (**the "Premises"**).

C. In the event that Lender exercises its remedies under the Mortgage, including, without limitation, appointment of a receiver, foreclosure of the Mortgage or transfer of the Shopping Center in lieu of foreclosure, it is the intent of Lender and Winn-Dixie that the Lease, and Winn-Dixie's possession of the Premises thereunder, shall not terminate, but shall remain in full force and effect in accordance with the terms thereof and hereof.

NOW THEREFORE, for valuable consideration the receipt and sufficiency of which are hereby acknowledged, Lender and Winn-Dixie agree as follows:

1. **Nondisturbance.** In the course of or following any exercise of any remedy under the Mortgage, any foreclosure sale of the Shopping Center or the Premises, or any transfer of the Shopping Center or the Premises thereafter or in lieu of foreclosure (together with any similar events, a **"Foreclosure Event"**), and provided that Winn-Dixie is not in material default under the terms of the Lease:

- (a) Winn-Dixie's right of possession in the Premises and rights arising out of the Lease shall not be affected or disturbed by Lender;
- (b) Winn-Dixie shall not be named as a party defendant unless required by law; and
- (c) the Lease shall not be terminated or affected by any Foreclosure Event.

2. **Attornment.** Following a Foreclosure Event, Winn-Dixie shall attorn to Lender, or any person or entity who acquires the Shopping Center and the Landlord's interest in the Lease following a foreclosure sale under the Mortgage or conveyance in lieu of foreclosure (**"New Owner"**), as its new landlord and the Lease shall continue in full force and effect as a direct lease between Winn-Dixie and Lender or other New Owner, provided that contemporaneously therewith Lender or such other New Owner shall promptly give notice thereof to Winn-Dixie, stating its current address and providing evidence of Lender's or the New Owner's title to or interest in the demised premises.

Winn-Dixie shall attorn to Lender or other New Owner (provided Lender or other New Owner shall recognize the Lease as a direct lease from Lender or other New Owner to Winn-

Dixie and Lender or other New Owner shall assume and be bound to Winn-Dixie to perform the obligations of Landlord under the Lease), except that Lender or other New Owner shall not be:


- (a) Liable for any act or omission of any prior landlord (including, without limitation, the then defaulting Landlord) which occurred prior to the date Lender or other New Owner acquired Landlord's interest under the Lease, except where such landlord's default is continuing at the time Lender or other New Owner acquired Landlord's interest under the Lease, such default is susceptible to cure and Lender or other New Owner fails to cure such default after receiving notice thereof and the same opportunity to cure as provided to the landlord under the Lease, and then only for the period after Lender or other New Owner acquired Landlord's interest under the Lease; or
- (b) Bound by any rent Winn-Dixie paid for more than the current month to any prior landlord (including Landlord).

3. Subordination. Winn-Dixie acknowledges and confirms that the Lease is subject and subordinate to the lien of the Mortgage and to the lien of all advances made or to be made thereunder as though the Mortgage had been executed and recorded prior in point of time to the execution of the Lease; provided, however, that subordination of the Lease to the lien of the Mortgage should not be construed to constitute Winn-Dixie's consent or agreement to any term, condition, or provision of the Mortgage or any related loan document which is inconsistent with or purports to modify, alter, or amend the Lease.

4. Self-Operative Effect. The foregoing provisions shall be self-operative and effective without the execution of any further instrument on the part of either party hereto. However, Winn-Dixie agrees to execute and deliver to Lender such other instrument as Lender shall reasonably request to evidence such provisions.

5. Notices under Lease. Landlord agrees that, contemporaneously with any notice given by Winn-Dixie to Landlord thereunder, it shall deliver a copy of such notice to Lender in accordance with the Lease at the address set forth in the first paragraph of this Agreement or at such other address as Lender may advise from time to time. In the event of a default by Landlord under the Lease as to which such notice by Winn-Dixie is given, Lender shall be entitled to the cure periods provided in the Lease, running contemporaneously with Landlord's cure periods thereunder. All notices required or permitted under this Agreement shall be in writing and shall be delivered by hand, or mailed by first class registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Lender:
Citizens Bank, National Association
5955 Carnegie Boulevard, Suite 200
Charlotte, North Carolina 28209
Attention: Peyton Bibb


20200429000167130 3/8 \$43.00
Shelby Cnty Judge of Probate, AL
04/29/2020 12:51:47 PM FILED/CERT

If to Winn-Dixie:

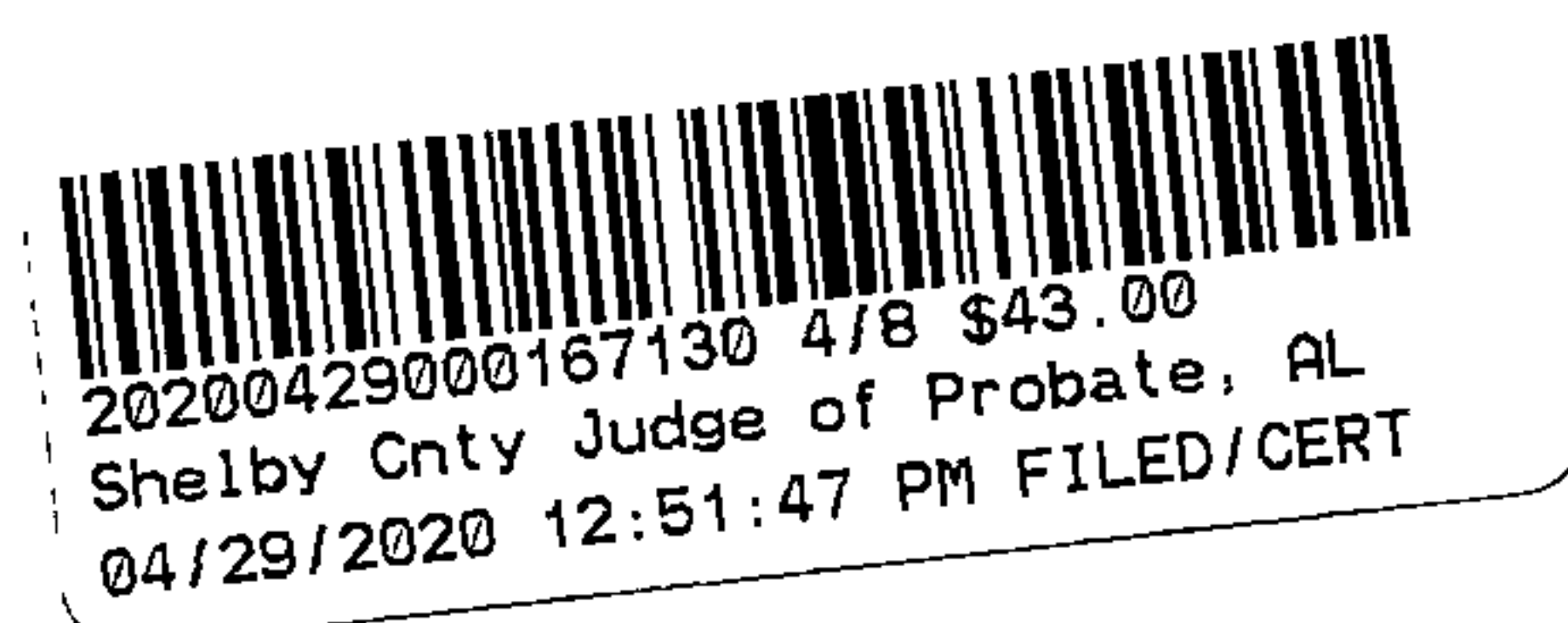
Winn-Dixie Montgomery Leasing, LLC
c/o Southeastern Grocers, LLC
Attn: Real Estate Legal Department
8928 Prominence Parkway, #200
Jacksonville, Florida 32256

6. Transfer Requirements. Following a Foreclosure Event, if Lender, or other New Owner, obtains Landlord's interest in the Shopping Center or the Premises or enforces its right to collect rent under this Lease, then Lender, or other New Owner, agrees promptly to provide or cause to be provided to Winn-Dixie (a) a copy of a current marked title commitment or title policy showing any new landlord as the owner thereof, (b) a W-9 form or its equivalent setting forth the name and tax identification number of the party collecting rent, signed by an authorized person, (c) a letter of instruction on the letterhead of Landlord (or other New Owner in the case of a sale or other transfer) stating (i) the name, address, phone number, and contact person of the entity collecting rent under the Lease, and (ii) the names, addresses, and telecopy numbers of all persons to be provided notices from Winn-Dixie under the Lease, (collectively, **the "Transfer Requirements"**) and/or (d) such other information as Winn-Dixie may reasonably require. Following receipt of the foregoing, as of the date of any such transfer, the transferring landlord shall be released from any obligations accruing after the date of the transfer except as otherwise expressly provided in the Lease. The Transfer Requirements must be met to ensure that Winn-Dixie is paying rent to the proper, entitled party and Winn-Dixie shall have the right to temporarily withhold rent in trust pending receipt of Transfer Requirements.

7. Tax Data. Following a Foreclosure Event, if Lender enforces any right under the Mortgage to collect rent under the Lease, without obtaining title to the Premises, then Lender shall provide to Winn-Dixie a W-9 form or its equivalent setting forth its proper name and tax identification number, signed by an authorized person, and/or such other information as Winn-Dixie may reasonably require (collectively, **the "Tax Data"**). The Tax Data must be obtained by Winn-Dixie to ensure that Winn-Dixie is paying rent to the proper entitled party and Winn-Dixie shall have the right to temporarily withhold rent in trust pending receipt of the Tax Data.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

9. Miscellaneous. Without limiting Winn-Dixie's other rights and remedies, and subject to applicable law, proceeds received by Landlord or Winn-Dixie (or Lender to the extent such proceeds are received by Lender) from insurance, eminent domain, condemnation and the like shall be applied as required or permitted by the provisions of the Lease. This Agreement contains the entire agreement between Winn-Dixie and Lender with respect to the matters addressed herein. This Agreement shall be construed under and governed by the laws of the State of Florida. This Agreement may be executed in several counterparts, each of which shall be deemed an original instrument and all of which shall constitute a single agreement.



10. THIS INSTRUMENT **MUST** BE EXECUTED IN CONNECTION WITH THE RECORDED MORTGAGE LOAN DOCUMENTS AND A COPY RETURNED TO WINN-DIXIE'S COUNSEL AT THE FOREGOING ADDRESS.

IN WITNESS WHEREOF, Lender, Landlord and Winn-Dixie have executed this Agreement the day and year first above written.

WINN-DIXIE:

Witnesses:

WINN-DIXIE MONTGOMERY LEASING, LLC, a Florida limited liability company

[Signature]
Witness #1
[Signature]
Witness #2 - Notary

By [Signature]
Name: Jordan Post
Its: SVP, Real Estate
Date: 8/18/16

ACKNOWLEDGMENT
(WINN-DIXIE)

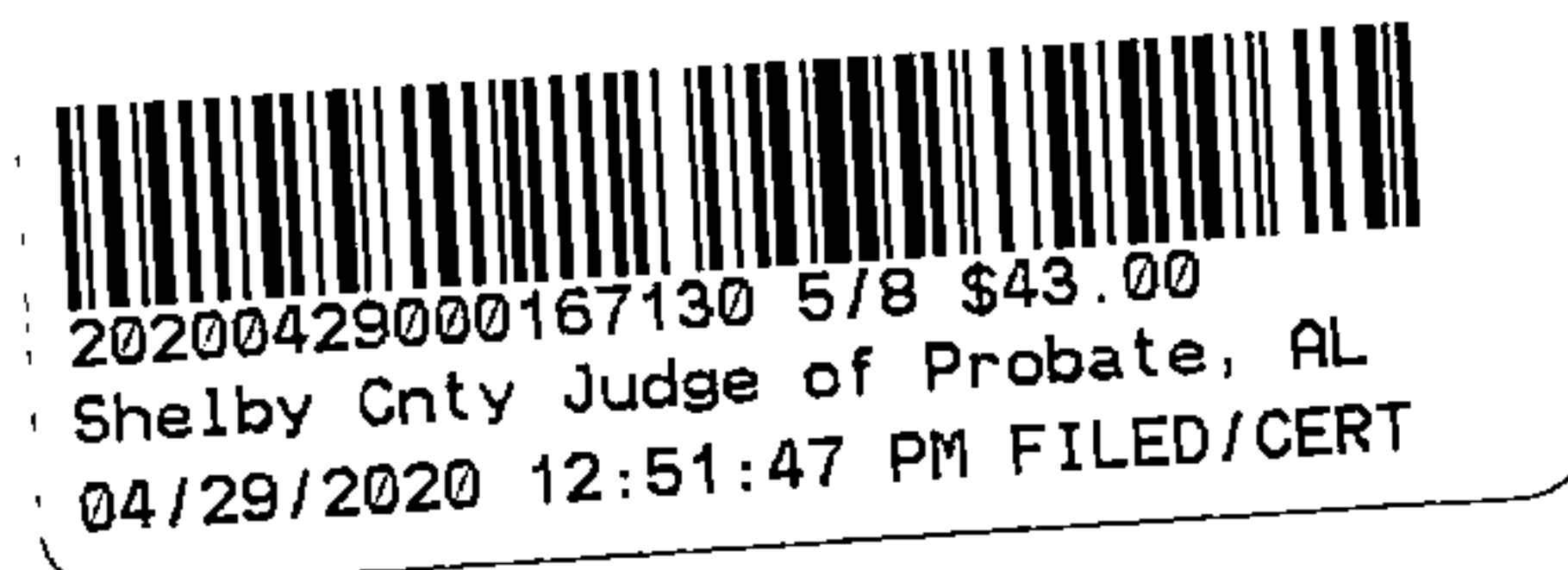
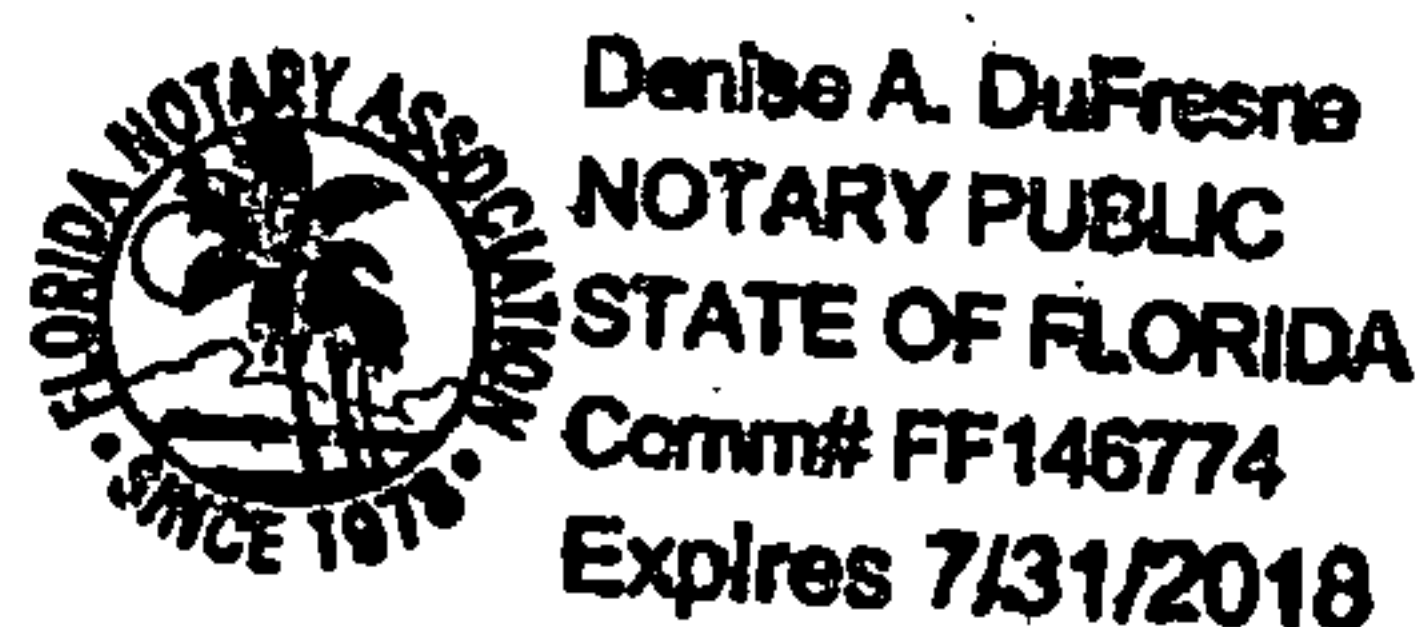
LEGAL APPROVED
ATTY: [Signature]
DATE: 8/16/16

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 18th of August, 2016, by Jordan Post, as SVP, Real Estate of Winn-Dixie Montgomery Leasing, LLC, a Florida limited liability company on behalf of the limited liability company, who is personally known to me.

[Signature]
NOTARY PUBLIC:

My commission expires: 7/31/18
Notary ID No.: FF146774
NOTARY SEAL



LANDLORD:

BRANCH INVERNESS ASSOCIATES, LP,
a Delaware limited partnership

By: BRANCH RETAIL GP, LLC,
a Georgia limited liability company
its General Partner

By: BRANCH RETAIL PARTNERS, LP,
a Delaware limited partnership
its Sole Member

By: BRANCH RETAIL MANAGEMENT, LLC,
a Georgia limited liability company
its General Partner

By: BRANCH ADMINISTRATIVE
MANAGER, LLC,
a Georgia limited liability company
its Manager

Witnesses:

Jared Joella
Witness # 1

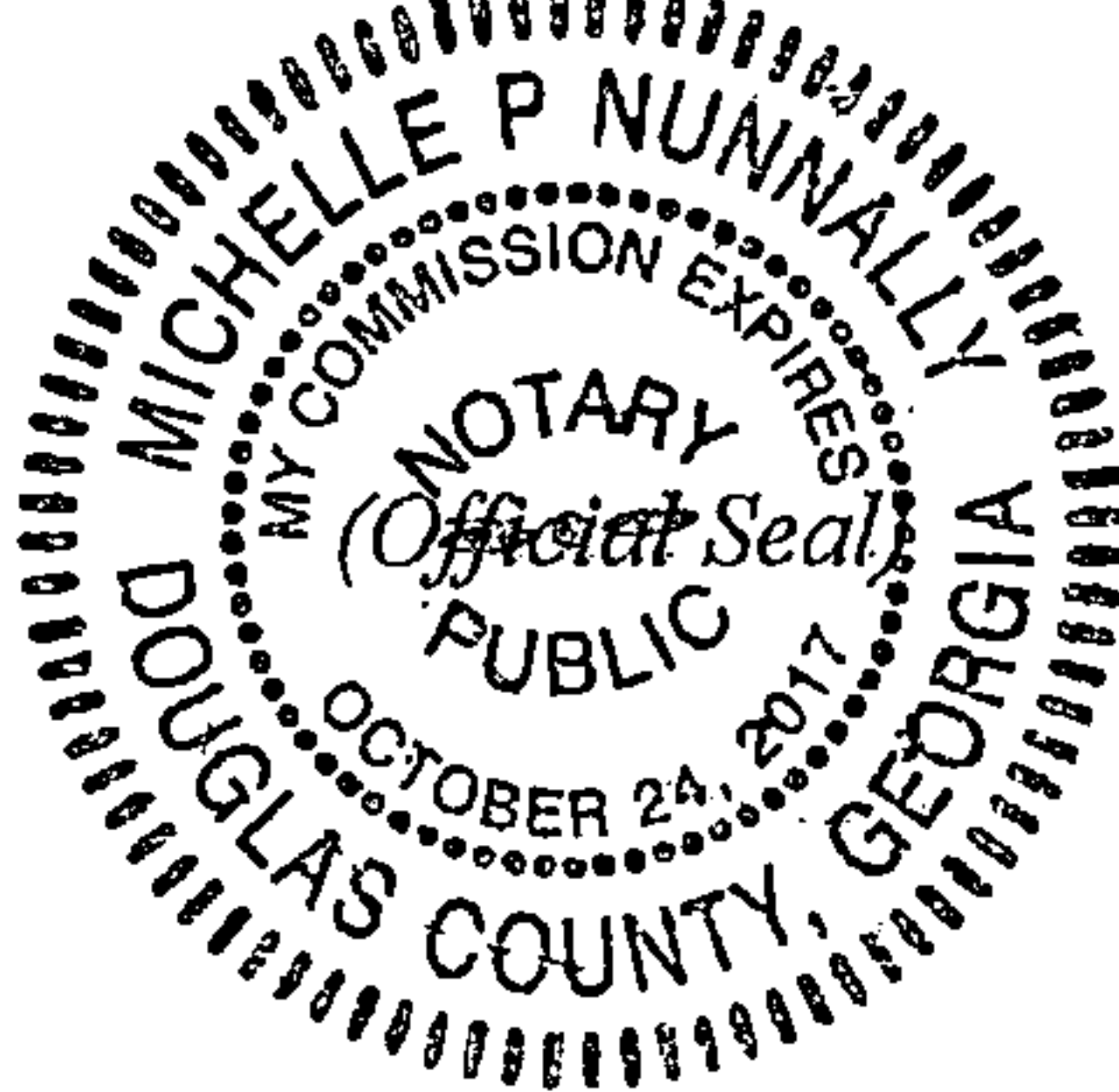
Michelle P. Nunnally
Witness #2 – Notary

By: [Signature] (SEAL)
Name: Terry M. Hampel
Title: Authorized Member
Date: August 18, 2016

ACKNOWLEDGMENT
(LANDLORD)

STATE OF Georgia
COUNTY OF Fulton

I, Michelle P. Nunnally, a NOTARY in and for said County in said State, on this 18th day of August, 2016, hereby certify that Terry M. Hampel whose name as Authorized Member of Branch Administrative Manager, LLC, a Georgia limited liability company, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, as such Authorized Member, and with full authority, executed the same voluntarily for and as the act of said limited liability company.



Michelle P. Nunnally
Official Signature of Notary

Michelle P. Nunnally
Notary's printed or typed name, Notary Public
My commission expires: October 24, 2017

LENDER:

Witnesses:

Jessica Taylor
Witness #1

Peter A. McCranie Jr.
Witness #2 - Notary

CITIZENS BANK, NATIONAL
ASSOCIATION, a national banking
association

By: [Signature]
Name: PEYTON D BIBB
Its: SENIOR VICE PRESIDENT

Date: 8/30/16

ACKNOWLEDGMENT
(LENDER)

STATE OF NC
COUNTY OF Mecklenburg

I, Peter A. McCranie Jr., a Notary Public in and for said County in said State, on this 30 day of August, 2016, hereby certify that Peyton Bibb, whose name as Senior Vice President of Citizens Bank, National Association, a national banking association, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, as such Lender, and with full authority, executed the same voluntarily for and as the act of said national banking association.

Peter A. McCranie Jr.
NOTARY PUBLIC: Peter A. McCranie Jr.

My commission expires: 9/9/2017
Notary ID No.: N/A
NOTARY SEAL

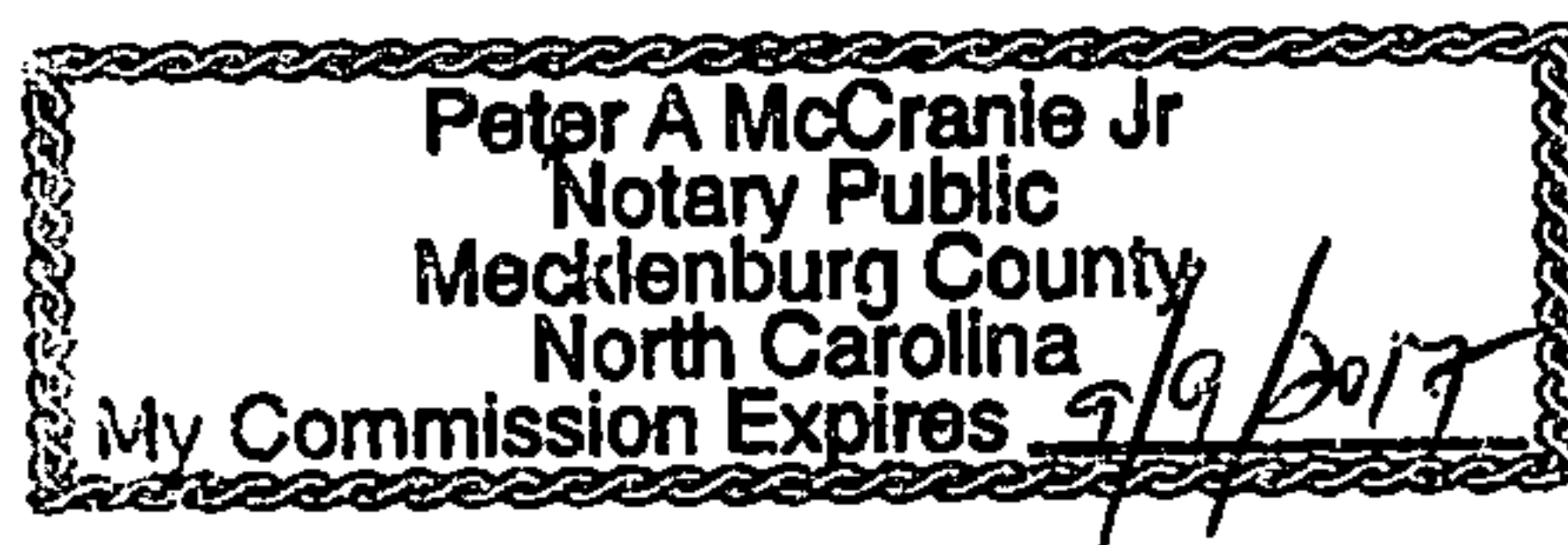


Exhibit "A"

Legal Description

INV PLAZA LLC:

Parcel 1 (Fee):

Lot 1 according to Survey of Inverness Plaza Subdivision, as recorded in Map Book 44, page 112, in the Probate Office of Shelby County, Alabama.

Parcel 2 (Easement):

Non-exclusive access and utility easements as described in that certain Reciprocal Easement

Agreement by and between Metropolitan Life Insurance Company and Mountainview, LLC, dated October 14, 2005, and recorded in Instrument #2005101900054400.

INV CORNERS LLC:

Parcel 1 (Fee):

Lots 1, 2, 3, 4 and D-2, according to Survey of Inverness Corners Subdivision, as recorded in

Map Book 44, page 113, in the Probate Office of Shelby County, Alabama.

Parcel 2 (Easement):

Non-exclusive access easements as described in that certain Reciprocal Easement Agreement by and between Metropolitan Life Insurance Company and Investment Associates, LLC, dated November 25, 2003, and recorded in Instrument No. 20031205000788530.

Parcel 3 (Easement):

Non-exclusive easements for access, ingress, egress, and utilities as described in that certain Reciprocal Easement Agreement by and between Metropolitan Life Insurance Company and Pier Group, Inc., dated April 30, 1996, and recorded in Instrument #1996-14793.

