

This instrument prepared by
and after recording return to:

Ray D. Gibbons, Esq.
Gibbons Law LLC
1200 Corporate Drive, Suite 150
Birmingham, Alabama 35242

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05/04/2020 03:52:27 PM
MORTAMEN 1/8

**FIRST AMENDMENT TO AMENDED AND RESTATED MORTGAGE AND
SECURITY AGREEMENT
AND PARTIAL RELEASE OF MORTGAGE**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED MORTGAGE AND SECURITY AGREEMENT AND PARTIAL RELEASE OF MORTGAGE (the "First Amendment") is made and entered into as of March 31, 2020, among **THORNTON I-65 HOLDINGS, LLC**, an Alabama limited liability company ("Thornton I-65"), **THORNTON DUNNAVANT VALLEY HOLDINGS, LLC**, an Alabama limited liability company ("Dunnavant Holdings") (Thornton I-65 and Dunnavant Holdings hereinafter referred to collectively as the "Borrowers" and each singularly as a "Borrower"), each of whose address is c/o Thornton, Inc., 2 Office Park Circle, Suite 110, Mountain Brook, Alabama 35223, Attention: Mr. William L. Thornton III, and **SERVISFIRST BANK**, an Alabama banking corporation (the "Bank"), whose address is 2500 Woodcrest Place, Birmingham, Alabama 35209, Attention: Mr. Clark Zinsmeister. Any capitalized term used herein but not defined shall have the meaning ascribed to such term in that certain Amended and Restated Credit Agreement dated as of December 8, 2017, originally among Dunnavant Commercial, LLC ("Dunnavant Commercial"), Thornton I-65, Thornton New Home Sales, Inc. ("Thornton New Home Sales"), Logan Real Estate Holdings, LLC ("Logan"), McCalla Partners, LLC ("McCalla"), Tannehill Investments, LLC ("Tannehill"), and Bank (as amended from time to time including, but not limited to, that certain Assumption Agreement and First Amendment to Amended and Restated Credit Agreement of even date herewith among Borrowers, Dunnavant Commercial, and Bank), hereinafter referred to as the "Credit Agreement"), except that the term "Mortgaged Property" shall have the meaning ascribed to such term in the Mortgage (as hereinafter defined).

WHEREAS, Dunnavant Commercial, Thornton I-65, Thornton New Home Sales, Logan, McCalla, and Tannehill executed and delivered in favor of Bank that certain Amended and Restated Mortgage and Security Agreement dated as of December 8, 2017, which was recorded as follows:

(i) in the Office of the Judge of Probate of Jefferson County, Alabama, recorded on December 15, 2017 as Instrument No. 2017127671, and re-recorded on January 5, 2018 as Instrument No. 2018001973;

(ii) in the Office of the Judge of Probate of Shelby County, Alabama, recorded on December 15, 2017 as Instrument No. 20171215000446960, and re-recorded on January 5, 2018 as Instrument No. 20180105000006200; and

(iii) in the Office of the Judge of Probate of Tuscaloosa County, Alabama, recorded on December 20, 2017 in Mortgage Book 2017 at Page 76334 (the "Mortgage").

WHEREAS, Dunnivant Commercial has transferred to Dunnivant Holdings all of Dunnivant Commercial's interest in the Mortgaged Property, and in connection therewith, Dunnivant Holdings has assumed all of the Obligations of Dunnivant Commercial under the Credit Agreement, the Mortgage, and the other Loan Documents to which Dunnivant Commercial is a party; and

WHEREAS, Borrowers and Bank desire to (i) amend the Mortgage, and (ii) provide for the release of a portion of the Mortgaged Property, all as hereinafter provided.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Borrowers and Bank hereby agree as follows:

1. Dunnivant Holdings (i) assumes all of the obligations of Dunnivant Commercial under the Mortgage, (ii) agrees that it is and shall be a Borrower under and as defined in the Mortgage, (iii) confirms the truthfulness of the representations and warranties of Dunnivant Holdings as a Borrower under the Mortgage, and (iv) agrees to be bound by all of the covenants, agreements, and terms and conditions of the Mortgage.

2. Bank hereby releases Thornton New Home Sales, Logan, McCalla, Tannehill, and Dunnivant Commercial from their obligations under the Mortgage, and the parties agree that (i) Dunnivant Commercial, Thornton New Home Sales, Logan, McCalla, Tannehill, and Dunnivant Commercial shall no longer be "Borrowers" under the Mortgage; (ii) any reference in the Mortgage to "Dunnivant" shall mean Dunnivant Holdings; and (iii) any reference in the Mortgage to the "Borrowers" shall mean the Borrowers as defined in the first paragraph of this First Amendment.

3. The Mortgage is hereby amended by deleting the first paragraph on page 3 thereof (viz., the paragraph beginning with "WHEREAS, Borrowers desire to secure the Obligations...", and by substituting the following in lieu thereof:

WHEREAS, (i) Dunnivant Holdings desires to secure the Dunnivant Project Loan Obligations and the District Project Loan Obligations, including, but not limited to, the obligation to pay the principal of and interest on the Dunnivant Project Note and the District Project Note in accordance with the terms thereof and of the Credit Agreement and the other Loan Documents (including any and all extensions, modifications, and renewals thereof and substitutions therefor), and all Indemnified Losses and Default Costs in connection therewith (the "Dunnivant Obligations") and (ii) Thornton I-65 desires to secure the Equity Loan Obligations, including, but not limited to, the obligation to pay the principal of and interest on the Equity Note in accordance with the terms thereof and of the Credit Agreement and the other Loan Documents (including any and all extensions, modifications, and renewals thereof and substitutions therefor), and all Indemnified Losses and Default Costs in connection therewith (the "Thornton I-

65 Obligations") (the Dunnivant Obligations and the Thornton I-65 Obligations hereinafter referred to collectively as the "Secured Obligations"), it being understood and agreed that the Lien granted hereunder with respect to the Mortgaged Property owned by Dunnivant Holdings shall only secure the Dunnivant Obligations, and the Lien granted hereunder with respect to the Mortgaged Property owned by Thornton I-65 shall only secure the Thornton I-65 Obligations; and

4. Bank hereby releases Parcels IV, V, VI, and VII of the Land (as defined in the Mortgage) from the Lien of the Mortgage, and the Mortgage is hereby amended (i) by deleting Exhibit A thereof in its entirety, and by substituting in lieu thereof the Exhibit A attached to this First Amendment, and (ii) to provide that "Land" shall hereafter mean the tracts, pieces or parcels of land, and interests in land, more particularly described on Exhibit A attached to this First Amendment.

5. To secure the Dunnivant Obligations, Dunnivant Holdings does hereby convey, mortgage, warrant, grant, bargain, sell, assign, transfer, pledge and set over, re-convey, re-mortgage, re-warrant, re-grant, re-bargain, re-sell, re-assign, re-transfer, re-pledge and re-set over to Bank, its successors and assigns, all of Dunnivant Holdings' Interest in and to the Land (as defined in this First Amendment) and the other Mortgaged Property.

6. To secure the Thornton I-65 Obligations, Thornton I-65 does hereby convey, mortgage, warrant, grant, bargain, sell, assign, transfer, pledge and set over, re-convey, re-mortgage, re-warrant, re-grant, re-bargain, re-sell, re-assign, re-transfer, re-pledge and re-set over to Bank, its successors and assigns, all of Thornton I-65's Interest in and to the Land (as defined in this First Amendment) and the other Mortgaged Property.

7. The maximum principal indebtedness secured by the Mortgage is not being amended pursuant to this First Amendment.

8. Except as hereinafter expressly amended, the terms of the Mortgage are hereby ratified and affirmed.

9. In the event of any conflict between the provisions of the Mortgage, as hereby amended, and the provisions of the Credit Agreement, the provisions most favorable to Bank shall control.

* * * * *

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

THORNTON DUNNAVANT VALLEY
HOLDINGS, LLC,
an Alabama limited liability company

By: [Signature]
William L. Thornton III, its Sole Member

THORNTON I-65 HOLDINGS, LLC,
an Alabama limited liability company

By: [Signature]
William L. Thornton III, its Manager

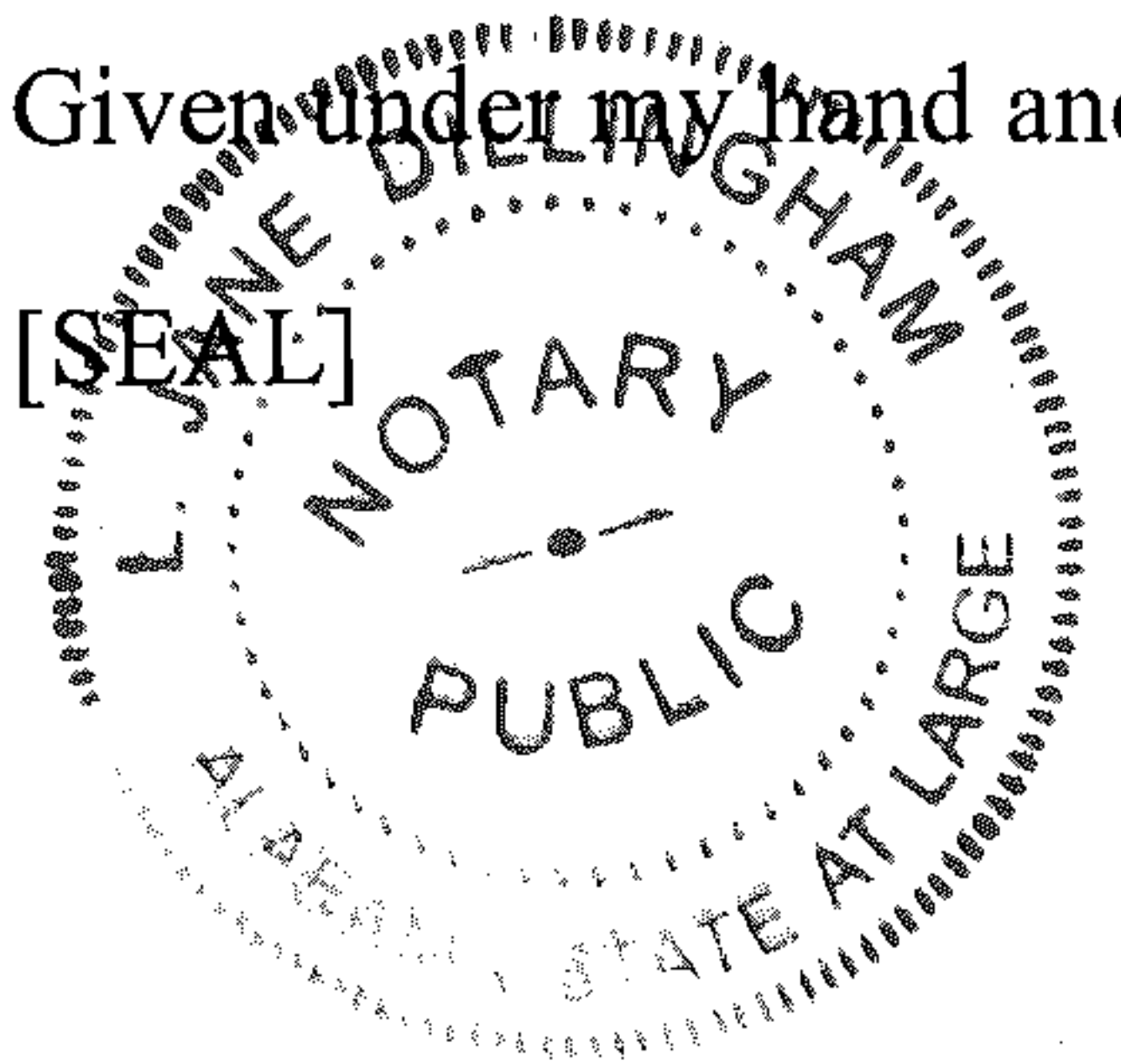
SERVISFIRST BANK,
an Alabama banking corporation

By: [Signature]
Its: Vice President

STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William L. Thornton III, whose name as the Sole Member of Thornton Dunnivant Valley Holdings, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me that, being informed of the contents of such instrument, he, as such Sole Member and with full authority, executed the same voluntarily for and as the act of such limited liability company.

Given under my hand and official seal, this the 31 day of March, 2020.



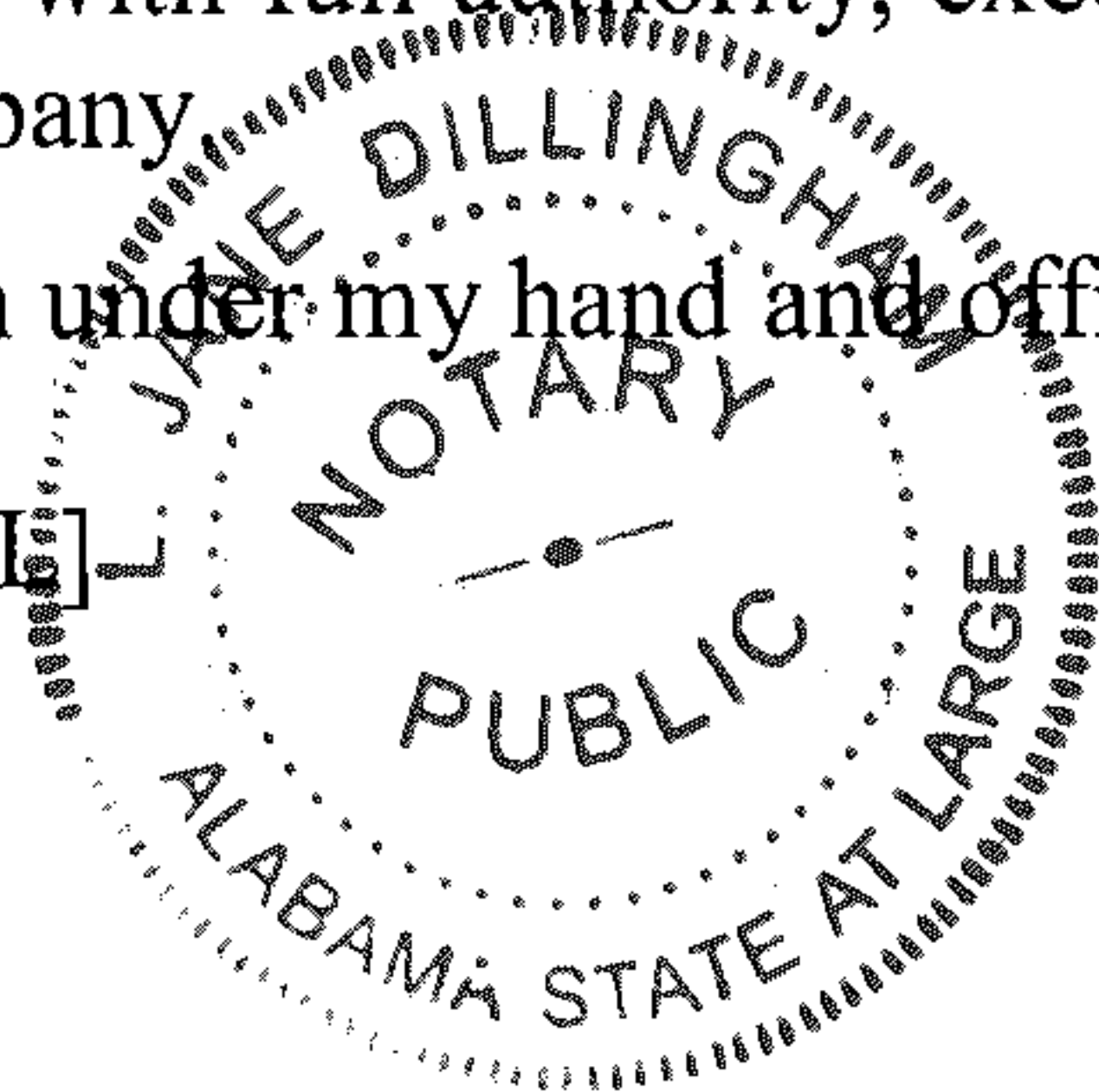
[Signature]
Notary Public
My Commission Expires October 17, 2022

STATE OF ALABAMA
COUNTY OF Shelby

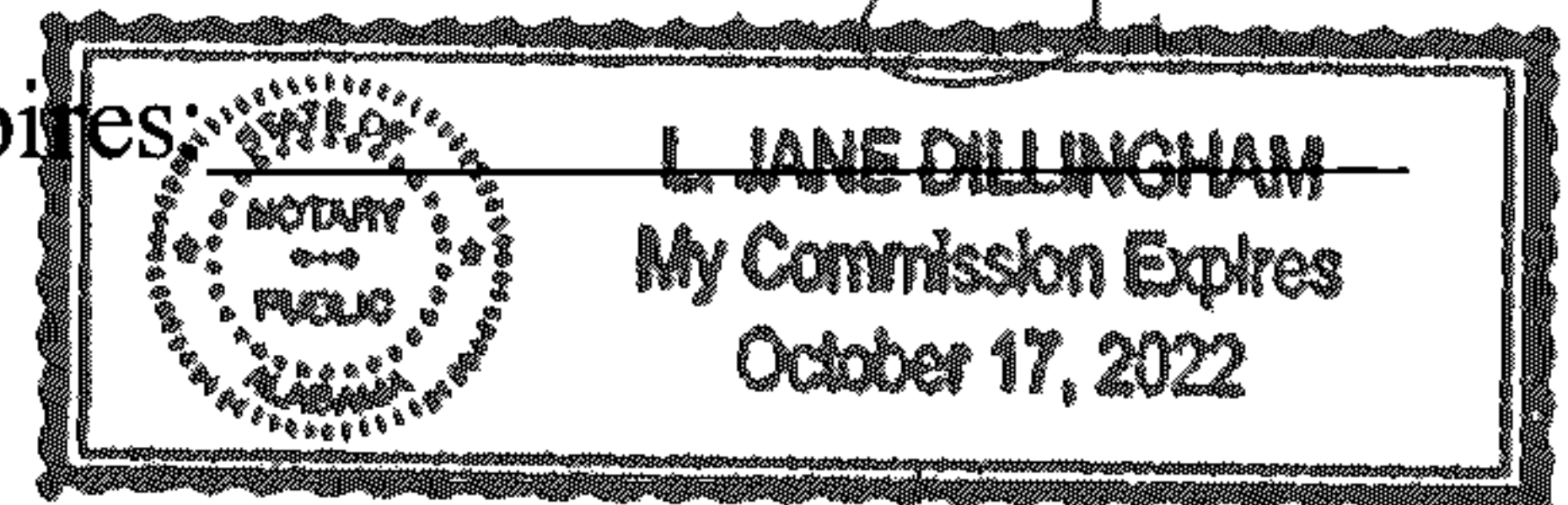
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William L. Thornton III, whose name as Manager of Thornton I-65 Holdings, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me that, being informed of the contents of such instrument, he, as such Manager and with full authority, executed the same voluntarily for and as the act of such limited liability company

Given under my hand and official seal, this the 31 day of March, 2020.

[SEAL]



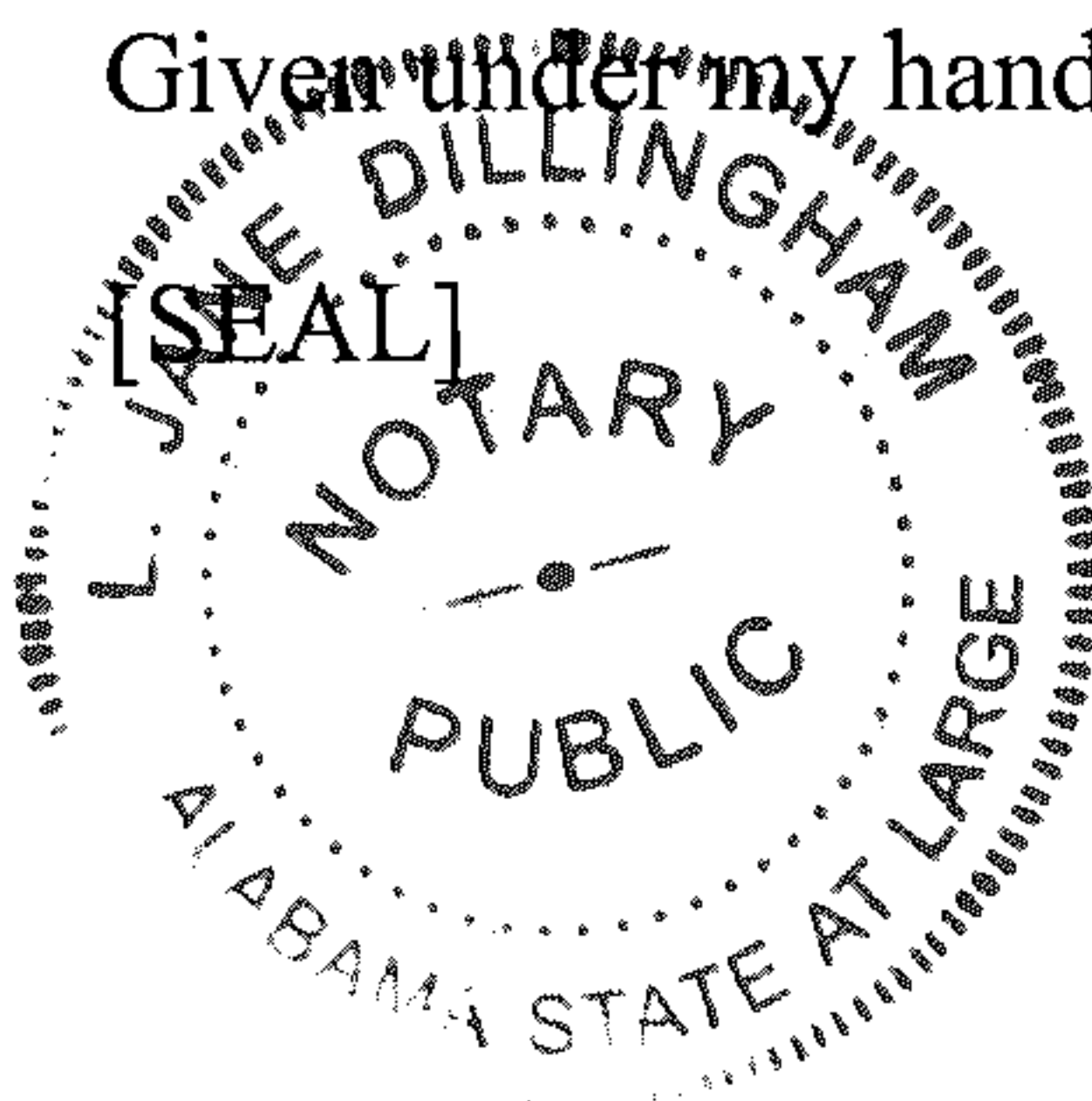
L. Jane Dillingham
Notary Public
My Commission Expires



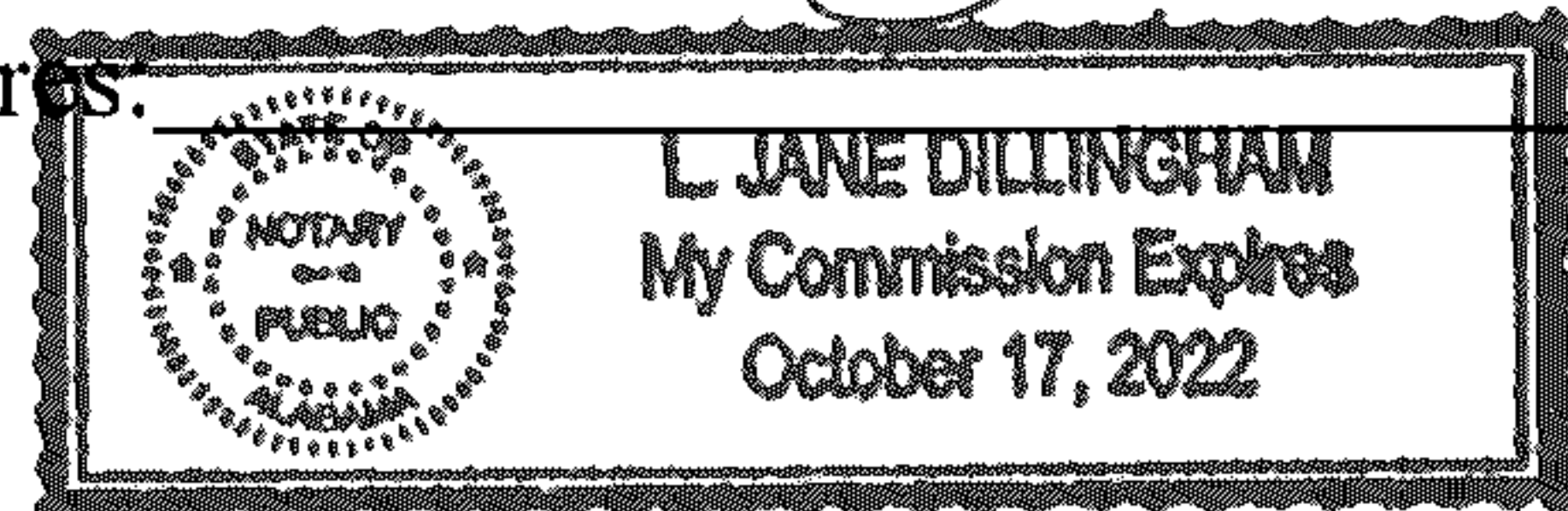
STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Clark Zinsmeister, whose name as Vice President of ServisFirst Bank, 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, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 31 day of March, 2020.



L. Jane Dillingham
Notary Public
My Commission Expires



2020050400017410A 05/04/2020 03:52:27 PM MORTAMEN 6/8
DESCRIPTION OF LAND

PARCEL I:

All that part of the Northeast quarter of the Southwest quarter of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama, lying West of Shelby County Highway Number 41, LESS AND EXCEPT that part known as Dunnivant Square as recorded in Map Book 39, on Page 119-A, B & C in the Office of the Judge of Probate of Shelby County, Alabama. More particularly described as follows:

Tract A:

A part of the NE 1/4 of the SW 1/4 of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

BEGIN at a 5/8" rebar capped Weygand at the SW corner of Lot 40A of Dunnivant Square Resurvey as recorded in Map Book 42 Page 123 A and B in the Office of the Judge of Probate in Shelby County, Alabama; thence N 78°18'00" E along the southern line of Lot 40A for a distance of 92.79 feet to a 3/4" rebar at the SE corner of Lot 40A; thence N 11°29'50" W along the eastern line of Lot 40A a distance of 65.07 feet to a rebar capped Arrington at the SE corner of Lot 42A; thence N 11°44'35" W along the eastern line of Lot 42A for a distance of 49.16 feet to a rebar capped EDG a point of curve to the right having a central angle of 31°29'08" and a radius of 122.00 feet, said curve subtended by a chord bearing N 3°59'59" E and a chord distance of 67.04 feet; thence along the arc of said curve and along the eastern line of Lots 42A and 44A a distance of 66.20 feet to a rebar capped EDG; thence N 19°44'33" E along the eastern line of Lot 44A and 46A, and also along the eastern line of Lot 47-A of Resurvey Lots 37, 38, 47, & 48 Dunnivant Square as recorded in Map Book 41 Page 115 in the Office of the Judge of Probate in Shelby County, Alabama to a rebar capped SSI at the NE corner of Lot 47-A, said point being on the southern right-of-way of Carlow Lane and on a non tangent curve to the left having a central angle of 11 Degrees 06'42" and a radius of 280.00 feet, said curve subtended by a chord bearing N 86° 03' 17" E and a chord distance of 54.22 feet; thence along the arc of said curve and along said right-of-way a distance of 54.30 feet to a rebar capped Weygand; thence N 80°47'50" E along said right-of-way a distance of 239.56 feet to a rebar capped Weygand at a point of curve to the right having a central angle of 7°49'32" and a radius of 219.96 feet, said curve subtended by a chord bearing N 84°34'08" E and a chord distance of 30.02 feet; thence along the arc of said curve and along said right-of-way a distance of 30.04 feet to a rebar capped Weygand at a point of compound curve having a central angle of 92°29'32" and a radius of 25.00 feet, said curve subtended by a chord bearing S 45°09'14" E and a chord distance of 36.12 feet; thence along the arc of said curve and along said right-of-way a distance of 40.36 feet to a rebar capped Weygand at the intersection of said right-of-way and the western right-of-way of Shelby County Hwy. 41, said point being a point of compound curve having a central angle of 19°00'14" and a radius of 2492.71 feet, said curve subtended by a chord bearing S 10°39'32" W and a chord distance of 823.00 feet; thence leaving Carlow Lane right-of-way, along the western right-of-way of Shelby County Hwy. 41, and along the arc of said curve a distance of 826.79 feet to 5/8" rebar; thence S 89°42'35" W leaving said right-of-way a distance of 164.44 feet to a rebar capped Weygand on the eastern right-of-way of Connaught Place; thence N 0°14'33" W along said right-of-way a distance of 205.81 feet to a 1/2" rebar at a point of curve to the right having a central angle of 21°14'19" and a chord distance of 81.08 feet, said curve subtended by a chord bearing N 10°22'37" E and a chord distance of 81.08 feet; thence along the arc of said curve and along said right-of-way a distance of 81.55 feet to a rebar capped EDG; thence N 20°59'46" E along said right-of-way a distance of 46.01 feet to a rebar capped EDG at the intersection of said right-of-way and the northeastern right-of-way of Dublin Way; thence N 69°00'14" W leaving Connaught Place right-of-way and along the northeastern right-of-way of Dublin Way a distance of 98.08 feet to a rebar capped EDG at a point of curve to the right having a central angle of 20°19'21" and a radius of 170.00 feet, said curve subtended by a chord bearing N 58°50'34" W and a chord distance of 59.98 feet; thence along the arc of said curve and along said right-of-way a distance of 60.30 feet to a rebar capped EDG; thence N

78°27'27" E along said right-of-way a distance of 4.63 feet to a rebar capped EDG; thence N 11°19'07" W along said right-of-way, a distance of 40.00 feet to a rebar capped EDG; thence S 78°27'27" W along said right-of-way a distance of 27.31 feet to a rebar capped EDG on a curve to the right having a central angle of 7°34'31" and a radius of 170.00 feet, said curve subtended by a chord bearing N 29°22'31" W and a chord distance of 22.46 feet; thence along the arc of said curve and along said right-of-way a distance of 22.48 feet to the POINT OF BEGINNING.

Tract B:

A part of the NE 1/4 of the SW 1/4 of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

BEGIN at a rebar capped SSI at the SE corner of Lot 50A of Dunnivant Square Resurvey as recorded in Map Book 42 Page 123 A and B in the Office of the Judge of Probate in Shelby County; thence N 6°59'08" E along the eastern line of Lots 50A, 52A, 54A, and Common Area 3, Lots 55, 56, 57, and 58 of Dunnivant Square as recorded in Map Book 39 Page 119 A, B and C in the Office of the Judge of Probate in Shelby County for a distance of 350.07 feet to a rebar capped EDG at the NE corner of Lot 58 said point being on the southern right-of-way of Monaghan Drive; thence S 82°56'19" E along said right-of-way a distance of 114.30 feet to a rebar capped Weygand at the intersection of said right-of-way and the eastern right-of-way of Donegal Place; thence N 1°28'21" E, leaving said Monaghan Drive right-of-way and along the eastern right-of-way of Donegal Place right-of-way, a distance of 139.52 feet to a rebar capped Weygand at the intersection of said right-of-way and the north line of NE 1/4 of the SW 1/4 of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama; thence N 89°26'24" E leaving said Donegal Place right-of-way and along the north line of said 1/4-1/4 section a distance of 187.55 feet to a rebar capped Weygand at the intersection of said 1/4-1/4 section and the western right-of-way of Shelby County Hwy. 41; thence S 0°25'55" W leaving said 1/4-1/4 section and along the western right-of-way of Shelby County Hwy. 41 right-of-way a distance of 404.78 feet to a rebar capped Weygand at the intersection of said right-of-way and the northern right-of-way of Carlow Lane, said point also being a point of curve to the right having a central angle of 90°00'13" and a radius of 25.00 feet, said curve subtended by a chord bearing S 45°21'56" W and a chord distance of 35.36 feet; thence leaving said Shelby County Hwy. 41 right-of-way, along the northern right-of-way of Carlow Lane, and along the arc of said curve a distance of 39.27 feet to a rebar capped Weygand at a point of reverse curve having a central angle of 8°33'40" and a radius of 280.00 feet, said curve subtended by a chord bearing S 85°01'03" W and a chord distance of 41.80 feet; thence along the arc of said curve and along said right-of-way a distance of 41.84 feet to a rebar capped Weygand; thence S 80°43'46" W along said right-of-way a distance of 239.41 feet to a rebar capped Weygand at a point of curve to the right having a central angle of 10°43'10" and a radius of 220.00 feet, said curve subtended by a chord bearing S 85°55'33" W and a chord distance of 41.10 feet; thence along the arc of said curve and along said right-of-way a distance of 41.16 feet to the POINT OF BEGINNING.

Situated in Shelby County, Alabama.

PARCEL III:

Part of the S 1/2 of Section 23, Township 15 South, Range 3 West, Jefferson County, Alabama, being more particularly described as follows:

Commence at the SW corner of said Section 23 and run in an easterly direction along the south line of said Section 23 for a distance of 1323.0 feet to an existing 2" open top iron pipe being the point of beginning; thence turn an angle to the left of 0°3'25" and run in an easterly direction along the south line of said section for a distance of 1320.82 feet to an existing 1-1/2" open iron pipe; thence turn an angle to the left of 0°2'13" and run in an easterly direction along the south line of said section for a distance of 296.39 feet to a point on the curved southwest right-of-way line of U.S. Highway No. 31, said curve

being concave in a southwesterly direction and having a central angle of $5^{\circ}57'21''$ and a radius of 7662.95 feet; thence turn an angle to the left ($114^{\circ}07'47''$ to the chord of said curve) and run in a northwesterly direction along the arc of said curve and along the southwest right-of-way line of said U.S. Highway No. 31 for a distance of 796.54 feet; thence turn an angle to the left ($19^{\circ}01'56''$ from the chord of last mentioned curve) and run in a northwesterly direction along the southwest right-of-way line of said U.S. Highway No. 31 for a distance of 79.30 feet; thence turn an angle to the right of $16^{\circ}03'15''$ and run in a northwesterly direction along the southwest right-of-way line of said U.S. Highway No. 31 for a distance of 367.36 feet; thence turn an angle to the left of $153^{\circ}39'15''$ and run in a southerly direction for a distance of 374.77 feet to an existing 1-1/2" open top iron pipe; thence turn an angle to the right of $90^{\circ}11'19''$ and run in a westerly direction for a distance of 529.10 feet to an existing 1" open top iron pipe; thence turn an angle to the left of $90^{\circ}06'45''$ and run in a southerly direction for a distance of 80.57 feet; thence turn an angle to the right of $90^{\circ}43'22''$ and run in a westerly direction for a distance of 574.07 feet; thence turn an angle to the left of $92^{\circ}25'25''$ and run in a southerly direction for a distance of 650.95 feet, more or less, to the point of beginning.



Filed and Recorded
 Official Public Records
 Judge of Probate, Shelby County Alabama, County
 Clerk
 Shelby County, AL
 05/04/2020 03:52:27 PM
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Allen S. Beryl