

This document prepared by and upon recording please return to:
H. Taylor Buckner, Esq.
Davis, Bingham, Hudson & Buckner, P.C.
324 East Magnolia Avenue
Auburn, AL 36830
File #20-1227H

STATE OF ALABAMA
COUNTY OF SHELBY


20200721000304180 1/6 \$37.00
Shelby Cnty Judge of Probate, AL
07/21/2020 12:07:33 PM FILED/CERT

NON-ENCUMBRANCE AND NEGATIVE PLEDGE AGREEMENT

This NON-ENCUMBRANCE AND NEGATIVE PLEDGE AGREEMENT (hereafter the "Agreement") is entered into on this the 15th day of July, 2020, by and between the undersigned, **AuburnBank**, an Alabama banking corporation ("Lender"), and **The Alabama 4-H Club Foundation, Inc.**, an Alabama non-profit corporation ("Borrower").

WITNESSETH:

WHEREAS, Borrower and Lender have entered into a loan transaction of even date herewith (the "Loan"), whereby Lender has agreed to loan to Borrower monies for construction of improvements and renovations on Borrower's property located in Shelby County, Alabama, being further described on attached Exhibit "A" (the "Property");

WHEREAS, the Loan is evidenced by a promissory note ("Note") of even date, a real estate mortgage of even date ("Mortgage"), and other documents executed by Borrower in connection therewith;

WHEREAS, Borrower executes this Agreement as a material inducement to cause Lender to agree to grant the Loan; further, Borrower acknowledges that Lender has materially relied, or shall materially rely, upon the warranties and representations herein contained in reaching its decision to grant the Loan.

NOW THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which is acknowledged, Borrower does hereby agree:

1.) Definitions:

The following words and phrases shall have the meanings attributed to them below, when used in this Agreement:

a.) "Encumbrance" or "encumber": the terms "Encumbrance" and/or "encumber", when used herein, shall denote and refer to any intentional or unintentional act of Borrower, or of any third person, which act shall result in the imposition of a perfected or unperfected lien upon, or cloud upon, any Assets of Borrower in favor of any corporation, individual, trust, government agency or other third party ("collectively referred to herein as "Third Party"); or which act shall grant to any Third Party a security interest in the any Assets of Borrower; without limiting the foregoing, the terms "encumber" and/or "Encumbrance" shall refer to any pledge; assignment, with or without recourse; mortgage or deed of trust; security interest; or other hypothecation or transfer

of any legal or equitable interest in or to the Assets of Borrower, and shall include any interest resulting by operation of law.

b.) "Assets": the term "assets", when used herein, shall refer to the real property of the Borrower known as the "pledged" property (more completely described in **Exhibit "A"**, attached hereto); together with all other real property owned by Borrower, wherever situated; together with all personal, tangible or intangible in character, including all assets held in trust by any third party for the benefit of Borrower; together with all insurance policies or manufacturer's warranties and the proceeds thereof.

2.) Term of this Agreement:

This Agreement shall remain in full force and effect until the entire indebtedness evidenced by the Loan is paid in full, including all accrued interest, principal, legal fees and any other charges permitted by the Note or any related Loan documents.

3.) Non-Encumbrance Provisions:

It is the express intention of the parties hereto that no Assets of the Borrower shall be burdened or encumbered in any manner by any debts, liabilities, or other direct or indirect obligations of the Borrower, until such time as the Loan is paid in full. Accordingly, the Borrower hereby agrees that it shall not, without the prior written consent of Lender, encumber any Assets of Borrower, nor allow any Encumbrance to occur with respect to the Assets of Borrower, until such time as the Loan is paid in full, including all accrued interest, principal, legal fees and any other charges permitted by the Note or any related Loan documents.

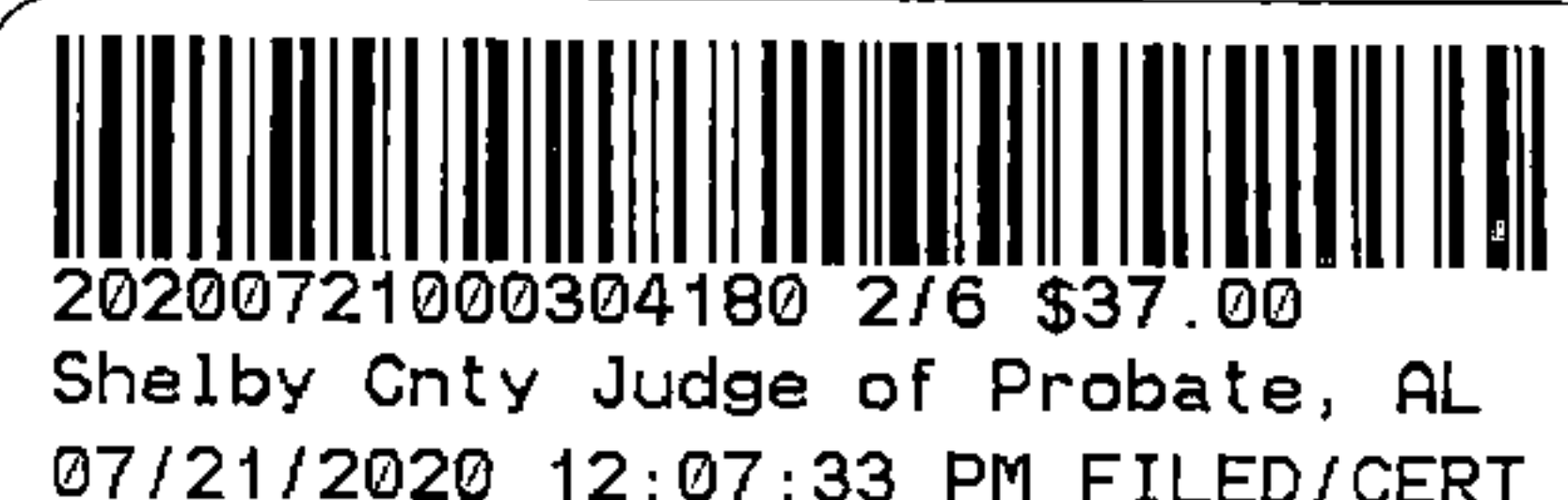
Notwithstanding the foregoing, the Borrower shall not be considered to be in breach of this Agreement by reason of any lien for real or personal taxes which occurs by operation of law, but which lien is paid within the time permitted by law to pay such liens without penalty or interest.

4.) Debts of Third Parties:

In addition to the promises made hereinabove, the Borrower shall not enter into any note, guaranty agreement, or other surety agreement of any kind or nature, whereby the debts or obligations of any Third Party, until such time as the Loan is paid in full, including all accrued interest, principal, legal fees and any other charges permitted by the Note or any related Loan documents.

5.) Default in Terms of this Agreement: Right to Effect Mortgage Lien:

a.) This Agreement shall constitute an integral part of the total agreement between Lender and Borrower with respect to the Loan. In the event that Borrower shall default in the terms and conditions of this Agreement, the same shall constitute a default in the terms and conditions of the Note, whereupon Lender may, at its option, accelerate the underlying indebtedness evidenced by the Note and declare the entire balance of the Note immediately due and payable in full, subject only to the right of Borrower to cure as provided in Paragraph (6) below.



b.) Without limiting the foregoing, in the event of a default by Borrower in the terms and conditions of this Agreement; or should Lender determine in its sole discretion and judgment that the likelihood of continued receipt of any payment(s) due under the Note has (have) been diminished or impaired for any reason; Lender may at once cause the Mortgage to be set to record in the Office of the Judge of Probate of Shelby County, Alabama, at Borrower's expense. The said Mortgage shall be effective as of the date of execution, notwithstanding recordation at a later date.

6.) Right to Cure Certain Defaults:

In the event that an Encumbrance shall occur by operation of law and not by way of an agreement or other document executed by Borrower and voluntarily permitting such Encumbrance, Borrower shall notify Lender of the same at once. Borrower shall have ten (10) days from the date on which Borrower receives notice of such Encumbrance in which to remove and extinguish the same. If the Encumbrance is so removed and extinguished within the time so allowed, then, notwithstanding the provisions of paragraph (5) above, Lender shall not accelerate, the Note solely as a result of the occurrence of the involuntary Encumbrance. However, if such Encumbrance is not timely removed as required by this Paragraph (6), then Lender may, at its option, immediately accelerate the entire remaining balance of the Note and exercise any and all available remedies as provided hereinabove, or as contained in the Mortgage, or otherwise available to Lender at law or equity.

7.) Other Warranties and Representations:

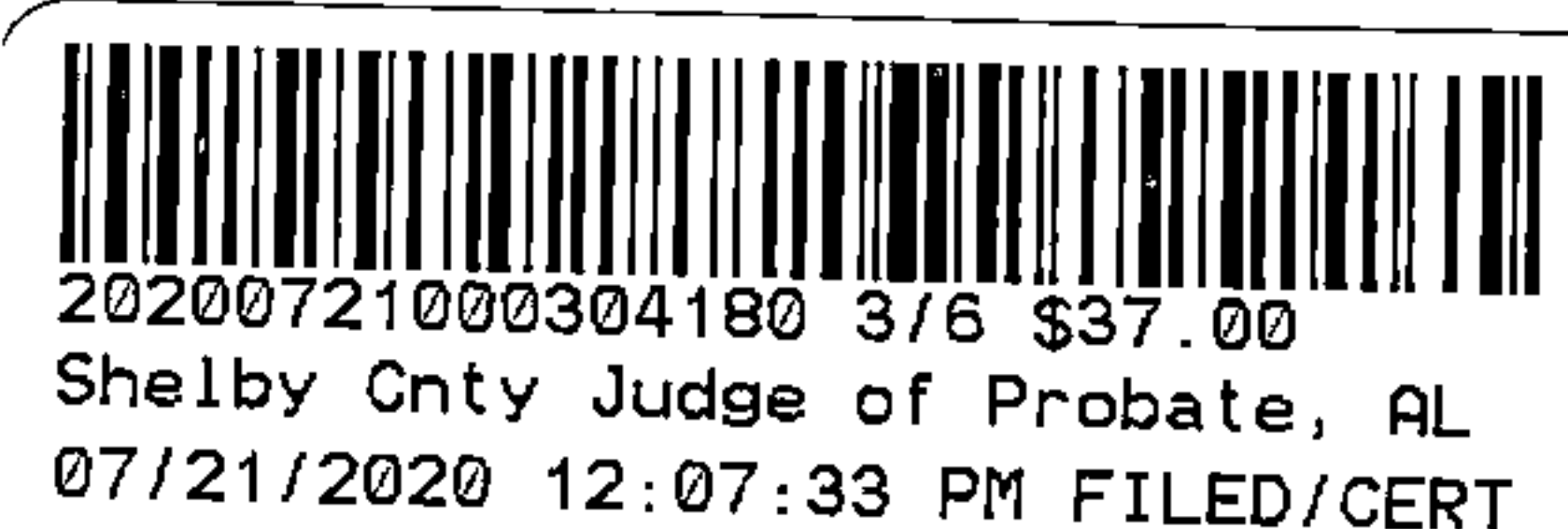
The Borrower hereby warrants that the information contained in any financial statement furnished to Lender by Borrower is true and accurate to the best of Borrower's knowledge and belief and that there do not exist in favor of any Third Party any liens or lien rights, except as have been disclosed in writing to Lender. Further, to the best of Borrower's knowledge and belief, there do not exist any circumstances which, with the passage of time, will or may result in any liens in favor of any Third Party except as have been disclosed to Lender in writing.

8.) Authority of Borrower to Enter into this Agreement:

The undersigned, personally and on behalf of Borrower in his capacity as an agent, trustee, or other officer of Borrower, do(es) hereby represent and warrant to Lender that the Borrower has duly approved the execution of this Agreement by Borrower and that the same is executed in accordance with the bylaws and charter of Borrower, if applicable, and that the execution hereof does not violate any provision of any loan agreement, or other agreement of any kind or nature, with any Third Party.

9.) Solvency of Borrower, Notice to Lender of Change in Financial Condition:

After reasonable investigation into the financial condition of Borrower, Borrower and each person executing this Agreement on behalf of Borrower, warrant and represent that Borrower is solvent as the date hereof; that Borrower is able to pay all of its debts (including the indebtedness contemplated hereby) as the same fall due; that Borrower does not contemplate the filing of any bankruptcy proceeding under any chapter of the U.S. Bankruptcy Code, at any time in the future; and that Borrower has not been advised by any accountant, financial advisor, or third party that Borrower should file bankruptcy relief at any time in the future. Without limiting the foregoing



provisions of this Agreement or of any other document executed by Borrower in connection with the subject loan, Borrower agrees that it shall at once notify Lender, in writing, of; any adverse change in Borrower's financial condition; the occurrence of any cause of action filed against Borrower at law; or, the occurrence of any other contingency which reasonably threatens to impair Borrower's ability to timely pay its just debts.

10.) Binding Effect:

To the full extent permitted by applicable law, this Agreement shall be binding upon the Borrower, its successors and assigns, any transferee of Borrower, any trustee in bankruptcy, and any other party having notice of this Agreement.

11.) Modifications to this Agreement:

Lender has made no oral representations concerning this Agreement nor the enforcement of the same. This Agreement may not be modified except by way of a written agreement signed by the Lender.

WHEREFORE, we have executed this Agreement on the date above first stated.

LENDER:

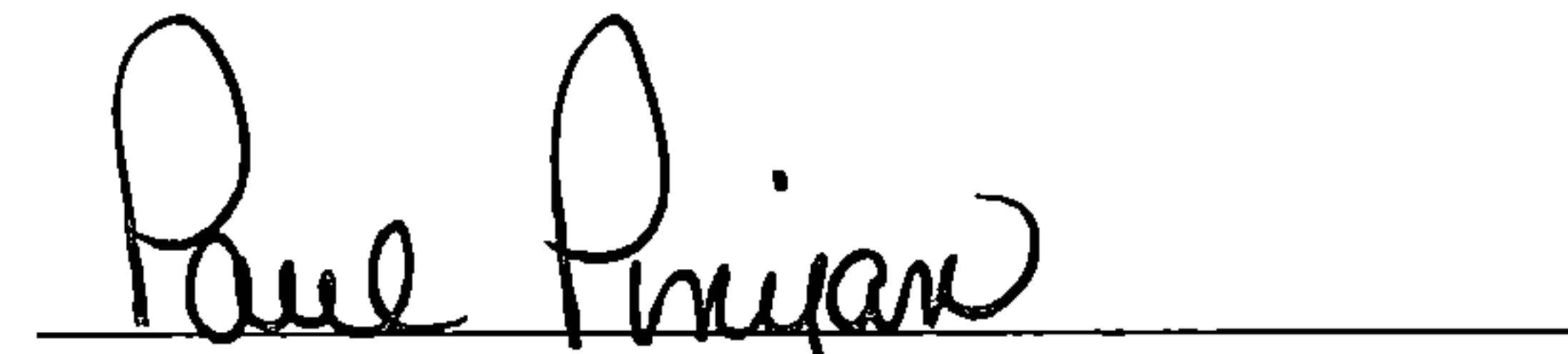
AuburnBank,
an Alabama banking corporation



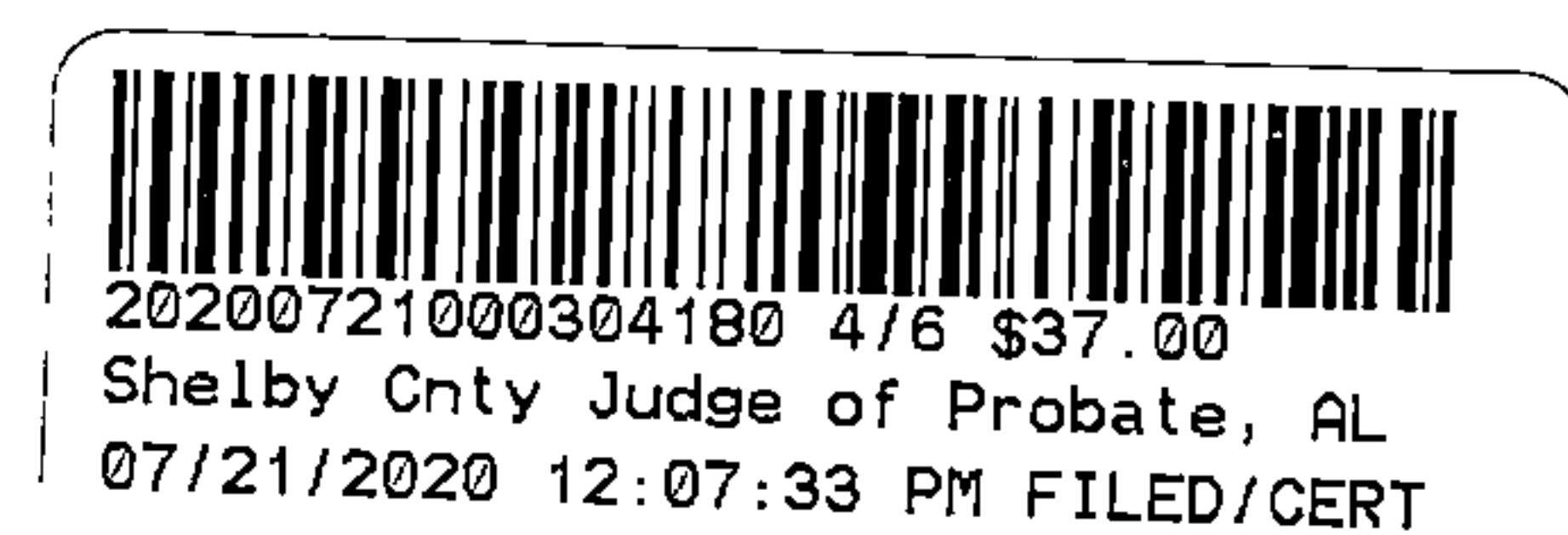
By: W. Thomas Johnson
Its: Senior Vice President

BORROWER:

The Alabama 4-H Club Foundation, Inc.,
an Alabama non-profit corporation



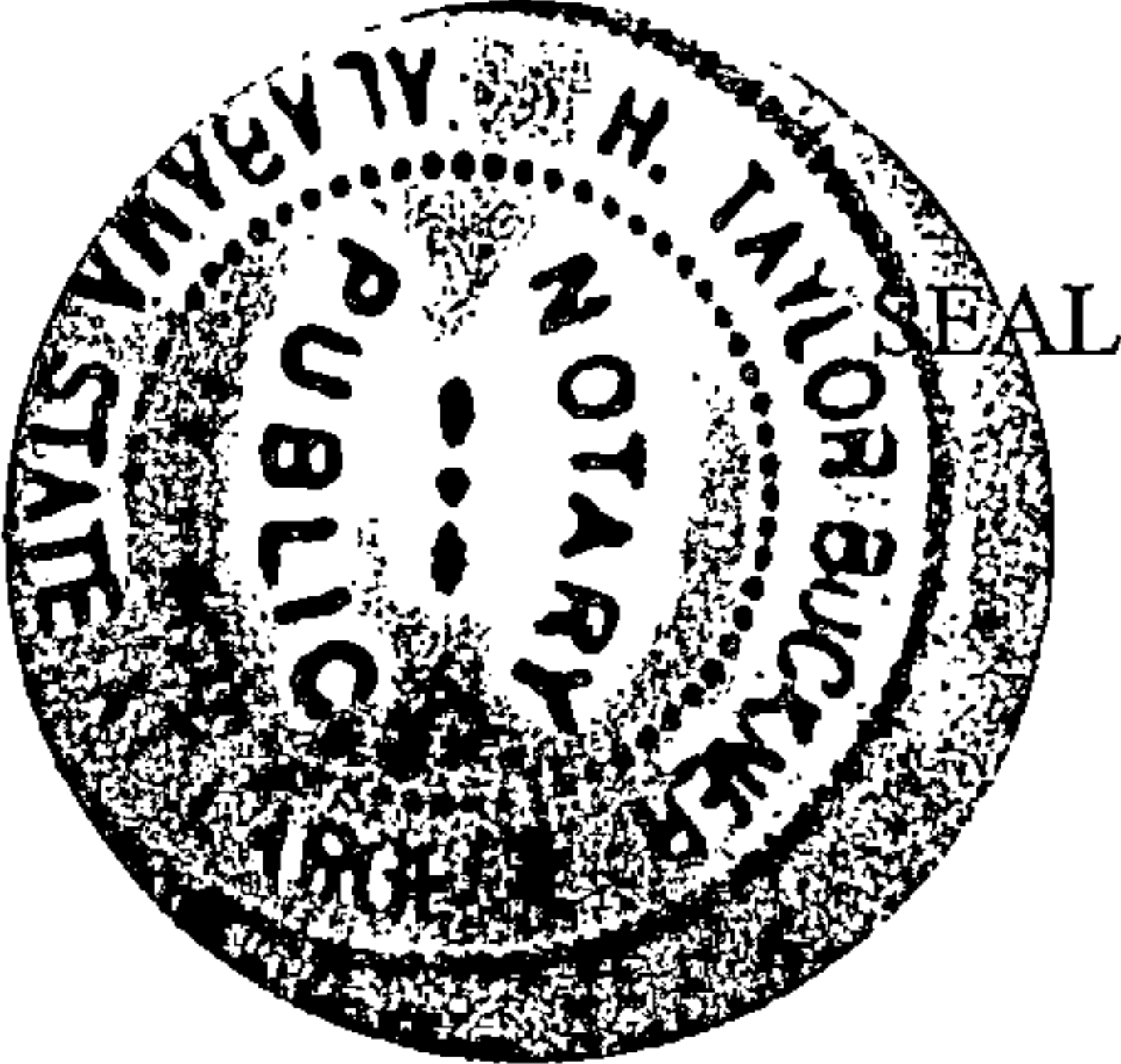
By: Paul Pinyan
Its: Chairman of the Board of Directors

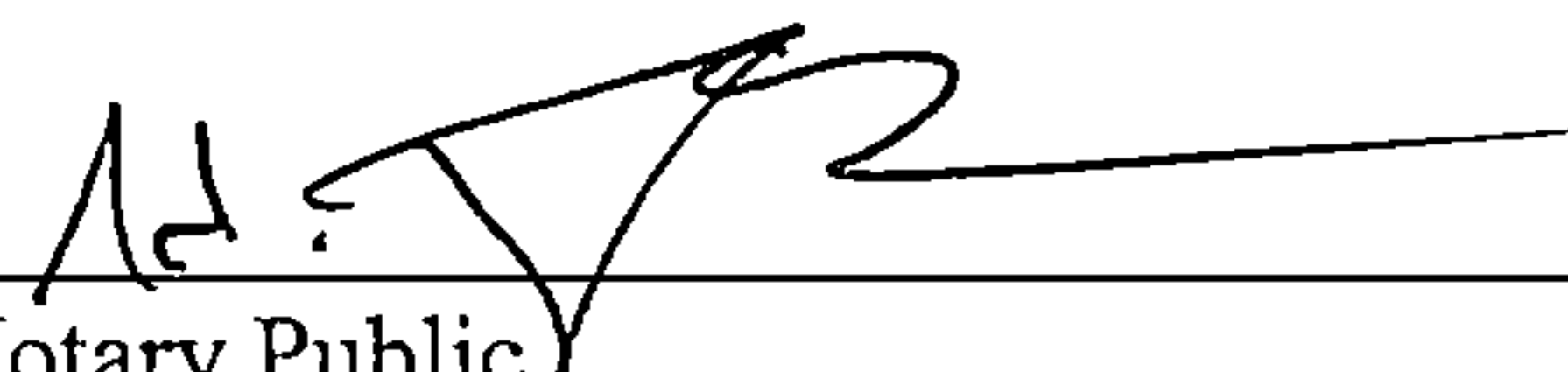


STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that **W. Thomas Johnson**, whose name as **Senior Vice President of AuburnBank**, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, as such officer and with full authority, executed the same for and as the act of said banking corporation.

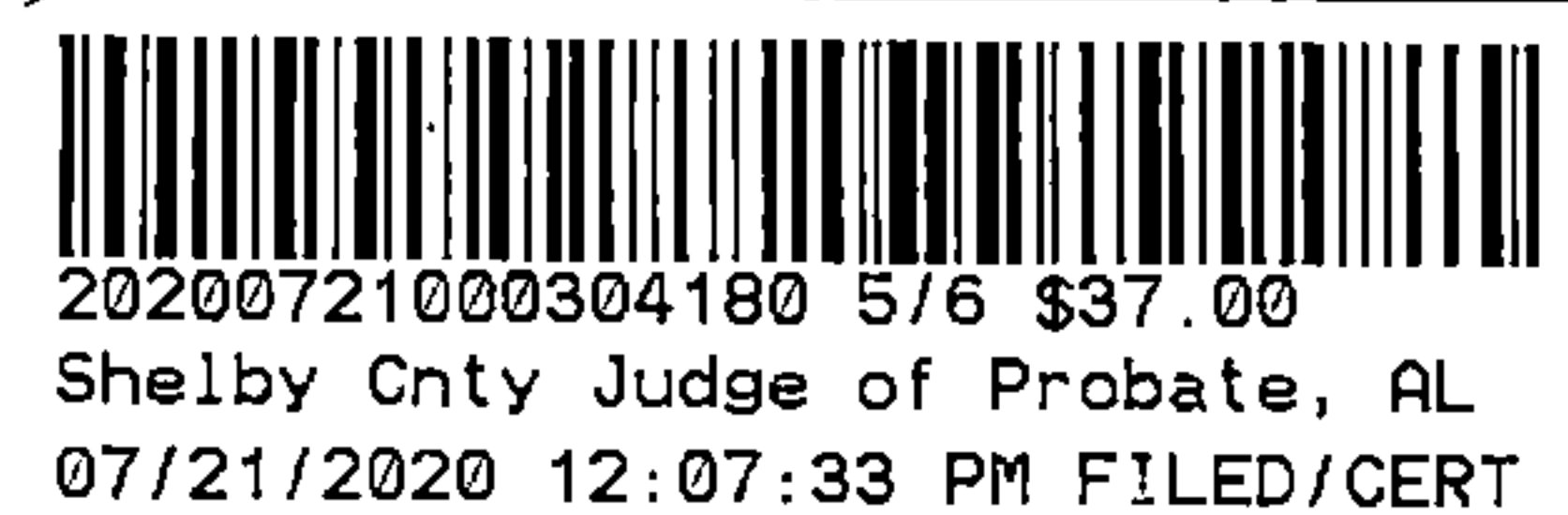
Given under my hand and seal of office this the 15th day of July, 2020.





Notary Public
My Commission Expires: _____

My Commission Expires December 1, 2020

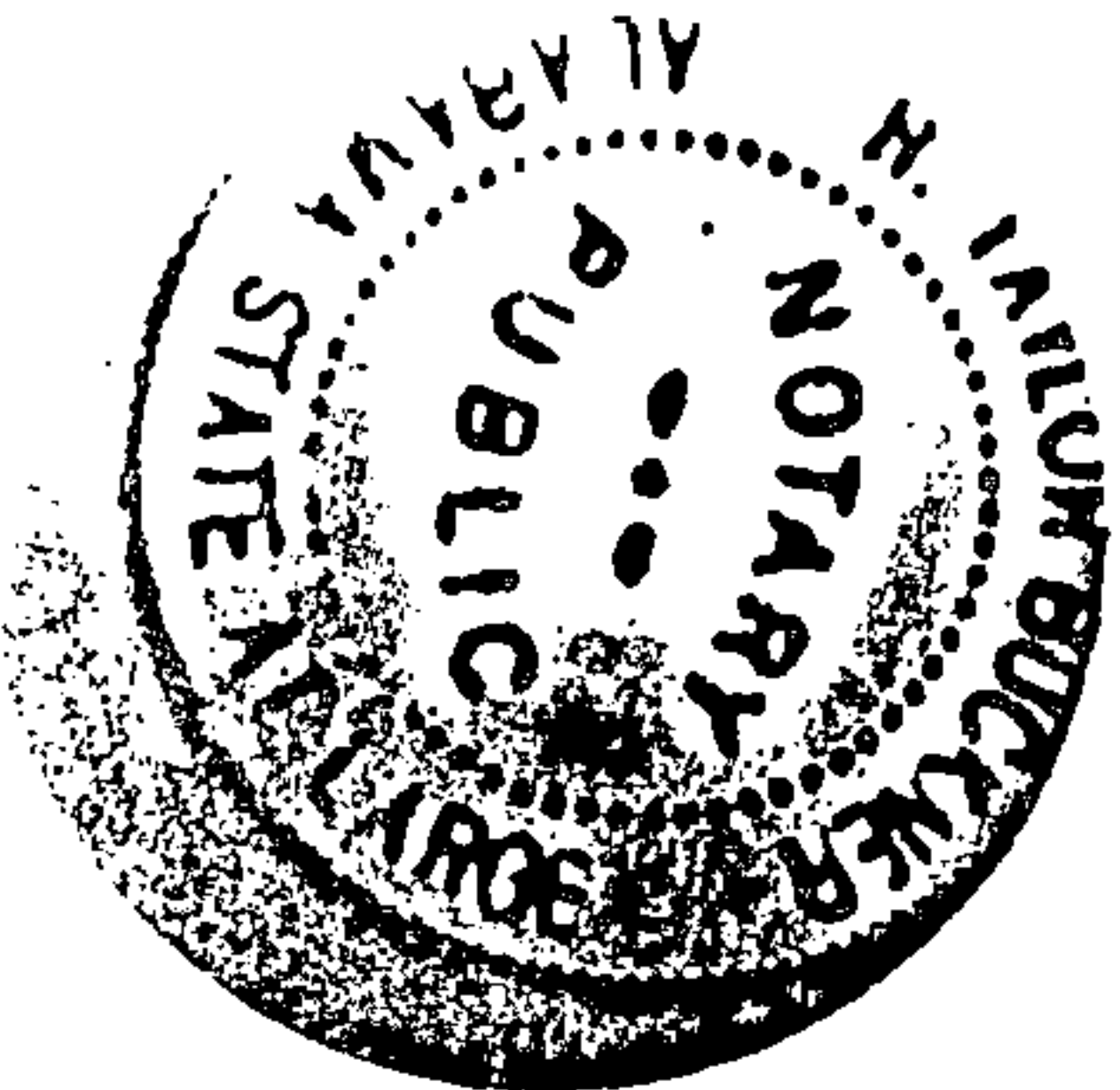


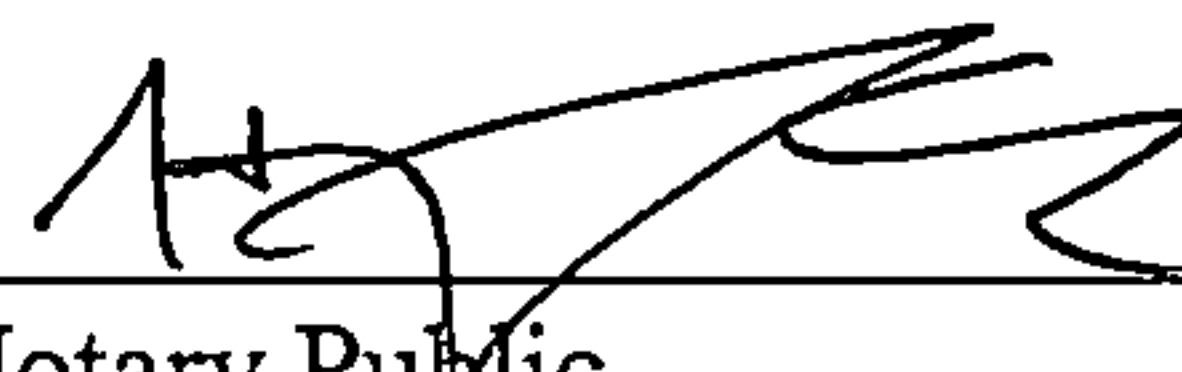
STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that **Paul Pinyan**, as **Chairman of the Board of Directors of The Alabama 4-H Club Foundation, Inc.**, an Alabama non-profit corporation, is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he, as such Chairman of the Board of Directors and with full authority executed the same voluntarily on the day the same bears date as the act of said Corporation.

GIVEN under my hand and seal of office this the 15th day of July, 2020.

SEAL





Notary Public
My Commission Expires: _____

My Commission Expires December 1, 2020

EXHIBIT A

That part of the S 1/2 of the SW 1/4 of Section 25, Township 21 South, Range 1 East lying West of the Coosa River and that part of the E 1/2 of NW 1/4 and that part of the W 1/2 of NE 1/4 of Section 36, Township 21 South, Range 1 East lying West of the Coosa River, Shelby County, Alabama.



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