

Upon recording return this instrument to:

Lennox-3, LLC
3505 Bent River Road
Hoover, Alabama 35216

This instrument was prepared by:

Michael M. Partain, Esq.
Attorney at Law
Michael M. Partain, LLC
The Kress Building
301 Nineteenth Street, Suite 501
Birmingham, Alabama 35203

Clerk: NICOLE

STATE OF ALABAMA)
COUNTY OF JEFFERSON)
COUNTY OF SHELBY)

AGREEMENT FOR RECIPROCAL EASEMENTS FOR INGRESS AND EGRESS AND UTILITIES

This AGREEMENT FOR RECIPROCAL EASEMENTS FOR INGRESS AND EGRESS AND UTILITIES (this "**Agreement**") is made as of this 10 day May 2021 (the "Effective Date"), by and between **Lennox, LLC**, an Alabama limited liability company ("Lennox"), and **Lennox 3, LLC**, an Alabama limited liability company ("Lennox 3").

WITNESSETH:

WHEREAS, Lennox is the owner of that certain real property more particularly described by the Resurvey of Lennox, a Condominium, as recorded in Map Book 51, Page 10, in the Probate Office of Shelby County, Alabama (the "Lennox Property"), and contiguous to the Lennox 3 Property defined below, which is depicted on **Exhibit A** attached hereto and incorporated herein by reference; and

WHEREAS, Lennox 3 is the owner of that certain real property more particularly described by Resurvey of Lennox Townhomes Phase 1 Map of Intent, as recorded in Map Book 247, Page 83, in the Probate Office of Jefferson County, Alabama (the "Lennox 3 Property"), and contiguous to the Lennox Property, which is depicted on **Exhibit B** attached hereto and incorporated herein by reference; and


WHEREAS, Lennox desires to grant to Lennox 3 a non-exclusive easement on, over, across, under, and through the proposed roads to be constructed on the Lennox Property (the "Lennox Roads") as depicted on **Exhibit A** for the purpose of providing ingress and egress to and from the Lennox 3 Property and the existing public road known as "Old Rocky Ridge Road"; and

WHEREAS, Lennox 3 desires to grant to Lennox a non-exclusive easement on, over, across, under, and through the roads located on the Lennox 3 Property (the "Lennox 3 Roads") depicted on **Exhibit B** for the purpose of providing ingress and egress to and from the Lennox Property and the existing public road known as "Old Rocky Ridge Road"; and

WHEREAS, Lennox further desires to grant to Lennox 3 the right, at Lennox 3's expense, to connect to the proposed electrical, potable water, telecommunications, and sanitary sewer facilities to be constructed by Lennox on the Lennox Property in order to serve to the Lennox 3 Property; and

WHEREAS, Lennox 3 further desires to grant to Lennox the right, at Lennox's expense, to connect to the electrical, potable water, telecommunications, and sanitary sewer facilities constructed by Lennox 3 on the Lennox 3 Property in order to serve to the Lennox Property.

NOW, THEREFORE, in consideration of all the covenants, terms, and conditions herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:


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Shelby Cnty Judge of Probate, AL
05/27/2021 04:15:25 PM FILED/CERT

1. **General.** The foregoing recitals are hereby incorporated herein as if fully set forth below. Except as otherwise specifically indicated, all references to Sections refer to Sections of this Agreement, and all references to Exhibits refer to the Exhibits attached hereto, which are hereby made a part hereof and incorporated herein by reference. The words "hereby," "hereof," "hereto," "hereunder," "hereinafter," "herein," and words of similar import refer to this Agreement as a whole and not to any particular Section hereof. The word "hereafter" shall mean after the date of this Agreement. The word "including" shall mean "including, without limitation." Captions and Headings used herein are for convenience only and shall not be used to construe the meaning of any part of this Agreement.

2. **Grant of Easements for Ingress and Egress by Lennox to Lennox 3.**

(a) Upon and subject to the terms hereof, and subject to any and all public or private rights or easements existing in or across the Lennox Property, and to the rights of any person or other person who may have an interest in the Lennox Property, Lennox hereby grants and conveys to Lennox 3 a perpetual and non-exclusive easement on, over, across, under, and through the Lennox Roads as generally depicted on **Exhibit A** for the purpose of providing ingress and egress to and from the Lennox 3 Property and the existing public road known as "Old Rocky Ridge Road".

(b) The easement granted hereunder is for the benefit of and are appurtenant to the Lennox 3 Property and is a burden on the Lennox Property and shall run with the Lennox 3 Property and the Lennox Property.

(c) Lennox reserves any and all right, title, and interest in and to the Lennox Property and Lennox Roads not expressly granted herein; provided that none of the foregoing shall unreasonably interfere with Lennox 3's full use and enjoyment of the Lennox Roads as contemplated hereunder.

(d) Lennox 3 acknowledges and agrees that the Lennox Roads have not been constructed as of the Effective Date and that Lennox shall have no obligation to do so. However, Lennox acknowledges and agrees that if and when the Lennox Roads are constructed then the parties shall amend this Agreement to substitute the map depicting the permanent locations of the Lennox Roads that Lennox 3 shall have the right to use under this Agreement.

(e) The parties agrees to consult and cooperate with regard to the determining the connecting points of the Lennox Roads and the Lennox 3 Roads as defined below.

3. **Grant of Easements for Ingress and Egress by Lennox 3 to Lennox.**

(a) Upon and subject to the terms hereof, and subject to any and all public or private rights or easements existing in or across the Lennox 3 Property, and to the rights of any person or other person who may have an interest in the Lennox 3 Property, Lennox 3 hereby grants and conveys to Lennox a perpetual and non-exclusive easement on, over, across, under, and through the Lennox 3 Roads depicted on **Exhibit A** for the purpose of providing ingress and egress to and from the Lennox Property and the existing public road known as "Old Rocky Ridge Road".

(b) The easement granted hereunder is for the benefit of and are appurtenant to the Lennox Property and is a burden on the Lennox 3 Property and shall run with the Lennox Property and the Lennox 3 Property.

(c) Lennox 3 reserves any and all right, title, and interest in and to the Lennox 3 Property and the Lennox 3 Roads not expressly granted herein; provided that none of the foregoing shall unreasonably interfere with Lennox's full use and enjoyment of the Lennox 3 Roads as contemplated hereunder.

(d) The parties agrees to consult and cooperate with regard to the determining the connecting points of the Lennox Roads and the Lennox 3 Roads.

4. **Grant of Right to Connect Utilities by Lennox to Lennox 3.**

(a) Lennox further grants to Lennox 3 the right, at Lennox 3's expense, to connect to any electrical, potable water, telecommunications, and sanitary sewer facilities that may be constructed by Lennox on the Lennox Property (the "Lennox Utilities") in order to serve to the Grantee Property.

(b) Lennox 3 acknowledges and agrees that the Lennox Utilities have not been constructed on the Lennox Property as of the Effective Date and that Lennox shall have no obligation to do so. However, Lennox acknowledges and agrees that if and when the Lennox Utilities are constructed then the parties shall amend this Agreement to substitute the map depicting the permanent locations of the Lennox Utilities on the Lennox Property that Lennox 3 shall have the right to use under this Agreement.

(c) The parties agrees to consult and cooperate with regard to the determining the connecting points of the Lennox Utilities and the Lennox 3 Utilities as defined below.

5. **Grant of Right to Connect Utilities by Lennox 3 to Lennox.**

(a) Lennox 3 further grants to Lennox the right, at Lennox's expense, to connect to the electrical, potable water, telecommunications, and sanitary sewer facilities constructed by Lennox 3 on the Lennox 3 Property (the "Lennox 3 Utilities") in order to serve to the Lennox Property.

(b) The parties agrees to consult and cooperate with regard to the determining the connecting points of the Lennox Utilities and the Lennox 3 Utilities.

6. **Maintenance of the Lennox Roads and the Lennox 3 Roads.** The parties agree that the costs and expenses for maintaining the Lennox Roads (if and when constructed) and the Lennox 3 Roads shall be shared by the parties based on the ratio of apartment units developed on the Lennox Property and the Lennox 3 Property, as follows:

Total number of units proposed to be developed on the Lennox Property divided by the total of the number of units proposed to be developed on the Lennox Property plus the number of units developed on the Lennox 3 Property = Lennox's share

Total number of units developed on the Lennox 3 Property divided by the total of the number of units proposed to be developed on the Lennox Property plus the number of units developed on the Lennox 3 Property = Lennox 3's share

This Section shall be amended by the parties after all units have been developed on the Lennox Property.

7. **Representations, Warranties, and Covenants of Lennox.**

(a) Lennox's use of the Lennox 3 Roads and the Lennox 3 Utilities: shall comply with all applicable federal, state, or local laws, rules, and regulations (including, without limitation, the rules, regulations, and requirements of the applicable governmental authorities); shall not unreasonably interfere the access to or use and enjoyment of the Lennox 3 Property, the Lennox 3 Roads, and the Lennox 3 Utilities by Lennox 3; shall not create a public or private nuisance; and shall not damage or injure any adjacent property or persons thereon.

(b) Lennox shall obtain all necessary permits and licenses for its activities on the Lennox 3 Roads and for connecting to the Lennox 3 Utilities at its sole expense and agrees to comply with all such permits and licenses. Lennox shall provide Lennox 3 with copies of said permit(s) and any and all associated documents, maps, and plans.



(c) Notwithstanding Section 6 above, Lennox shall promptly repair any damage to the Lennox 3 Property, the Lennox 3 Roads, and the Lennox 3 Utilities caused by, or resulting from, the Lennox's use of thereof.

8. Representations, Warranties, and Covenants of Lennox 3.

(a) Lennox 3's use of the Lennox Roads and the Lennox Utilities: shall comply with all applicable federal, state, or local laws, rules, and regulations (including, without limitation, the rules, regulations, and requirements of the applicable governmental authorities); shall not unreasonably interfere the access to or use and enjoyment of the Lennox Property, the Lennox Roads, and the Lennox Utilities by Lennox; shall not create a public or private nuisance; and shall not damage or injure any adjacent property or persons thereon.

(b) Lennox 3 shall obtain all necessary permits and licenses for its activities on the Lennox Roads and for connecting to the Lennox Utilities at its sole expense and agrees to comply with all such permits and licenses. Lennox 3 shall provide Lennox with copies of said permit(s) and any and all associated documents, maps, and plans.

(c) Notwithstanding Section 6 above, Lennox 3 shall promptly repair any damage to the Lennox Property, the Lennox Roads, and the Lennox Utilities caused by, or resulting from, the Lennox 3's use of thereof.

9. Insurance. Prior to a party's entry onto the other party's property (the Lennox Property or the Lennox 3 Property as the case may be) for any activities under this Agreement, the entering party shall cause its contractors to obtain and maintain in full force and effect the following insurance coverages:

Commercial General Liability: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$2,000,000 each occurrence for personal injury and property damage; \$2,000,000 each occurrence and aggregate for products and completed operations; \$4,000,000 general aggregate.

Automobile Liability Insurance: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$2,000,000 per accident for bodily injury and property damage, \$5,000,000 if hazardous materials or substances are to be transported.

Workers' Compensation: As required by the State of Alabama in which the work will be performed, and as required by any applicable Federal laws.

The parties agree to provide, or cause its contractors to provide, the other party with proof of the aforementioned insurance coverage in a form reasonably suitable to the other party.

10. Indemnification; Defense.

(a) The parties agree to defend, indemnify, and hold harmless the other from and against any and all losses, damages, liabilities, deficiencies, costs, and expenses of any nature whatsoever (including attorney's fees and defense, investigation, discovery, court, and other costs) suffered by the other party (each, a "Loss"), including those resulting from any claims, demands, actions, causes of action, or other legal or administrative proceedings at law or in equity against the other party (each, a "Claim"), arising from or relating to any of the following (i) personal injury (including illness, disease, or death, including workers' compensation Claims), property damage, or loss of use, maintenance, cure, profit, or wages arising from or relating to the indemnifying party's activities or the activities of its contractors, agents, employees, or invitees (each, a "Third Party"), including any Claim by an Third Party, in all cases irrespective of whether any Loss or Claim is caused or alleged to be caused by the sole, contributory, or concurrent passive negligence of the indemnified party regarding the condition of the indemnifying party's property (the Lennox

Property or the Lennox 3 Property as the case may be), including any patent or latent defects therein or thereon; (ii) the indemnifying party's breach of any representation, warranty, or covenant herein; and (iii) violation by the indemnifying party or any Third Party of any applicable law, rule, regulation, ordinance, or permit relating to the indemnifying party's property (the Lennox Property or the Lennox 3 Property as the case may be) or any of Third Party's activities thereon (all of the foregoing, the "Indemnified Matters").

(b) In defending any Claim, the indemnified party shall have the right to reasonably approve or disapprove of (i) the indemnifying party's legal counsel retained for any such matter, and in the event the indemnifying party's retained legal counsel is reasonably unacceptable to the indemnified party, then the indemnified party may engage its own counsel at indemnifying party's sole, but reasonable, cost and expense to represent the indemnified party in such matter, (ii) defenses, counterclaims, or cross claims by or on behalf of the indemnified party, and (iii) whether or not to settle any such matter.

11. Environmental Laws; Hazardous Substances.

(a) For the purposes of this Section: (i) "Environmental Laws" means all federal, state, and local environmental health or safety laws, rules, regulations, codes, ordinances, orders, and rules of common law now or any time hereafter in effect, including requirements of governmental authorities regulating, relating to, or imposing liability for, or standards of conduct for, any Hazardous Material, including the Comprehensive Environmental Response, Compensation and Liability Act and any so-called "Superfund" or "Superlien" law; and (ii) "Hazardous Material" means any hazardous, toxic, or dangerous substance, waste, or material, whether in solid, liquid, or gaseous form, including asbestos, petroleum products, and any and all substances and materials defined as hazardous, toxic, or dangerous in (or for purposes of) any Environmental Law.

(b) The parties covenant with the other that, except in compliance with Environmental Laws, (i) no flammable, explosive, or dangerous fluids or substances shall be used or kept on or about the other party's property (the Lennox Property or the Lennox 3 Property as the case may be), (ii) the parties shall not, without the other party's prior written consent, bring, introduce, install, store, maintain, use, spill, remove, release, or dispose of any Hazardous Material on or about the other party's property (the Lennox Property or the Lennox 3 Property as the case may be), (iii) the parties shall, and their use of the other party's property (the Lennox Property or the Lennox 3 Property as the case may be) shall, comply with all Environmental Laws, and (iv) the parties will immediately notify the other party of (a) any violation of any Environmental Law, (b) receipt of any notice or warning from, and/or any visit by, any environmental governmental agency for any reason whatsoever.

(c) In the event there is a spill, release, or disposal of any Hazardous Materials on the other party's property (the Lennox Property or the Lennox 3 Property as the case may be), the parties will immediately cease transmitting any Hazardous Materials under, on, or over the other party's property (the Lennox Property or the Lennox 3 Property as the case may be) until such time as the owner of such property certifies that the Hazardous Materials spilled, released, or disposed of on other party's property (the Lennox Property or the Lennox 3 Property as the case may be) have been satisfactorily cleaned and that appropriate measures have been taken to remedy the cause of the spill, release, or disposal, both in the discretion of the owner of such property.

12. Default; Grantor's Remedies.

(a) Each of the following shall be an "Event of Default":

(i) The failure of the other party to perform any term, condition, covenant, or agreement contained herein, and the continuance of such failure for a period of thirty (30) days after written notice from the non-defaulting party specifying such failure (unless such failure cannot, by its nature, reasonably be performed within such 30-day period, in which case no Event of Default shall be deemed to exist so long as the defaulting party shall have commenced curing the same within such 30-day period thereafter diligently and continuously pursue the same to completion); and

(ii) taking by any person of the defaulting party's interest in this Agreement upon execution, attachment, or other process of law or equity; or

(b) Upon the occurrence of an Event of Default, in addition to all other rights and remedies provided hereunder, at law, or in equity, the non-defaulting may: (i) cure such default on the defaulting party's account and charge the defaulting party for the reasonable costs thereof, which shall be due and payable by the defaulting party to the non-defaulting party immediately upon the non-defaulting party's provision of a receipt of the same to the defaulting party; and/or (ii) seek to recover damages for any loss the non-defaulting party may have suffered as a result of such default, together with all of the non-defaulting enforcement expenses (including reasonable costs and attorneys' fees).

(c) No remedy conferred upon or reserved to the non-defaulting party hereunder or at law or in equity shall be considered exclusive of any other remedy, but all such remedies are cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

2. Miscellaneous.

(a) Entire Agreement; Binding Effect. This Agreement, including any terms and conditions incorporated herein or attached hereto, constitutes the entire agreement between the parties, and there are no representations, oral or written, that have not been incorporated herein. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. No representation, inducement, promise, understanding, condition, or warranty not set forth herein has been made or relied upon by either party.

(b) Amendment. This Agreement may be amended, renewed, extended, or canceled only by a written instrument executed on behalf of each of the parties hereto by an authorized representative of each party, and neither party shall, at any time or in any way, assert or contend that any amendment, extension or cancellation of this Agreement (or any part or parts, including this Section) has been made other than by a written instrument so executed.

(c) Assignment. Neither party may transfer or assign its rights and obligations under this Agreement, in whole or in part, except in connection with the transfer and sale of the assigning party's property (the Lennox Property or the Lennox 3 Property as the case may be) in whole or in part.

(d) Dedication of the Lennox Roads and Lennox 3 Roads. The parties acknowledge and agree that the Lennox Roads and the Lennox 3 Roads may be dedicated upon written consent of the parties to the City of Hoover, Alabama, for public road purposes, subject to the terms and conditions of this Agreement.

(e) Notice. Any notice that may at any time be required to be given hereunder shall be deemed to have been properly given if personally hand delivered to the other party, by reputable overnight delivery service such as Federal Express or UPS or if sent by United States first class registered or certified mail, postage prepaid as set forth below. Notice made via email may satisfy the requirements in this Section only if the receiving party waives in reply email the personal, overnight, or certified mail delivery requirements of this Section. Except as otherwise provided in this Agreement, a notice is effective only (i) on receipt by the receiving party, and (ii) if the party giving the Notice has complied with the requirements of this Section.

If to Lennox:

Lennox, LLC
3505 Bent River Road
Hoover, Alabama 35216
Attention: Charles G. Kessler, Jr.

If to Lennox 3:

Lennox 3, LLC
3505 Bent River Road
Hoover, Alabama 35216
Attention: Charles G. Kessler, Jr.

Either party may by such a notice to the other party designate a different addressee to whom or address to which any such notice shall be sent.


(f) Construction; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

(g) Counterpart. This Agreement may be signed in one or more counterparts, and by facsimile transmission, all of which shall be treated as one and the same original agreement. Each party shall provide an executed copy to the other.

(h) Severability. If any provision of this Agreement is found to be invalid or otherwise unenforceable in any court of competent jurisdiction, the allegedly invalid or unenforceable provision shall be deemed valid and enforceable to the maximum extent permitted by law and shall be deemed to be amended to the minimum extent necessary to make it valid and enforceable in such jurisdiction, and the alleged invalidity and/or unenforceability in such jurisdiction shall not affect the validity or enforceability of any other provision hereof in such jurisdiction or the validity or enforceability of the allegedly invalid and/or unenforceable provision, or of any other provision hereof, in any other jurisdiction.

(i) Gender; Tense. Whenever the context so requires, the use of the masculine gender shall be deemed to include the feminine, the singular shall include the plural and vice versa.

(Remainder of page intentionally left blank. See following pages for signatures.)


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Shelby Cnty Judge of Probate, AL
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by its duly authorized officer or representative.

Lennox, LLC

By: [Signature]

Name: CHARLES G. KEGGNER, JR.

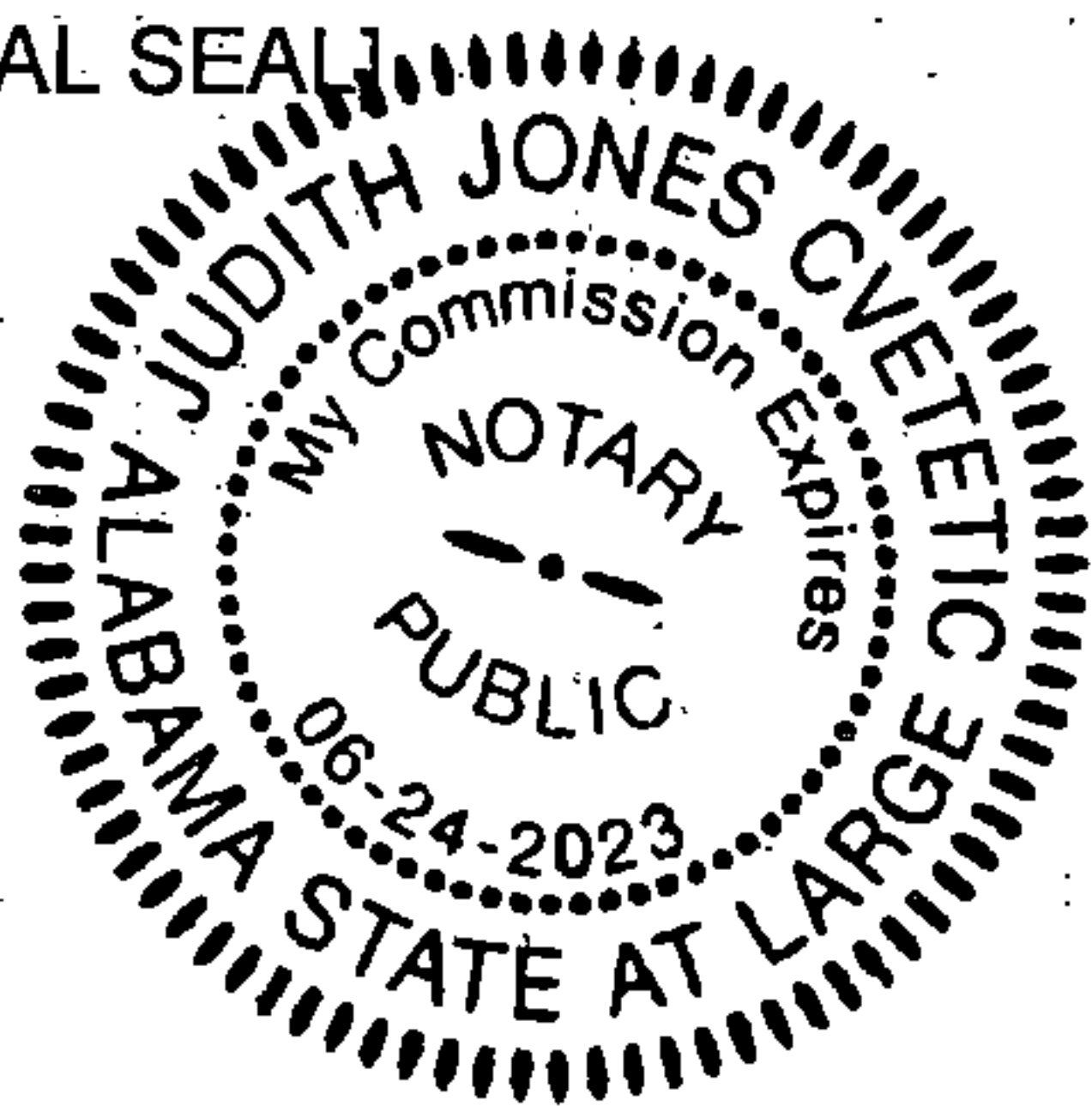
Its: SOLE MEMBER

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Charles G. Keggner, Jr., whose name as SOLE MEMBER of **Lennox, 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 the instrument, he, in such capacity, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 10 day of May, 2021

[NOTORIAL SEAL]



[Signature]
Notary Public

My commission expires: 06/24/2023



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Lennox 3, LLC

By: [Signature]

Name: CHARLES G. KESSLER JR.

Its: SOLE MEMBER

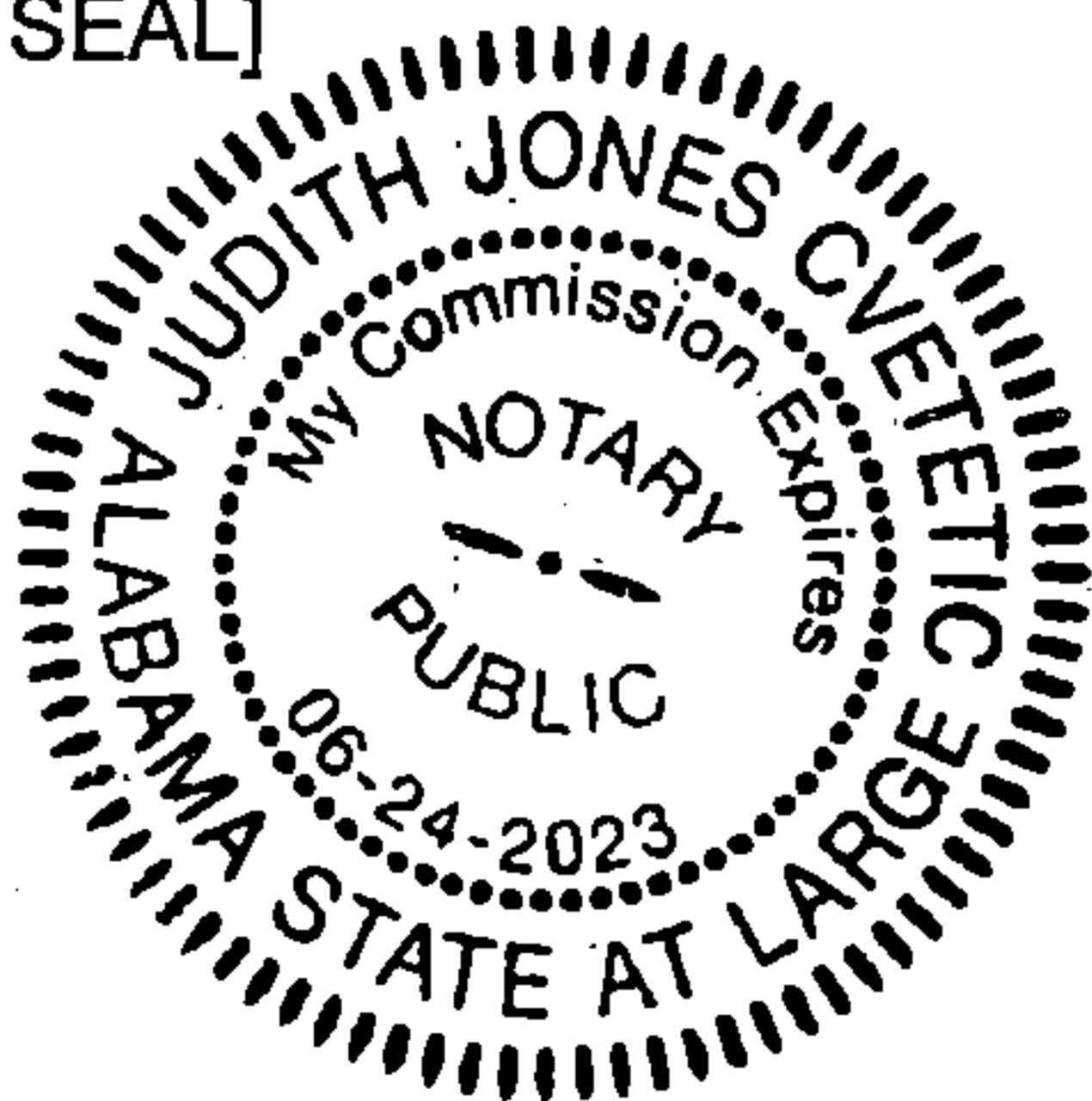
STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Charles G. Kessler Jr., whose name as SOLE MEMBER of **Lennox 3, 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 the instrument, he, in such capacity, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 10 day of May, 2021.

[Signature]
Notary Public
My commission expires: 06/24/2023

[NOTORIAL SEAL]



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Shelby Cnty Judge of Probate, AL
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EXHIBIT A

Map of the Lennox Property and the Lennox Roads

(see attachment)



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EXHIBIT B

Map of the Lennox 3 Property and the Lennox 3 Roads

(see attachment)



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SITUATED IN THE NE 1/4 OF SECTION 18, TWP 19 SOUTH, RANGE 2 WEST & THE SE 1/4 OF SECTION 7, TWP 19 SOUTH, RANGE 2 WEST & THE SW 1/4 OF SECTION 8, TWP 19 SOUTH, RANGE 2 WEST & THE NW 1/4 OF SECTION 17 TWP 19 SOUTH, RANGE 2 WEST IN JEFFERSON COUNTY, ALABAMA, BEING A REMAINDER OF LENOIX TOWNSHIP, PHASE 1, MAP OF INDIAN, AS RECORDED IN BOOK 245, PAGE 18, IN THE PROBATE OFFICE OF THE JUDGE OF PROBATE, JEFFERSON COUNTY, ALABAMA

20' SANITARY SEWER EASEMENTS RECORDED IN
JEFFERSON COUNTY DEED BOOK 200808, PAGE 10470
AND INSTRUMENT NO. 201611995

