



20221101000409370 1/13 \$58.00
Shelby Cnty Judge of Probate, AL
11/01/2022 10:51:06 AM FILED/CERT

This instrument prepared by:
Rod Kanter, Esq.
Bradley Arant Boult Cummings LLP
1819 Fifth Avenue North
Birmingham, Alabama 35203
Telephone: 205-521-8000

LICENSE FEE COLLECTION AGREEMENT

This License Fee Collection Agreement (this "License Fee Collection Agreement") is entered into as of the 27th day of October, 2022 (the "Effective Date"), by and among the **Canopy Cooperative District**, an Alabama public corporation, (the "District"), **HCI Oak Mountain, LLC**, an Alabama limited liability company (the "Developer"), **Canopy Base Camp, LLC**, an Alabama limited liability company ("Base Camp"), and **Campus Park Apartments & Shops, LLC**, an Alabama limited liability company ("Apartments"). The Developer, Base Camp and Apartments from time to time are herein referred to collectively as the "Companies" and, individually, from time to time, as a "Company".

WITNESSETH:

WHEREAS, the City of Pelham, Alabama (the "City") is party to that certain Development Agreement dated August 9, 2019, as amended (the "Canopy Development Agreement") between the City and the Developer under and pursuant to which the City and the Developer agreed for various public capital improvements to be made benefitting a commercial development (and its customers) defined therein as the "Development" (the "Canopy Development"); and

WHEREAS, among the public capital improvements benefitting the Canopy Development (and its customers) to be constructed and installed pursuant to the Canopy Development Agreement include (i) the widening of a public roadway known as "Amphitheater Road" in the City as shown and reflected by item "1" on Exhibit A hereto (the "Amphitheater Road Improvements"), (ii) utility and related public infrastructure improvements within the City as shown and reflected by item "2" on Exhibit A hereto (the "Utility and Infrastructure Improvements"), (iii) signalized pedestrian crosswalk improvements as shown and reflected by item "3" on Exhibit A hereto (the "Signalization and Crosswalk Improvements"), and (iv) improvements to a public roadway known as "Oak Mountain Drive" in the City, as shown and reflected by item "4" on Exhibit A hereto (the "Oak Mountain Drive Improvements"); the Amphitheater Road Improvements, the Utility Infrastructure Improvements, the Signalization and Crosswalk Improvements, and the Oak Mountain Drive Improvements are herein collectively called the "Canopy Public Infrastructure Improvements"; and

WHEREAS, under the Canopy Development Agreement, the Developer and the City agreed for the District to be created in order to levy a special license fee in the amount of one percent (1.0%) against all retail sales of tangible personal property in the Canopy Development, other than from billboard advertising sales, to assist with the payment of the costs of the Canopy Public Infrastructure Improvements (including reimbursement for such costs paid by the City) (collectively, the "Canopy Public Infrastructure Improvements Costs"); and

WHEREAS, the District was created pursuant to Chapter 99B, Title 11, Code of Alabama 1975, as amended (the "Enabling Law"), to acquire, receive and take, by purchase, gift, lease, devise or otherwise and to hold property of every description and to further plan, establish, develop, acquire, purchase, lease, construct, reconstruct, enlarge, improve, maintain, equip and operate the Canopy Public Infrastructure Improvements; and

WHEREAS, the Canopy Public Infrastructure Improvements will benefit the Canopy Development, including without limitation, the owners of the Canopy Development, the businesses operating within the Canopy Development, the customers of the Canopy Development and other users of the Canopy Public Infrastructure Improvements; and

WHEREAS, the City is providing funds for the purpose of designing, developing, constructing, acquiring and installing the Canopy Public Infrastructure Improvements, and under a Joint Ownership and Financing Agreement - Canopy Public Infrastructure Improvements, the District will be an owner of the Canopy Public Infrastructure Improvements; and

WHEREAS, pursuant to the Enabling Law, the District is imposing a special license fee against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, upon every person, firm, or corporation within the area of the Canopy Development (as such area is more particularly described on Exhibit B hereto) engaged in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities (including without limitation food and beverages of all types) of every kind and character, an amount equal to one percent (1.0%) of the gross proceeds of sales of the business; provided, however such license fee shall only be imposed on sales for which City sales and use taxes are also charged and, further, that any person engaging in business as a retailer shall pay the fee required on the gross proceeds of retail sales of such business at the rate specified, when his or her books are kept so as to show separately the gross proceeds of sales of each business, and when his or her books are not so kept he or she shall pay the fee as retailer on the gross sales of the business (the "License Fee"); and

WHEREAS, Base Camp is the owner of Lot A, according to the Plat of The Canopy, recorded in Map Book 55, Page 5, in the Office of the Judge of Probate of Shelby County, Alabama and intends to develop approximately 16,500 square feet of retail and restaurant space on such parcel, to be operated by third party lessees of Base Camp; and

WHEREAS, Apartments is the owner of Lot C, according to the Plat of The Canopy, recorded in Map Book 55, Page 5, in the Office of the Judge of Probate of Shelby County, Alabama and intends to develop approximately 8,000 square feet of retail space and restaurant on such parcel, to be operated by third party lessees of Apartments; and

WHEREAS, the Companies have agreed to enter this License Fee Collection Agreement respecting the collection and remittance to the City, for the District's account, of the License Fee imposed by the District on those sales within the Canopy Development for which City sales and use taxes are also charged in order to pay the costs (including reimbursement to the City for such costs) of designing, developing, constructing, installing, equipping, maintaining, repairing, and operating the Canopy Public Infrastructure Improvements;



NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt of which is hereby acknowledged, the District and each of the Companies do hereby agree as follows:

Section 1. Imposition of License Fee. The District hereby imposes the License Fee on those sales within the District for which City sales and use taxes are also charged in order for such License Fee receipts to pay the costs (including reimbursement to the City for such costs) of designing, developing, constructing, installing, maintaining, and operating the Canopy Public Infrastructure Improvements, for a period of thirty years from the Effective Date, or such earlier date as the costs (including reimbursements to the City) of designing, developing, constructing, installing, maintaining, and operating the Canopy Public Infrastructure Improvements have been paid in full.

Section 2. Charging and Collection of License Fee – New Tenants. Each of the Companies each agrees that, for any lease of areas owned by it within the Canopy Development not in effect as of the Effective Date, such Company shall include the following provisions in such leases requiring the tenant thereunder to:

- (i) collect the License Fee on those activities on the Canopy Development subject to the License Fee and for which City sales and use taxes are also collected;
- (ii) show the License Fee on all customer receipts, invoices and similar documents, separate and apart from City, state and local taxes and by an indication of "COOP Lic Fee", "Special License Fee", or similar designation that under no circumstances whatsoever uses the term "City" or "Pelham";
- (iii) remit all payments of the License Fee, for any month charged, directly to the City for the account of the District not later than the 25th day of the immediately succeeding month (each date of payment, a "Payment Date") using the form set forth on Exhibit C (the "Monthly Payment Form");
- (iv) comply with any request by the City, upon reasonable prior notice by the City, to audit the information provided by such tenant in its reports to the City of collections of the License Fee; and
- (v) send all payments of the License Fee and the applicable Monthly Payment Form to the following address unless otherwise directed in writing by the City on behalf of the District:

If by Mail	If by Hand
Canopy Cooperative District c/o City of Pelham P.O. Box 1419 Pelham, Alabama 35124	Canopy Cooperative District c/o City of Pelham 3162 Pelham Parkway Pelham, Alabama 35124



Each of the Companies agrees to make the District a third-party beneficiary of the foregoing provisions in the lease to which they are included solely for the purpose of enforcing a tenant's obligations with respect to the foregoing provisions. In no event will any Company be personally liable for any of the obligations of any tenant to the District as set forth above, nor will any Company be responsible for collecting such License Fees or otherwise enforcing any tenant's obligations in respect of the collection and payment of such License Fees as required herein, and in no event will any party other than the Company to such lease have the right to declare a default under the lease due to the tenant's default in its obligations to the District as set forth above.

Section 3. Charging and Collection of License Fee – Existing Tenants. Each of the Companies hereby agrees that, for any lease of areas within the Canopy Development that are in effect as of the Effective Date, that the Company shall send written notice to such tenant that it will be required to:

- (i) collect the License Fee on those activities on the Canopy Development subject to the License Fee and for which City sales and use taxes are also collected;
- (ii) show the License Fee on all customer receipts, invoices and similar documents, separate and apart from City, state and local taxes and by an indication of "COOP Lic Fee", "Special License Fee", or similar designation that under no circumstances whatsoever uses the term "City" or "Pelham";
- (iii) remit all payments of the License Fee, for any month charged, directly to the City for the account of the District not later than the 25th day of the immediately succeeding month (each date of payment, a "Payment Date") using the form set forth on Exhibit C (the "Monthly Payment Form");
- (iv) comply with any request by the City, upon reasonable prior notice by the City, to audit the information provided by such tenant in its reports to the City of collections of the License Fee; and
- (v) send all payments of the License Fee and the applicable Monthly Payment Form to the following address unless otherwise directed in writing by the City on behalf of the District:

If by Mail	If by Hand
Canopy Cooperative District c/o City of Pelham P.O. Box 1419 Pelham, Alabama 35124	Canopy Cooperative District c/o City of Pelham 3162 Pelham Parkway Pelham, Alabama 35124

In no event will any Company be personally liable for any of the obligations set forth of any existing tenant to the District as set forth above, nor will any Company be responsible for collecting such License Fees or otherwise enforcing any existing tenant's obligations in respect of the collection and payment of such License Fees as required herein, and in no event will any

party other than the Company to such lease have the right to declare a default under the lease due to the tenant's default in its obligations to the District as set forth above.

Section 4. Transfers Respecting Canopy Development. If a Company elects to sell or convey any portion of the Canopy Development (the purchaser or recipient of such portion, the "Transferee"), such conveyance shall relieve such Company from its obligations hereunder only if such Transferee enters a valid, binding written agreement, naming the City and the District as third-party beneficiaries thereof, under which the Transferee agrees to assume all obligations of such Company hereunder for that portion of the Canopy Development so sold or transferred to the Transferee. Such Company shall provide written notice of any sale or transfer of any portion of the Canopy Development to the District, and shall include the corporate name of the Transferee, along with a contact name and officer title, electronic mail address, and physical address for the Transferee.

Section 5. City a Third Party Beneficiary. This Agreement shall bind and inure to the benefit only of the Companies, the District and the City. Each of the Companies and the District acknowledge and agree that the City is a third party beneficiary to this License Fee Agreement, with all rights to enforce the obligations of the District and the Companies hereunder as if a party hereto. Upon a default or failure by a Company to comply with the terms of this License Fee Agreement, the City may elect to exercise any and all rights available under applicable law respecting such Company.

Section 6. No Amendment Without Consent of District and the Companies. This Agreement may only be amended subject to the prior written consent of the District and the Companies.

Section 7. Annual Report of License Fee Collections and Expenses. Within forty five (45) days following the end of each calendar year while this Agreement is in effect, the City shall provide to the Companies a written report providing, for the calendar year most recently ended (i) the amount of collections from the License Fee, and (ii) a description of the Canopy Public Infrastructure Improvements expenses paid with such collections.



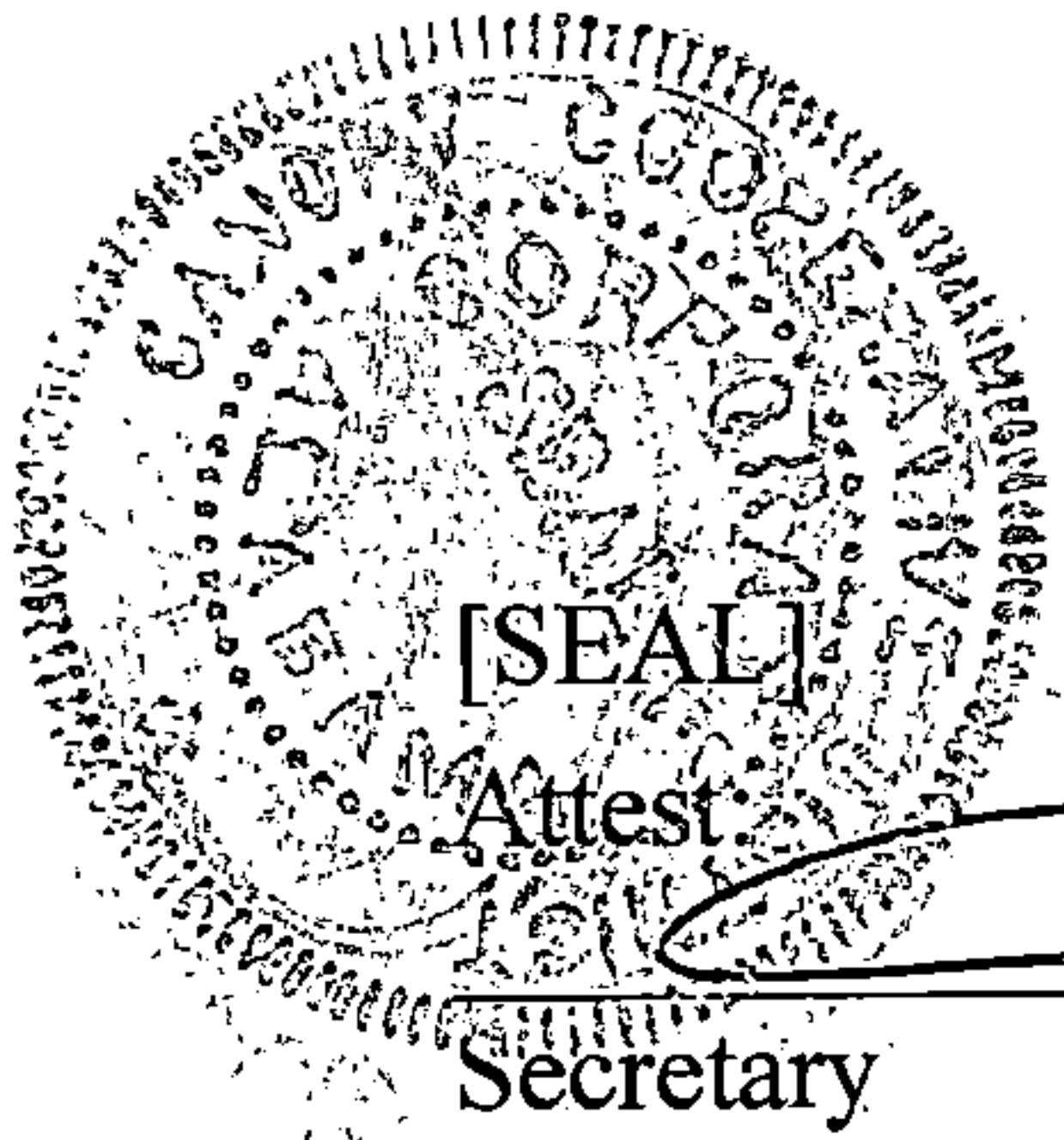
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed under seal, each by its duly authorized officers, as of the date first above written.

CANOPY COOPERATIVE DISTRICT

By: _____

James L. Davis
Chairman
Board of Directors



[SEAL]

Attest

Secretary

HCI OAK MOUNTAIN, LLC,
an Alabama limited liability company

By: _____

W. Jordy Henson
W. Jordy Henson
Its Manager

CANOPY BASE CAMP, LLC,
an Alabama limited liability company

By: _____

W. Jordy Henson
W. Jordy Henson
Its Manager

CANOPY PARK APARTMENTS & SHOPS, LLC, a
Delaware limited liability company

By: Canopy Park Holdings, LLC,
a Delaware limited liability company,
its Sole Member

By: Canopy Park Investors, LLC,
a Delaware limited liability company
Its Manager

By: HWF Canopy Development, LLC,
a Delaware limited liability company
Its Manager

By: _____

Chuck Welden
Name: Chuck Welden
Its Manager

By: _____

W. Jordy Henson
Name: W. Jordy Henson
Its Manager



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STATE OF ALABAMA

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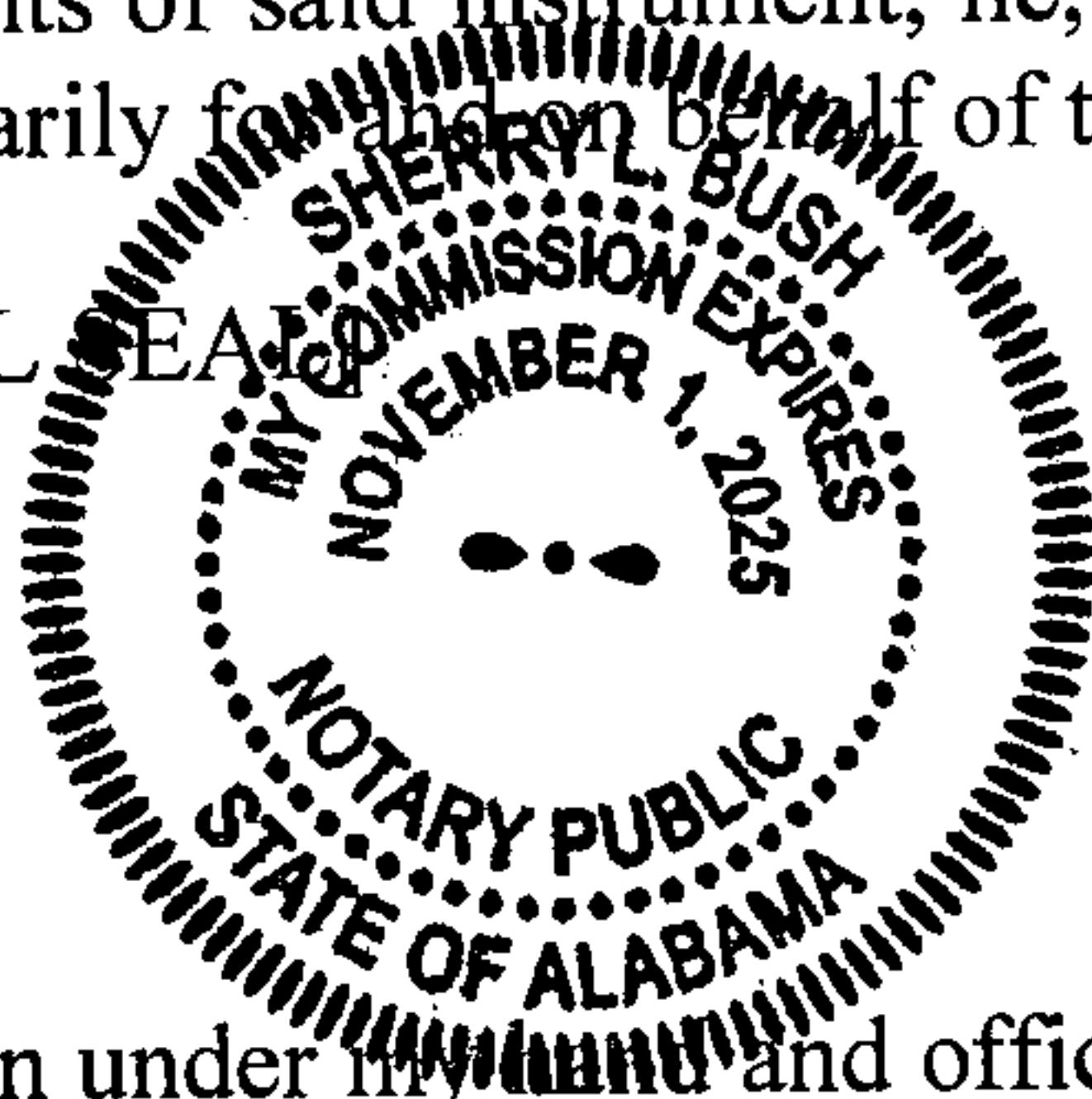
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COUNTY OF SHELBY

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I, the undersigned, a notary public in and for said county in said state, hereby certify that James Harris, whose name as Chairman of the Board of Directors of the **CANOPY COOPERATIVE DISTRICT**, an Alabama public 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, as such Chairman of the Board of Directors, executed the same voluntarily for and on behalf of the aforesaid public corporation.

[NOTARIAL SEAL]



Sherry L Bush
Notary Public
My Commission Expires: _____

Given under my hand and official seal this the 26th day of October, 2022.

STATE OF ALABAMA

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COUNTY OF SHELBY

)

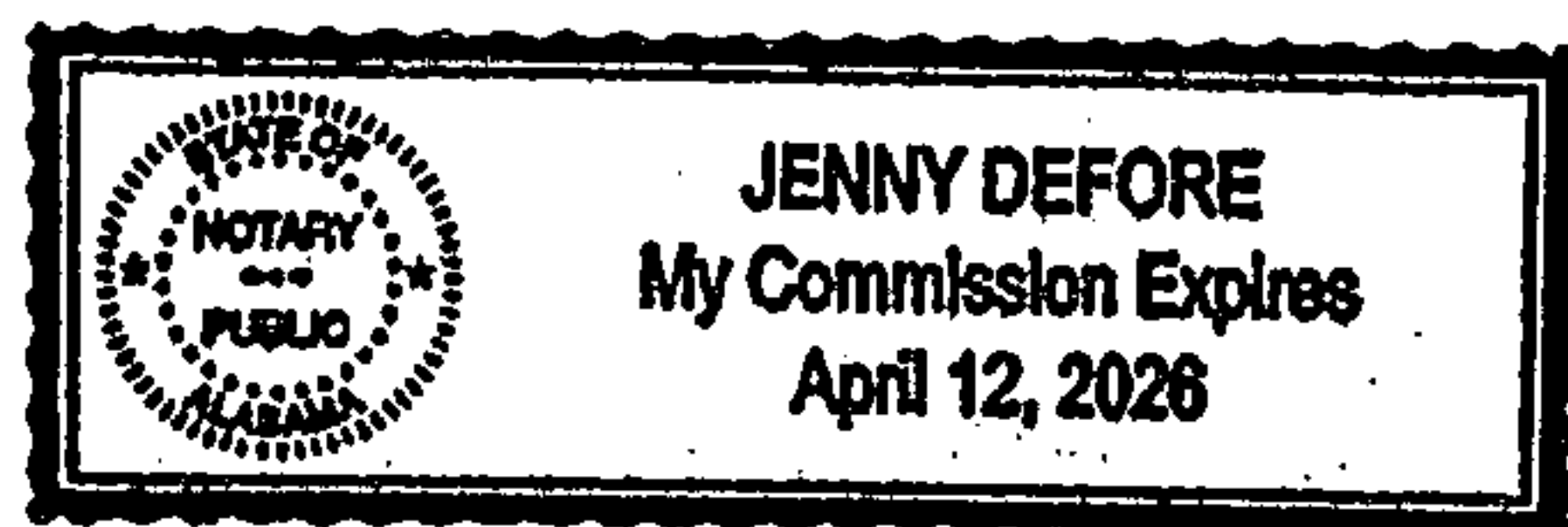


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I, the undersigned, a notary public in and for said county in said state, hereby certify that W. Jordy Henson, whose name as Manager of **HCI OAK MOUNTAIN, LLC**, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such Manager, executed the same voluntarily for and on behalf of the aforesaid limited liability company.

Given under my hand and official seal this the 7th day of October, 2022.

[NOTARIAL SEAL]



Jenny DeFore

Notary Public

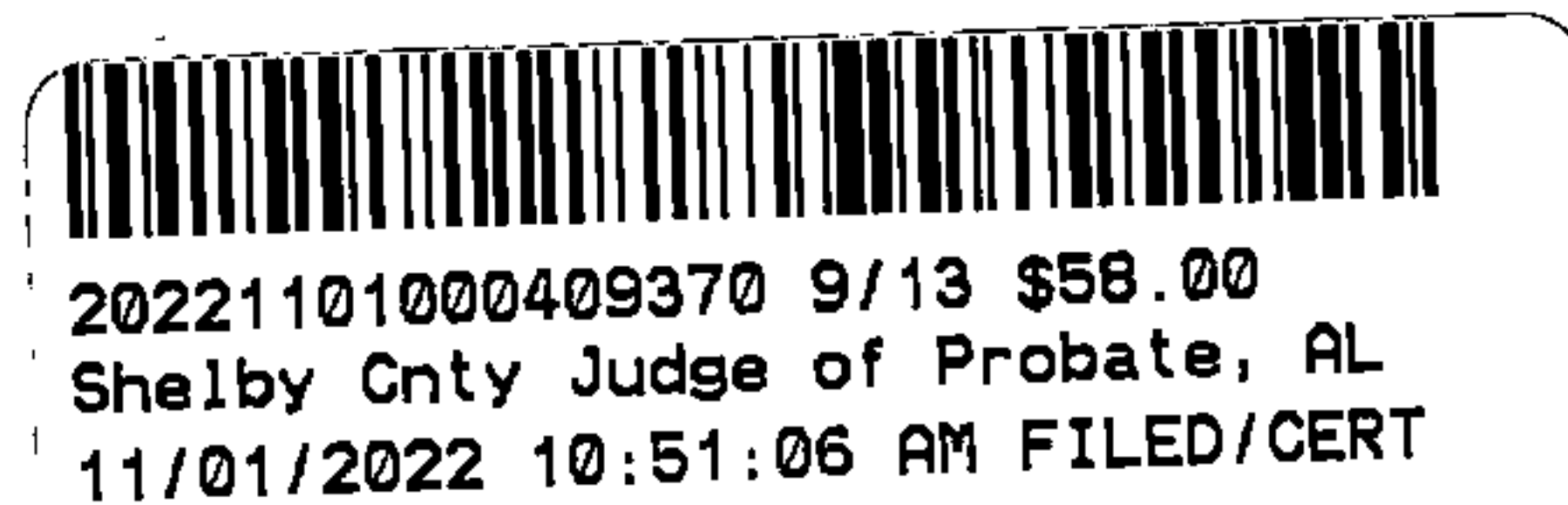
My Commission Expires:

4/12/26

STATE OF ALABAMA

COUNTY OF SHELBY

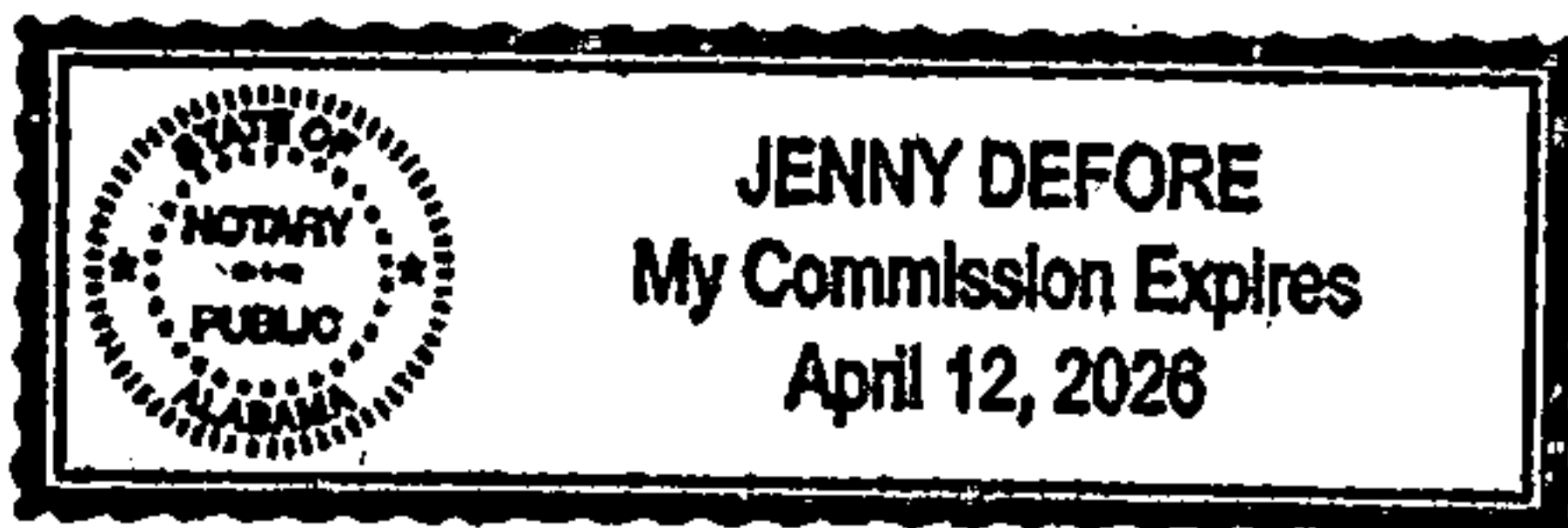
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I, the undersigned, a notary public in and for said county in said state, hereby certify that Chuck Welden, whose name as Manager of **HWF CANOPY DEVELOPMENT, LLC**, a Delaware limited liability company, and W. Jordy Henson, whose name also as Manager of **HWF CANOPY DEVELOPMENT, LLC**, a Delaware limited liability company, is signed to the foregoing instrument, and each of who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, each, as such Manager, executed the same voluntarily for and on behalf of the aforesaid limited liability company.

Given under my hand and official seal this the 7th day of October, 2022.

[NOTARIAL SEAL]



Jenny DeFore
Notary Public
My Commission Expires: 4/12/26



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EXHIBIT A
Canopy Public Infrastructure Improvements

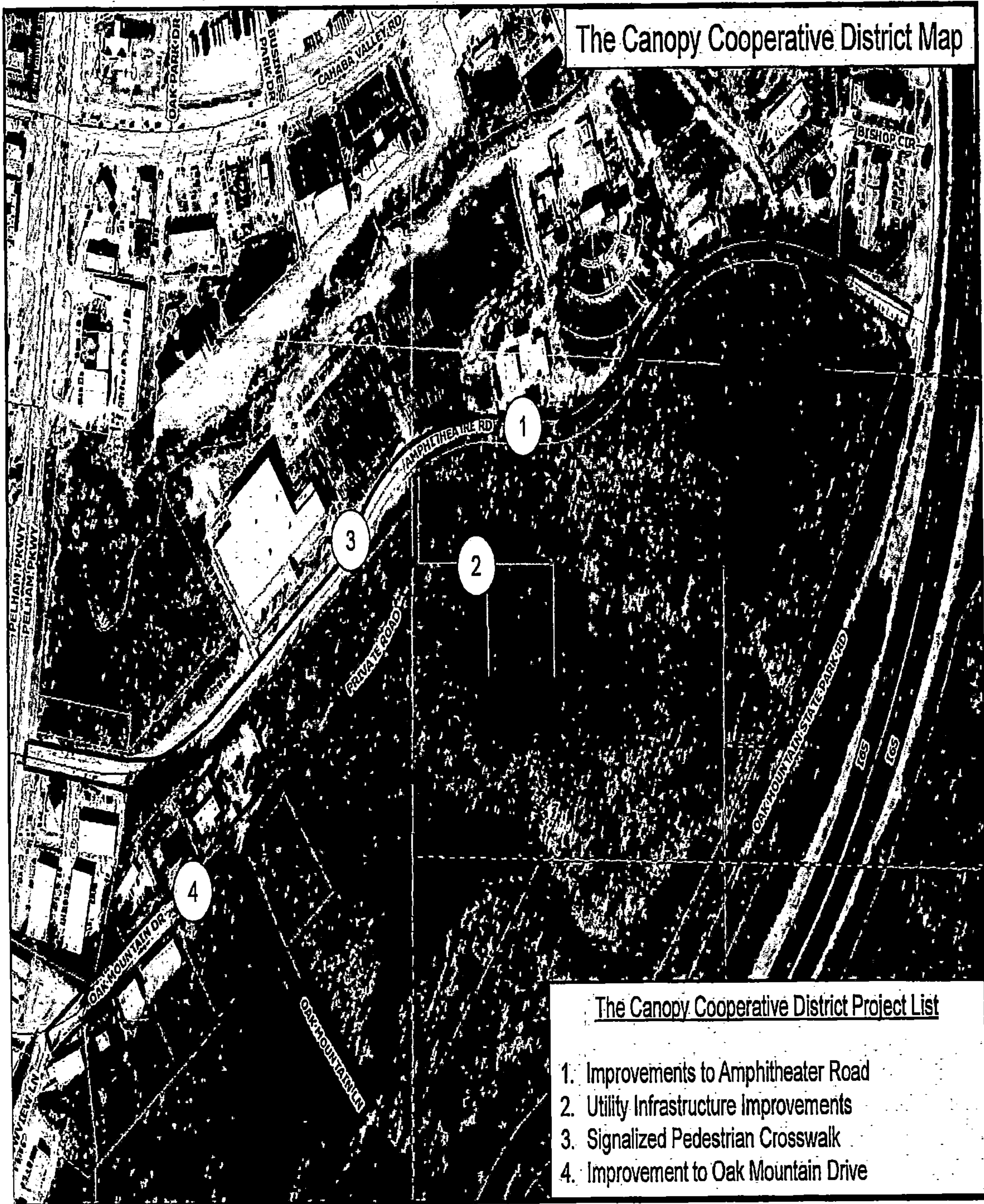


EXHIBIT B
Canopy Development Area



20221101000409370 11/13 \$58.00
Shelby Cnty Judge of Probate, AL
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The Canopy Development Project:
601 Amphitheater Road

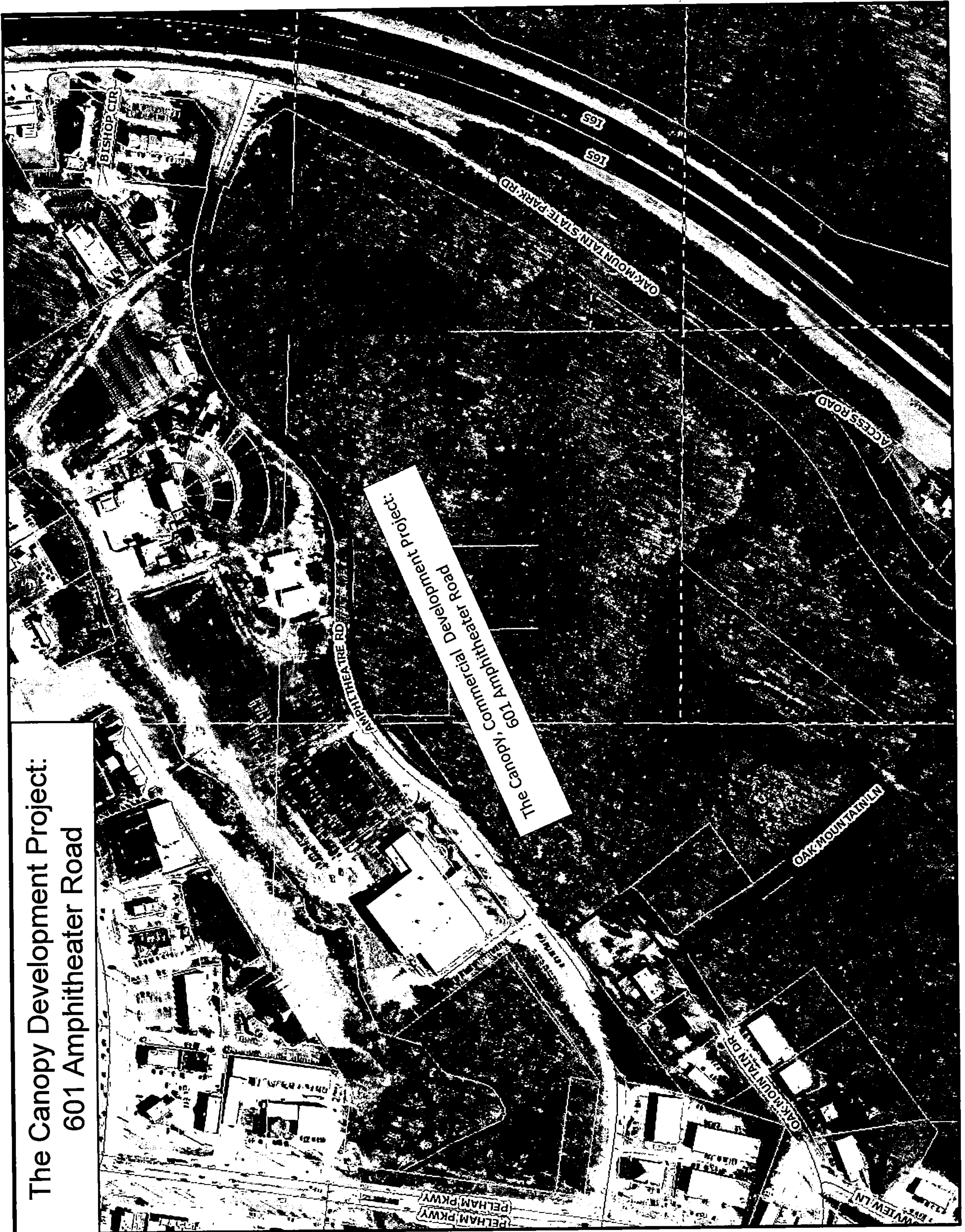



EXHIBIT C
Form of Report


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REPORT OF COLLECTIONS OF CITY SALES TAXES AND OF LICENSE FEE
CANOPY DEVELOPMENT

Date of Report¹: _____

Payment Month²: _____

The undersigned, _____³, a tenant within the
Canopy Development, does hereby certify, as follows for the timeframe set forth above:

Sales and Use Tax Collections		License Fee Collections		Total

_____ ⁴

By: _____

Its: _____

¹ Insert date report is submitted.

² Insert the month for which City-levied taxes, as well as License Fee, collections are being reported.

³ Insert name of tenant.

⁴ Insert name of tenant.