

COUNTY OF BALDWIN  
STATE OF ALABAMA

GROUND LEASE

This Lease, made as of the last day written below, by and between the CITY OF FOLEY, ALABAMA, a municipal corporation of the State of Alabama ("Lessor"), and GULF TIDE DEVELOPMENT, L.L.C., an Alabama limited liability company ("Tenant").

WITNESSETH:

1. PREMISES: In consideration of the rents, covenants and agreements hereinafter set forth, Lessor does hereby demise and lease to Tenant, and Tenant does hereby take and hire from Lessor, that certain real property situated in the City of Foley, Baldwin County, Alabama, and any and all improvements which now are or which shall be situated on said real property together with all rights, easements and appurtenances thereunto belonging or appertaining (collectively referred to herein as the "Leased Premises"), said Leased Premises being those more fully described below, to-wit:

Lots 6, 7, 8 and part of Lots 5, 9 and 10 in Block 9, Foley, Alabama as recorded in Map Book 1, Page 25 in the Office of the Judge of Probate, Baldwin County, Alabama, being more particularly described as follows:

Beginning at the Northwest corner of Lot 5 in Block 9, Foley, Alabama, as recorded in Map Book 1, Page 25 in the Office of the Judge of Probate, Baldwin County, Alabama; thence run South 89°46'39" East along the North line of said Lot 5, 89.03 feet; thence departing the said North line, run South 0°06'49" West, 12.00 feet; thence run South 89°46'39" East, 36.00 feet to a point on the West right-of-way line of an alley, having a 25 foot right-of-way; thence run South 0°06'49" West along the said West right-of-way line, 98.82 feet; thence departing the said West right-of-way line, run North 89°48'26" West, 36.06 feet; thence run South 0°11'07" West, 39.00 feet to a point on the South line of Lot 10 in the aforementioned Block 9, Foley, Alabama; thence run North 89°51'00" West along the said South line, 88.96 feet to a point on the East right-of-way line of Alston Street, having a 100 foot right-of-way; thence run North 0°07'45" East along the said East right-of-way line, 149.95 feet to the Point of Beginning and containing 0.39 acre, more or less.

2. TERM: The term of this Agreement shall commence on the date Tenant signs this Agreement, or if Tenant signs first, the date Lessor signs this Agreement (the "Commencement Date"). Unless sooner terminated as provided herein or as provided by law, the term of this Agreement shall be the period of time from the Commencement Date to the thirtieth (30<sup>th</sup>) year anniversary of the Commencement Date.

3. ASSIGNMENT AND SUBLETTING. Tenant may not assign or transfer this Lease without

State of Alabama, Baldwin County  
I certify this instrument was filed  
and taxes collected on:  
2006 May -23 2:54PM  
Instrument Number 977085 Pages 15  
Recording 45.88 Mortgage  
Deed Index  
Archive 5.00  
Adrian L. Johns, Judge of Probate

977085

the prior written consent of Lessor, which consent may be withheld in the discretion of Lessor; provided, however, Tenant may assign this Lease without Lessor's prior written consent to any party controlling, controlled by or under common control with Tenant. Tenant may not sublet the Leased Premises without the prior written consent of the Lessor, which consent may be withheld in the discretion of the Lessor with or without reason.

4. RENTAL: Tenant shall pay Lessor rent in an amount equal to EIGHTY-ONE THOUSAND AND 00/100 DOLLARS (\$ 81,000.00), which rent is to be pre-paid on the Commencement Date hereof.

5. TAXES AND ASSESSMENTS: Tenant shall pay all real estate taxes, including penalties and interest, special assessments, and all other taxes, assessments, impositions, and all other claims or charges (herein collectively called the "taxes") which may constitute or may be reduced to a lien upon the Real Property, including but not limited to, water, weed cutting, sewer, and all other charges before the same shall become delinquent. All such payments for the first and last year of the term shall be prorated between Lessor and Tenant so that Tenant shall be responsible for that portion of the taxes which is attributable to the term of this Lease. Tenant's tax obligation shall commence on the Commencement Date hereof.

If Tenant fails to pay any taxes which it is required to pay within the time period provided above, Lessor may, at its option, pay said taxes, together with any and all penalties and said amount shall become immediately due and payable as additional rent.

6. INSURANCE: Tenant hereby covenants and agrees at all times during the term of this Lease to maintain and keep in force comprehensive general liability insurance on an "occurrence" based policy against all claims for personal injury, death, or property damage occurring on or about the Leased Premises with minimum limits of liability of THREE HUNDRED THOUSAND DOLLARS (\$300,000) per person, THREE HUNDRED THOUSAND DOLLARS (\$300,000) per occurrence, and SIX HUNDRED THOUSAND DOLLARS (\$600,000) aggregate. Such policy shall name Lessor as an additional insured and shall require that Lessor be given thirty (30) days advance, written notice before cancellation or material alteration. Tenant shall furnish Lessor with a Certificate of Insurance prior to the Commencement Date hereof. Tenant's insurance shall be primary to any insurance held by Lessor, and Tenant may not change or reduce its coverage without the prior, written consent of Lessor.

7. UTILITIES AND UTILITY EASEMENTS: Lessor does not warrant that water, sanitary services, storm sewers, electricity, gas, or other utilities (herein collectively referred to as "utilities") are available for connection or are adequate for Tenant's needs. Tenant shall have the right to grant easements over, upon and under the Leased Premises for utilities and similar purposes to service the development thereof and the improvements thereon; and Lessor agrees, from time to time upon request by Tenant, without any compensation being paid therefore, to join in the granting of such easements and to take any other action necessary to effectuate the same. Tenant shall pay all tap, connection, impact, environmental and like charges necessary to bring all utilities to the Leased Premises and which are necessary for Tenant to connect to and use all utility services.
8. EXISTING STRUCTURES: Tenant understands that there are existing structures on the Leased Premises. Tenant is responsible for the removal of all the existing structures, including the acquisition of all permits required and payment of all costs associated with the removal of the existing structures; provided, however, that the monitoring well located on the Leased Premises may not be removed or interfered with in any way. All structures to be removed must be removed from the Leased Premises within two (2) years of the Commencement Date of this Lease.
9. PUBLIC PARKING FACILITIES: Tenant hereby covenants and agrees to designate fourteen (14) parking spaces as "Public Parking" and allow use of such spaces by the public, free of charge, without any limitation as to the time or duration of such use at a location of Tenant's choosing on the Leased Premises. Any costs associated with the designation of the fourteen Public Parking spaces shall be the sole responsibility of Tenant.
10. CONSTRUCTION OF IMPROVEMENTS:
- A. Plans and Elevations: Tenant shall submit to Lessor detailed plans and elevation drawings for the buildings and other improvements, including signage, which Tenant desires to construct on the Leased Premises prior to applying for a building permit, and Lessor shall have the right to reject any improvements which it reasonably determines will be detrimental to the public interest.
- B. Zoning, Licenses and Permits: Lessor has made no representations or warranties about the current or future zoning restrictions or zoning district in which the Leased Premises is situated, or as to any variances for said premises.
11. MONITORING WELL: Tenant understands that there is currently located on the Leased

Premises a monitoring well, and Tenant hereby covenants and agrees that said monitoring well is to be and shall remain operational at all times during this lease. Tenant further covenants and agrees that it will not, directly or indirectly, adversely affect the operation of the well for the duration of this lease or until Lessor determines that the monitoring well may be discontinued. Lessor and its agents shall be allowed access to the monitoring well as needed for purposes of repair, replacement, monitoring and operational purposes. Tenant will be responsible for any damage caused to the monitoring well by Tenant's actions or failures to act during the duration of this lease, and any expenses incurred for the repair and/or maintenance of such monitoring well shall be the sole responsibility of Tenant.

12. SECURITY INTERESTS AND MORTGAGES:

A. Security Interest in Fixtures Permitted: Tenant shall have the right at any time to grant a security interest in any trade fixtures and equipment of every type and description owned by Tenant and installed or kept on the Leased Premises. Lessor hereby consents to any such security interest and disclaims any interest of any kind in any trade fixtures and equipment installed or kept on the Leased Premises. Lessor agrees that it will, within ten (10) days after any written request by Tenant, confirm the foregoing consent and disclaimer in writing.

B. Leasehold Mortgage Permitted: Tenant is hereby given the right, without Lessor's prior written consent, to mortgage its interest in this Agreement, and to assign this Agreement and any sublease as collateral security for such leasehold mortgage, upon the condition that all rights acquired under any such leasehold mortgage shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Agreement. If Lessee shall mortgage this leasehold, and if the holder of any such leasehold mortgage shall send to Lessor a certified copy thereof, together with written notice in the manner required in Article XII herein specifying the name and address of the mortgagee, Lessor agrees that so long as any such leasehold mortgage shall remain unsatisfied of record, or until written notice of satisfaction is given by the holder to Lessor, the following provisions shall apply:

- (1) There shall be no cancellation, surrender, or modification of this Agreement by joint action of Lessor and Tenant, without the prior consent in writing of the leasehold mortgagee;
- (2) Lessor shall, upon serving Tenant with any notice of default, simultaneously serve

a copy of such notice upon the holder of such leasehold mortgage. The leasehold mortgagee shall thereupon have the same period, after service of such notice upon it, to remedy or cause to be remedied the defaults complained of, and Lessor shall accept such performance by or at the instigation of such leasehold mortgagee as if the same had been done by Tenant;

(3) Anything herein contained to the contrary notwithstanding, if any default shall occur which, pursuant to any provision of this Agreement entitles Lessor to terminate this Agreement, or regain possession of the Premises, and if before the expiration of thirty (30) days from the date of such leasehold mortgagee's receipt of service of notice of termination or of Lessor's regaining possession of the Premises, such leasehold mortgagee shall have notified Lessor of its desire to nullify such notice and shall have brought current all rent and other payments herein provided for, and then in default, and shall have complied or shall commence the work of complying with all of the other requirements of this Agreement, if they are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event, Lessor shall not be entitled to terminate this Lease or regain or retain possession of the Premises, and any notice of termination theretofore given shall be void and of no effect and Lessor shall relinquish any possession thereof;

(4) Nothing herein contained shall require any leasehold mortgagee to cure any default of Lessee;

(5) Tenant shall upon request, execute, acknowledge, and deliver to each leasehold mortgagee an agreement prepared at the sole cost and expense of Tenant, in form satisfactory to such leasehold mortgagee, between Lessor, Tenant and leasehold mortgagee, confirming the agreements in all of the provisions of this section. The term "mortgage", whenever used herein, shall include whatever security instruments are used in the locale of the Premises, such as, without limitation, deeds of trust, security deeds and conditional deeds, as well as chattel mortgages and security agreements; and said term shall also include any instruments required in connection with a sale-leaseback transaction.

13. LIENS NOT PERMITTED: Tenant shall not, at any time, suffer or permit the attachment

to the Leased Premises of any lien for work done or materials furnished in connection with the improvement, maintenance, repair and/or alteration of the premises by Tenant. If any such lien attaches to the premises and is not discharged or released within sixty (60) days from the date of receipt by Tenant of written notice of same from Lessor. Lessor may, at its option, pay to the lien claimant the amount of such lien and notify Tenant of such payment, in which event such amount shall be immediately due and payable by Tenant and shall bear interest at the rate of twelve percent (12%) per annum.

14. USE AND OCCUPANCY: Tenant shall use and occupy the Leased Premises in a careful, safe and proper manner, and will not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and will comply with all lawful requirements of all valid laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Leased Premises.

15. SURRENDER OF PREMISES: Tenant will deliver up and surrender possession of the Leased Premises to Lessor upon the expiration of this Lease or upon its termination in any way in a safe, clean and lawful condition; provided, however, that Tenant shall have the right to remove all trade fixtures and equipment therefrom. Tenant shall surrender all keys, if any, for the Leased Premises to Lessor.

16. DEFAULT BY TENANT: If Tenant shall fail to pay any installment of rent promptly on the day the same shall become due and payable hereunder, and such failure shall continue for a period of thirty (30) days after receipt by Tenant of written notice thereof from Lessor, or if Tenant shall fail to keep and perform promptly any other affirmative covenant of this Lease, in accordance with the terms of this Lease and such failure shall continue for a period of thirty (30) days after receipt by Tenant of written notice thereof from Lessor, the Lessor may, at its sole option, declare this Lease to be terminated, and enter into the Leased Premises or any part thereof, with or without process of law, and expel Tenant or any person occupying the same in or upon said premises, and repossess and enjoy the Leased Premises as in Lessor's former estate. However, if the default cannot, with due diligence, be cured prior to the expiration of thirty (30) days from the date of receipt of the notice provided for above, and if Tenant commences within thirty (30) days after the notice date to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default, then Lessor shall not have the right to declare

this Lease terminated by reason of such default. These rights and remedies are in addition to any rights Lessor may have in law or in equity.

17. NO WARRANTY OF CONDITION: Lessor does not warrant, and Tenant hereby acknowledges and agrees that Lessor has made no representation or warranty, that the Leased Premises is fit for any particular purpose or that it is suitable for the use to which the Tenant intends to put it. Tenant has had an opportunity to inspect and observe the Leased Premises, and Tenant enters into this Lease and takes the Leased Premises "as is, where is."

18. INDEMNITY: Tenant will indemnify Lessor and save it harmless from and against any and all fines, suits, claims, actions, damages, liability and expense of any kind or nature (i) by reason of any breach, violation or non-performance of any condition or covenant of Tenant herein, and (ii) in connection with loss of life, personal injury and/or damage to property arising from or occurring on the Leased Premises, or the use thereof by Tenant or any of its servants, agents, volunteers, employees, or invitees. This obligation shall not apply to any such fine, suit, claim, action, damage, liability or expense of any kind or nature arising from an act or an omission of Lessor, or of any servant, agent, volunteer, employee or invitee of Lessor. This obligation is in addition to any insurance coverage which may apply, and this obligation will survive the termination or expiration of this Agreement.

19. ENVIRONMENTAL MATTERS:

A. Definitions: For the purposes hereof, the following definitions shall apply:

(1) "Law or Regulation" means and includes the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA" or the Federal Superfund Act) as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA") 42 U.S.C., Sections 9601-9675; the Federal Resource Conservation and Recovery Act of 1976 ("RCRA"); the Clean Water Act, 33 U.S.C., Section 1321, et seq.; the Clean Air Act, 42 U.S.C., Section 7401, et seq., all as the same may be from time to time amended and any other federal, state, county, municipal, local or other statute, law, ordinance or regulation which may relate to or deal with human health or the environment, including, without limitation, all regulations promulgated by a regulatory body pursuant to any such statute, law or ordinance.

(2) "Hazardous Substance or Materials" means asbestos, urea formaldehyde, polychlorinated biphenyls ("PCBs"), nuclear fuel or materials, chemical waste, radioactive materials, explosives, known carcinogens, petroleum products or other dangerous, toxic, or hazardous pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or contaminant in, or the release or disposal of which is regulated by, any Law or Regulation.

B. Representations and Warranties

- (1) To the best of Lessor's knowledge, Lessor represents and warrants that there is not located on, in, about, or under the Leased Premises any Hazardous Substance. Tenant agrees, warrants and covenants that it will not use, bring on to, store, or otherwise introduce any Hazardous Substances to the Leased Premises.
- (2) All representations and warranties herein contained shall be deemed to be continuing and shall survive the expiration or early termination of the Lease.
- (3) If any representation or warranty herein contained shall be, or be found to be, false, inaccurate or misleading, then the other party shall be entitled to terminate this Lease and to recover as damages, in addition to all other damages legally recoverable, all costs and expenses incurred in correcting or remedying such error including all costs of clean up and all costs of defending any regulatory or governmental action resulting from such error including, without limitation, attorneys and experts fees and disbursements. This provision shall survive the termination or expiration of this Agreement.

20. DEFAULT BY LESSOR: If Lessor shall breach any warranty or fail to perform any covenant required to be performed by Lessor under the terms of this Lease, and if such breach or failure shall continue for a period of thirty (30) days after receipt by Lessor of written notice thereof from Tenant, then Tenant may declare this Lease to be terminated.

21. TITLE TO AND CONDITION OF BUILDINGS, IMPROVEMENTS, ETC.

Any or all of Tenant's trade fixtures and equipment may, at Tenant's option, be removed from the Leased Premises from time to time and may, at Tenant's option, be removed upon the expiration or termination of this Lease.

Title to all fixtures or other improvements made on the Leased Premises by the Tenant shall be vested in and remain in the name of Tenant at all times during the term of this Lease. Upon the expiration of this Lease or its termination in any way, title to any buildings and any improvements or fixtures shall automatically pass to and become vested in the Lessor, and Tenant shall, upon request of Lessor, execute such quit claim deed, bill of sale, or assignment as may be necessary to evidence the transfer of such title to Lessor. This provision shall survive the termination or expiration of this Lease.

During the term of this agreement, the Tenant will, at its own cost and without any expense to Lessor, keep and maintain the premises, including all buildings and improvements constructed thereon, in good condition and repair and in a neat and clean appearance and conditions.

22. ADJOINING PROPERTY. Lessor does not warrant any rights to light, view or air over adjoining property and any diminution or shutting off of light, view or air by any structure which may exist or be erected adjacent to said building shall in no wise effect this Lease, or impose any liability on Lessor.

23. SUCCESSORS IN INTEREST. Every provision hereof applicable to Lessor and every provision hereof applicable to Tenant shall also bind, apply to and run in favor of "their respective successors in interest, heirs, executors, administrators, or personal representatives" as fully as if said quoted words were inserted after the word "Lessor" and "Tenant" wherever they appear herein, except that this provision shall not permit the assignment of the Lease, or subleasing of the Leased Premises except as expressly provided herein.

24. APPORTIONMENT OF CONDEMNATION AWARD: The parties hereto shall have whatever rights exist by law with regard to the condemnation of all or a part of the Leased Premises, provided, however, that the parties hereby stipulate and agree as follows with regard to the apportionment or division of any proceeds of a condemnation award or a sale in lieu of condemnation, and in the event and to the extent the a party would be entitled to receive more money or different treatment under the law than is provided below, that party hereby waives their rights under the law in exchange for the following rights to share in the condemnation proceeds: (1) the Tenant shall be entitled to recover its actual cost less depreciation based on a 20-year straight line basis of any improvements placed on the Real Property by Tenant and which are being taken by the

condemning agency; and (2) the Lessor shall be entitled to recover all other and remaining money not owed to the Tenant pursuant to the preceding.

25. ATTORNEY'S FEE AND WAIVER OF EXEMPTIONS. In the event of employment of an attorney for the collection of any amount due hereunder, or for the institution of any suit for possession of said property, or for advice or service incident to the breach of any other condition of this Lease by Tenant, or on account of bankruptcy proceedings by or against Tenant, or legal process being issued against the furniture and effects of Tenant, located upon the Leased Premises, or the leasehold interest of Tenant, Tenant agrees to pay and shall be taxed with a reasonable attorney's fee, which fee shall be a part of the debt evidenced and secured by this Lease. In order to further secure the prompt payment of said rents, as and when the same mature, and the faithful performance by Tenant of all and singular the terms, conditions and covenants on the part of Tenant herein contained, and all damages and costs that Lessor may sustain by reason of the violation of said terms, conditions and covenants, or any of them, Tenant does hereby waive any and all right to claim personal property as exempt from levy and sale under the Constitution and Laws of the State of Alabama or any other State. In the event of employment by Tenant of an attorney for advice or service incident to the enforcement of this Lease after notice to Lessor as provided in this Lease following a breach by Lessor of any condition of this Lease and without Lessor curing said breach, Lessor agrees to pay and shall be taxed with a reasonable attorney's fee.

26. EASEMENTS. No representation on the part of Lessor is herein contained concerning the existence or not of any rights-of-way, party wall agreements, zoning ordinances, easements, prescriptions, or covenants running with the land effecting the property or improvements here demised, and to the extent only as such may be determined by a physical inspection of the property and/or as such may be of record in the Probate Court of Baldwin County, Alabama, Tenant takes possession hereunder charged with notice thereof, and is bound to recognize all such rights-of-way, party wall agreements, easements, prescription and covenants running with the land, and zoning ordinances and to indemnify and hold Lessor harmless for any violations or breaches thereof by said Tenant.

27. LESSOR'S RIGHTS CUMULATIVE AND NON-WAIVER. The failure of Lessor to insist, in any one or more instances, upon a strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the

future, of such covenants or option, but the same shall continue and remain in full force and effect. The receipt of Lessor of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing, and signed by Lessor. Lessor's rights herein are cumulative and in addition to those provided by law.

28. SEVERABILITY. If any term, covenant or condition of this Lease or the application thereof to any person or circumstances shall to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

29. HOLDING OVER. Should Tenant continue to occupy the Leased Premises after the expiration of said term, then, except as otherwise provided for in this paragraph, Tenant shall continue as a tenant under the terms of this Lease (except as to duration) from month to month and shall owe monthly rent equal to \$500 per month, and each holding over period thereafter shall in like manner create and cause a similar extension of this Lease from month to month; PROVIDED, HOWEVER, that if the said Tenant continues to remain in the Leased Premises after the expiration of the said term or after a forfeiture incurred, Lessor, at any time, whether rent has been accepted by Lessor or not, reserves the unqualified right, or option to notify Tenant in writing of its election to terminate the Lease or any extension thereof, said termination to be effective at the end of the calendar month in which said notice is given, unless less than ten (10) days remain in said month, in which event, the effective date of termination shall be the last day of the calendar month following the date on which notice is given.

30. EARLY TERMINATION. Tenant may terminate this Lease at any time by 30 days advance notice to Lessor without further liability if Lessor fails to have proper ownership of, or appropriately clear title to the Leased Premises or authority to enter in this Lease. The Lessor and Tenant may terminate this Lease if the other party is in default and fails to cure within the time frame(s) provided herein. Upon termination, all prepaid rent shall be retained by Lessor. If Tenant fails to occupy or use the Leased Premises for a period of 180 consecutive days, its rights in this Lease shall be deemed abandoned, and this Lease shall automatically terminate.

31. FORCE MAJEURE: Lessor and/or Tenant shall be excused for the period of any delay and shall not be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Lease when prevented from so doing by cause or causes beyond the Lessor's and/or Tenant's control, which shall include, without limitation, all labor disputes, governmental regulations or controls, fire or other casualty, inability to obtain any material, services, acts of God, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Lessor and/or Tenant.

32. RECORDABLE LEASE: Lessor agrees that upon request from Tenant, Lessor will promptly execute and deliver to Tenant a memorandum or short form lease (hereinafter "Memorandum of Lease"), prepared by Tenant and approved by Lessor to be recorded in the public office in which records relating to the Leased Premises are kept and take such other and further action as may be necessary to give all persons now or hereafter interested in title to the Leased Premises notice of the existence of this Lease, including such terms and provisions as Tenant deems appropriate

33. CONSTRUCTION OF LEASE: Words of any gender used in this Lease shall be held to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

34. SERVICE OF NOTICE: Notices hereunder shall be in writing signed by the party serving the same and shall be sent by Registered or Certified U. S. Mail, Return Receipt Requested, postage prepaid, or by private express mail service, and (a) if intended for Lessor, shall be addressed to:

Mayor - City of Foley  
City Hall  
407 East Laurel Avenue  
Foley, Alabama 36536

and (b) if intended for Tenant, shall be addressed to:

Gulf Tide Development, L.L.C.  
12955 County Road 55  
Foley, Alabama 36535

or to such other addresses as either party may have furnished to the other from time to time as a place for the service of Notice. Any Notice so mailed shall be deemed to have been "given" as of the time said Notice is received or refused.

35. HEADINGS: It is understood and agreed that the headings are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

36. ENTIRE AGREEMENT: This Lease contains the entire agreement between the parties and any agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such agreement is in writing and signed by both parties.

37. COUNTERPARTS: This Lease may be executed simultaneously in several counterparts, each of which will be deemed an original, but all of which together will constitute one in the same instrument.

IN WITNESS WHEREOF, the parties, by and through their duly authorized representatives, have caused this Lease to be executed and attested on the dates appearing together with their signatures below.

LESSOR: THE CITY OF FOLEY, ALABAMA

R. Timothy Russell Date: Jan. 5, 2005  
By: R. Timothy Russell  
As Its: Mayor

ATTEST:

Perry Wilbourne Date: 1-5-05  
By: Perry Wilbourne  
As Its: City Clerk

TENANT: GULF TIDE DEVELOPMENT, L.L.C.

Marjorie Y. Snook Date: 1-12-2005  
By: Marjorie Y. Snook  
As Its: Manager

ATTEST:

\_\_\_\_\_  
By: \_\_\_\_\_ Date: \_\_\_\_\_  
As Its: \_\_\_\_\_

STATE OF ALABAMA  
COUNTY OF BALDWIN

The undersigned, a Notary Public in and for the above state and county, hereby certify that R. Timothy Russell and Perry Wilbourne, the Mayor and City Clerk, respectively, of the City of Foley, Alabama, an Alabama municipal corporation, and who were known to me as the persons and officers described herein, acknowledged before me that being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

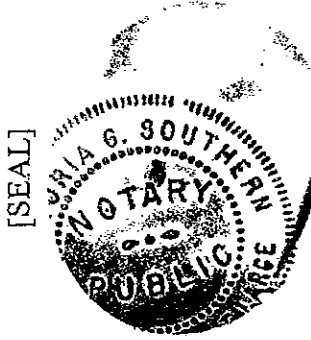


Given under my hand and official seal, this the 5<sup>th</sup> day of January, 2007.  
Victoria Southern  
Notary Public  
My Commission Expires: 5-31-05

STATE OF ALABAMA  
COUNTY OF BALDWIN

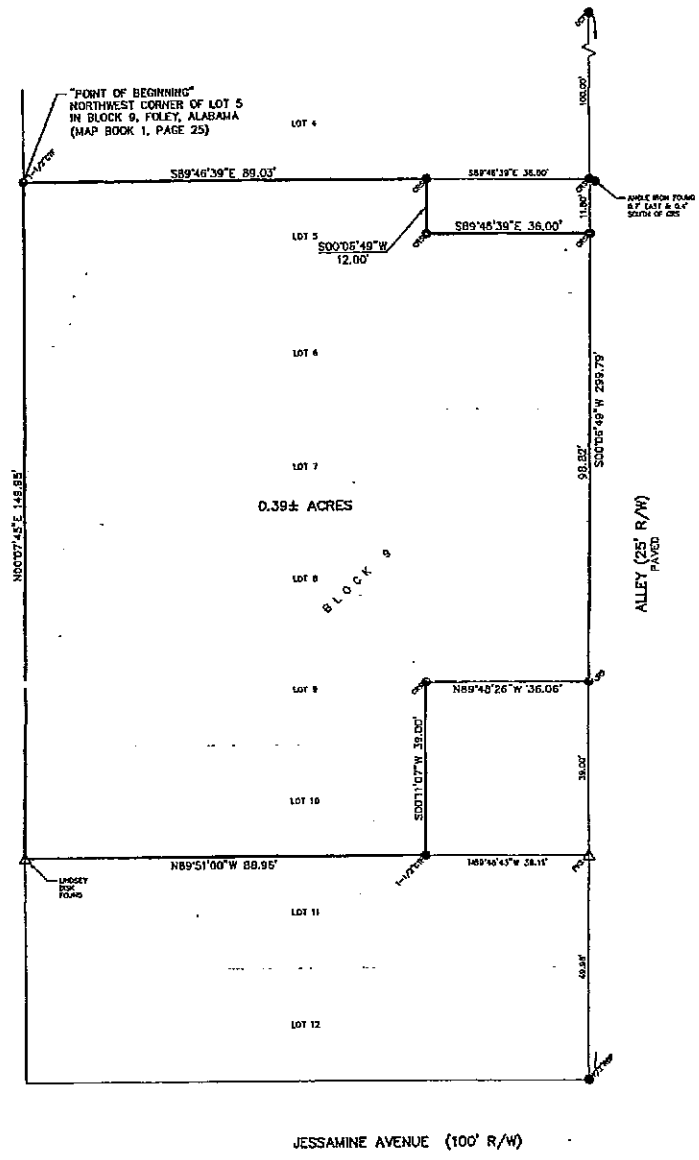
I, the undersigned Notary Public, in and for said county and said state, hereby certify that Marjorie Y. Snook and \_\_\_\_\_ who signed as Manager and \_\_\_\_\_, respectively, of Gulf Tide Development, L.L.C., an Alabama limited liability corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day, that being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal, this the 12<sup>th</sup> day of January, 2007.  
Victoria Southern  
Notary Public  
My Commission Expires: 5-31-2005

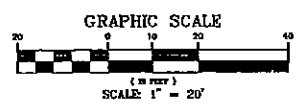


This Document Prepared by:

J. CASEY PIPES  
HELMSING, LEACH, HERLONG,  
NEWMAN & ROUSE, P.C.  
P.O. Box 2767  
Mobile, AL 36652  
(251) 432-5521



| LEGEND |                                      |
|--------|--------------------------------------|
| ●      | CRS 1/2" CAPPED REBAR SET (CA008915) |
| ●      | CTF CRIMP TOP IRON FOUND             |
| ●      | OCF DIGGER CHAIN FOUND               |
| △      | PKS PK NAIL & FLASHER SET            |



NOTES

F.E.M.A. FLOOD INSURANCE RATE MAP NO. 01003C0095 K, COMMUNITY NO. 010007, DATED JUNE 17, 2002 INDICATES THAT THIS PROPERTY IS LOCATED IN "ZONE X", (UNSHADED) AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOODPLAIN.

FLOOD ZONE(S) SCALED FROM THE AFOREMENTIONED FLOOD INSURANCE RATE MAP.

THIS SURVEY WAS PREPARED FOR THE CLIENT'S USE AND PURPOSE AS SHOWN. USAGE FOR ANY OTHER PURPOSE, REPRODUCTIONS (IN WHOLE OR IN PART) SHALL NOT BE MADE WITHOUT THE EXPLICIT WRITTEN PERMISSION OF THE SURVEYOR.

THE RELATIVE ERROR OF CLOSURE OF THIS SURVEY & PLAT IS WITHIN THE ALLOWABLE TOLERANCE FOR COMMERCIAL SURVEYS (1' IN 10,000') ACCORDING TO THE STANDARDS OF PRACTICE SET FORTH BY THE BOARD OF LICENSURE OF THE STATE OF ALABAMA.

THIS DRAWING DOES NOT REFLECT ANY TITLE, EASEMENT OR RIGHT-OF-WAY RESEARCH OTHER THAN WHAT IS READILY VISIBLE ON THE SURFACE OR PROVIDED BY THE CLIENT.

NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THE COUNTY.

PROPERTY IS SUBJECT TO ZONING SETBACKS AND RESTRICTIONS OF RECORD.

BEARINGS BASED ON ASSUMED DATUM. (SEE SURVEY BY MCCRORY & WILLIAMS, INC., DATED AUGUST 10, 2004)

NO IMPROVEMENTS SHOWN AT REQUEST OF CLIENT.

FIELD WORK COMPLETED ON 9/21/2004.

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, THOMAS C. WILLIAMS, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALABAMA, HEREBY CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF."

LOTS 6, 7, 8 AND PART OF LOTS 5, 9 AND 10 IN BLOCK 9, FOLEY, ALABAMA AS RECORDED IN MAP BOOK 1, PAGE 25 IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 5 IN BLOCK 9, FOLEY, ALABAMA AS RECORDED IN MAP BOOK 1, PAGE 25 IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°46'39" EAST ALONG THE NORTH LINE OF SAID LOT 5, 89.03 FEET; THENCE DEPARTING THE SAID NORTH LINE, RUN SOUTH 0°06'49" WEST, 12.00 FEET; THENCE RUN SOUTH 89°46'39" EAST, 36.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF AN ALLEY, HAVING A 25 FOOT RIGHT-OF-WAY; THENCE RUN SOUTH 0°06'49" WEST ALONG THE SAID WEST RIGHT-OF-WAY LINE, 88.82 FEET; THENCE DEPARTING THE SAID WEST RIGHT-OF-WAY LINE, RUN NORTH 89°48'25" WEST, 36.06 FEET; THENCE RUN SOUTH 0°11'07" WEST, 39.00 FEET TO A POINT ON THE SOUTH LINE OF LOT 10 IN THE AFOREMENTIONED BLOCK 9, FOLEY, ALABAMA; THENCE RUN NORTH 89°51'00" WEST ALONG THE SAID SOUTH LINE, 88.98 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF ALSTON STREET, HAVING A 100 FOOT RIGHT-OF-WAY; THENCE RUN NORTH 0°07'45" EAST ALONG THE SAID EAST RIGHT-OF-WAY LINE, 149.95 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.39 ACRE, MORE OR LESS.

THOMAS C. WILLIAMS, P.L.S.  
ALA. REG. NO. 23663

October 1, 2004  
DATE

THIS SURVEY STANDS WITHOUT ORIGINAL SIGNATURE IN EMBOSSED SEAL

McCrory

Williams

INCORPORATED

Engineers Surveyors

1024-B STANTON ROAD  
DAPHNE, ALABAMA 36526  
PHONE: (251) 825-2072  
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|                                                                     |                    |               |              |
|---------------------------------------------------------------------|--------------------|---------------|--------------|
| "BOUNDARY SURVEY"<br>FOR<br>S & H CONTRACTING                       |                    |               |              |
| SECTION 29, TOWNSHIP 7 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA |                    |               |              |
| SCALE: 1"=20'                                                       | DATE: Oct. 1, 2004 | DRAWN BY: NAR | APPROVED BY: |
| S7551-1002                                                          |                    | SHEET 1 OF 1  |              |