Davidson County DEEDINST
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Fees:108.00 Taxes:10132.20
20040109-0004033

INSTALLMENT DEED

FROM: E. B. Smith, Jr., an unmarried man

TO: Morris Thurman, Jr.

THIS INSTRUMENT PREPARED BY:
A. Harrison Johnson, Attorney
Suite 1850, 150 Fourth Avenue, North
Nashville, TN 37219

ADDRESS NEW OWNERS AS FOLLOWS:	SEND TAX BILLS TO:	MAP/PARCEL
Morris Thurman, Jr. 318 Appomattox Drive Brentwood, Tennessee 37027	SAME SAME	Tax Map 82-15, parcels 48, 223, 33, 35, 35.01, 224, 37, 32

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

The actual consideration or value, whichever is greater, for this transfer is $2,335,000.00

Affiant

Subscribed and sworn to before me, this 8 day of January, 2004.

My Commission Expires: 3-25-06 Notary Public
(Affix Seal)

(FOR REGISTER'S USE)

INSTALLMENT DEED

FOR AND IN CONSIDERATION of the sum of TWO MILLION THREE HUNDRED THIRTY-FIVE THOUSAND DOLLARS ($2,335,000.00), of which ONE MILLION THIRTY-FIVE THOUSAND DOLLARS ($1,035,000.00), has been paid in cash, the receipt of which is hereby acknowledged, and for the remainder, ONE MILLION THREE HUNDRED THOUSAND DOLLARS ($1,300,000.00),

I, MORRIS THURMAN, JR. ("Grantee" and/or "Trustor" and/or "Borrower" herein) have executed a vendor's lien note of even date herewith due the *1st day of July, 2018*, and made payable to the order of E. B. SMITH, JR., the "Grantor" herein, in the sum of ONE MILLION THREE HUNDRED THOUSAND ($1,300,000.00), and providing for payment of collection costs, court costs and attorney's fees, and to secure the payment of said indebtedness, principal, interest, collection costs, court costs and attorney fees (the "Secured Debt", all of which is represented by the said vendor's lien note [the "Promissory Note"]).

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This Installment Deed shall also be referred to herein as the "Security Instrument".

The undersigned Grantor, E.B. SMITH, JR. (the "Grantor" and/or "Lender" herein), has bargained and sold, and by these presents does transfer and convey unto the said "Grantee" and/or "Trustor" and/or "Borrower" herein, MORRIS THURMAN, JR., and his heirs, administrators and assigns, certain land in Davidson County, State of Tennessee, described as follows, to-wit:

SEE EXHIBIT "A"
FOR A MORE PARTICULAR LEGAL DESCRIPTION
AND DERIVATION CLAUSE

TOGETHER with all rights of Grantor in and to such easements and rights as may be appurtenant thereto, and all rights of Grantor, if any, in any abutting or surrounding streets, alleys, roadways or public rights-of-way, to the center line thereof (but LESS any of the same, if contained within the boundaries of a public highway, roadway, right of way, easement or alley), and TOGETHER with all improvements and fixtures thereon (collectively, the "Property").

SAVE AND EXCEPT FOR any printed exceptions on the owner's title insurance policy delivered to the Grantee today, that cannot be removed by the Seller's Affidavit (because of the Purchaser's occupancy of the Property), the Existing Lease with the Grantee, existing covenants, conditions and restrictions, matters of inspection and survey which do not affect the current use of the Property, existing Metro Signage, Building, Codes and Zoning Regulations, existing utility easements and property previously sold to Shoney's Inc., and Shoney's rights of way and easements;

> The legal description and the state of title of the property have been furnished to the draftsman by the Grantor, by third parties or from the record. The draftsman assumes no liability as to the accuracy thereof.

The Vendor's Lien reserved in this Installment Deed in favor of Grantor is, and shall in all respects be, subordinate to a deed of trust executed on or about this date, in favor of Premier Bank of Brentwood (the "Premier Bank Permitted Lien", as it may be modified, amended or extended), which secures an indebtedness evidenced by one or more promissory notes in favor of Premier Bank, not to exceed the aggregate sum of $1,900,000.00, including any future advance provisions (the "Premier Note[s]"), said Premier Note(s) evidencing one or more loans to the Maker for the following purposes:

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1. The $1,035,000.00 cash down payment paid this date at Closing;

2. The Purchaser's Costs of Closing set out in the "Agreement for Purchase and Sale" between the parties hereto, and dated October 6, 2003;

3. Grantee's obligation and performance to repair the Showroom Building and make parking lot repairs under section 8.6 of the said "Agreement for Purchase and Sale";

4. The Grantee's balloon payment due April 1, 2005; and

5. The Grantee may borrow money from Premier Bank for general purposes.

At the request of Premier Bank, Grantor shall execute a separate subordination agreement reasonably evidencing the subordination of the vendor's lien herein reserved, to the Premier Bank Permitted Lien. The said "Agreement for Purchase and Sale" shall survive the closing.

This is improved property, known as 201 Woodland Street (Tax Map 82-15, parcel 48, 1.47 acres), 225 Woodland (par. 223, .25 ac.), 200 Main Street (par. 33, 1.77 ac.), 220 Main Street (Par. 35, .13 ac.), 222 Main Street (Par. 35.01, .13 ac.), ___ Main Street (Par. 224, .07 ac.), ___Main Street (Par. 37, .36 ac.), 5 South 2nd Street (Par. 32, .07 ac.), Nashville, Tennessee. All parcels are located on Tax Map 82-15.

Further, this conveyance is given subject to:

Any encroachments over, under or upon adjoining lands of the parties hereto are merged herein and are governed by this deed; and subject to leasehold rights of parties in possession of the premises, including the Grantee, which the parties agree has been cancelled and terminated by the giving of this deed; and subject to any utility easements lying within a vacated alleyway, and subject to any portion of the subject property lying within any adjoining alley ways and streets; and all governmental matters relating to utilities, zoning, restrictions, prohibitions and requirements imposed by governmental authority; matters of survey and inspection; water mains and utility easements; and

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2003 and 2004 taxes, which have been assumed by Grantee, amd other matters shown on Exhibit B.

TO HAVE AND TO HOLD the said property with the appurtenances, estate, title and interest thereto belonging to the said MORRIS THURMAN, JR., and his heirs, administrators and assigns, forever.

And Grantor does covenant with the said Grantee that he is lawfully seized and possessed of said Property in fee simple; has a good right to convey it, and the same is unencumbered except as herein set forth, except for the Premier Bank Permitted Lien, and as shown on Exhibit B.

And Grantor does further covenant and bind himself, his heirs, administrators and assigns, to warrant and forever defend the title to the said Property to the said Grantee, his heirs and assigns, against the lawful claims of all persons claiming by, through or under the Grantor, but not otherwise, and as otherwise excepted herein.

And now, for the purpose of better and more effectually securing the payment of said lien indebtedness; rendering unnecessary court proceedings for the enforcement of said lien in the event of the non-payment of said indebtedness and installments thereof, as they mature, as hereinafter provided, and for the consideration of one dollar paid in cash, receipt of which is acknowledged, the said Grantee (hereinafter referred to as Trustor) hereby transfers and conveys unto A. Harrison Johnson, Trustee, his successors and assigns, the Property hereinbefore described, with the appurtenances, estate, title and interest thereto belonging upon the following uses and trusts:

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record or as otherwise recited herein (such excepted encumbrances hereinafter being referred to as "Premier Bank Permitted Lien" and as shown on Exhibit B hereto). Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any liens permitted hereunder.

Borrower covenants and agrees as follows:

1. Payment of Principal and Interest; Prepayment and Late Charges. Borrower shall promptly pay when due the principal of,

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interest on, and other charges (including any applicable recording taxes and penalties) incurred with respect to, any and all of the Secured Debt. A default under this instrument shall be deemed to be a default under the said Promissory Note.

2. Application of Payments. Unless applicable law or the applicable instrument provides otherwise, all payments received by Lender on any and all of the Secured Debt shall be applied, first, to late charges due; second, to prepayment charges due; third, to interest due; and last, to principal due.

3. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien, other than a Permitted Lien, which has priority over this Security Instrument, unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien, other than a Permitted Lien, which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

4. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured to its maximum insurable value, against loss by fire, hazards included within the term "extended coverage," and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval, in his sole and absolute discretion. All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of

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paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly to Borrower. Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible (in Lender's sole and absolute discretion) and Lender's security is not lessened (in Lender's sole and absolute discretion). If the restoration or repair is not so economically feasible or Lender's security is lessened (in Lender's sole and absolute discretion), the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days, a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to apply to Secured Debt, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraph 1 or change the amount of the payments. If under paragraph 16 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

Notwithstanding the foregoing, for as long as the Premier Bank Permitted Lien is due and owing, the terms and conditions of this paragraph 4 shall be determined as follows: Borrower may comply with any requirements of Premier Bank, to name such bank the first loss payee on any policy of hazard insurance, and the Grantee shall be named second loss payee with rights subordinate to those of Premier Bank; and all insurance proceeds shall be used to repair and/or restore the improvements, fixtures and equipment that were used and which existed upon the real property previous to the loss. The balance, if any, shall be paid to the first loss payee, and then to the second loss payee.

5. Preservation and Maintenance of Property; Leaseholds. Borrower shall not destroy, damage, or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provision of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

6. Protection of Lender's Rights in the Property; Mortgage Insurance. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations, or a foreclosure proceeding, judicial or nonjudicial, then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 6, Lender does not have to do so. Any amounts disbursed by Lender under this paragraph 6 shall become Secured Debt. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Secured Debt rate in effect from time to time hereunder and shall be payable, with interest, upon demand from Lender to Borrower.

7. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

8. Condemnation. The proceeds of any award or claim for damages, direct or consequential in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. In the event of a total taking of the Property, the proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing to use the proceeds for reconstruction, the Secured Debt shall be reduced by the amount of the condemnation proceeds. Any remaining balance shall be paid to Borrower. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the Secured Debt, whether or not then due. Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments referred to in paragraph 1 or change the amount of such payments.

Notwithstanding the foregoing, for as long as the Premier Bank Permitted Lien is due and owing, the terms and conditions of this paragraph 8 shall be determined as follows: Borrower may comply with any requirements of Premier Bank, for the payment of condemnation proceeds, so long as they shall be used to repair and/or restore the improvements, fixtures and equipment that were used and which existed as nearly as possible upon the Property previous to the loss, to the extent that the same shall be an economically profitable unit. The balance, if any, shall be paid to the first loss payee, and then to the second loss payee.

9. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the Secured Debt granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the Secured Debt by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

10. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 15. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Promissory Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the Secured Debt; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Secured Debt without that Borrower's consent.

11. Loan Charges. If any Secured Debt is subject to a law which sets a minimum rate of interest or maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Secured Debt exceed the permitted limits, then: (a) any such interest or loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the

principal amount of the Promissory Note, other Secured Debt, or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the applicable instrument.

12. Legislation Affecting Lender's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Promissory Note or this Security Instrument unenforceable according to its terms, or all or any part of the Secured Debt uncollectible, or of diminishing the value of Lender's security, then, Lender, at its option, may require immediate payment in full of all Secured Debt and may invoke any remedies permitted by paragraph 16. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of paragraph 15.

13. Notices. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail, unless applicable law requires use of another method, and shall be directed to the Property Address (201 Woodland Street, Nashville, TN.) and to *318 Appomattox Drive, Brentwood, TN 37027,* or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by certified mail to *P.O. Box 23825, Nashville, TN 37202, or at such other address that the holder hereof may give notice to Maker, at Maker's addresses above.*

14. Governing Law; Severability. This Security Instrument shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Promissory Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Promissory Note which can be given effect without the conflicting provision. To this end, the provisions of this Security Instrument and the Promissory Note are declared to be severable.

15. **Limited Notice and Opportunity to Cure. Except as otherwise specifically set out herein, all notices and opportunities to cure are expressly waived. If the Promissory Note or any real estate taxes are due and payable hereunder, are not paid in full at the time and in the manner required hereunder or by law, after the limited notice and opportunity to cure, then all principal (and any unpaid interest and late fees) shall, at the written election and option of the legal holder hereof, become due and payable, after the lapse of time set forth below.**

The Lender, or his successor or assign, may waive or delay receipt of payment hereunder, but such waiver or delay shall not affect the Lender's rights hereunder, or the Borrower's obligations. Provided, however, if the Borrower should fail to pay any sum of money due under this Promissory Note or the real estate taxes, after the Lender has given the Borrower written notice thereof, and if the Borrower has not cured such failure in full within fifteen days after mailing of such notice by regular U.S. Mail to the Borrower's address, 318 Appomattox Drive, Brentwood, TN 37027, then the Borrower shall be deemed to be in default hereunder. The notice provision granted herein shall apply only to the obligation to make payments under the Promissory Note and real estate taxes. Insurance premiums and other payments and obligations shall not be the subject of any notice of default and opportunity to cure. The Lender may waive such defaults as he may desire.

TIME IS OF THE ESSENCE OF EACH AND EVERY OBLIGATION OF THE BORROWER HEREIN.

16. Remedies. **This paragraph shall prevail, unless specifically varied by paragraph 15.** If Borrower fails to pay any Secured Debt or any part or installment thereof, promptly or at maturity, or if, failing to pay taxes, keep up repairs, keep said premises insured, or perform said other obligations and agreements as herein provided, Borrower fails to reimburse the Trustee or Lender for all sums, with interest, so extended by said Trustee or Lender within 30 days from demand by Lender for such payment, this trust conveyance shall remain in full force and effect and, at the option of Lender, all remaining unpaid Secured Debt shall become due and payable at once, without notice, and the said trustee, or his successor in trust, is hereby authorized and empowered, upon giving 21 days' notice by three weekly publications in any newspaper, daily or weekly, published in the county where the property is located, to sell said Property at the courthouse in said county to the highest bidder for cash, at public outcry; and the said Trustee or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. Lender or Lender's designee may bid at any sale under this trust conveyance. Trustee shall apply the proceeds of this sale in the following order:

(a) to all reasonable costs and expenses of the sale, including but not limited to, reasonable trustee's and attorney's fees and costs of title evidence;

(b) to all Secured Debt;

(c) the excess, if any, to the person or persons legally entitled thereto.

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In the event of a sale of said Property under and by virtue of this trust, Borrower and all persons holding under him shall be and become tenants at will of the purchaser from and after the execution and delivery of the Deed to such purchaser, said tenancy to be determined at the option of said purchaser upon five days' written notice, and shall be liable for a reasonable rental on the property and all damages occasioned by their continued possession of the Property. In addition to the power of sale described above, Trustee or Lender shall have the right to proceed in a court of equity to foreclose this Deed of Trust. Notwithstanding any of the foregoing provisions, Lender may in its sole discretion elect to exercise its rights of judicial foreclosure in lieu of the provisions enumerated above.

17. Rent; Lender in Possession. Upon acceleration under paragraph 16, default on any Secured Debt (whether or not Lender accelerates the maturity thereof), or abandonment of the Property, Lender (in person, by agent, or by judicially appointed receiver) shall be entitled: (i) to direct any lessee of the Property or any portion thereof to remit all rentals thereon directly to Lender; or, at Lender's option, (ii) to enter upon, take possession of and manage the Property and to collect the rents of the Property, including in either case those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the cost of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the Secured Debt. Borrower hereby authorizes and directs any such lessee to comply with directions given by Lender under this paragraph 17 and agrees to hold harmless such lessee from so complying, whether or not such acceleration, default, or abandonment has actually occurred.

18. Extensions; Power of Attorney. Borrower constitutes and appoints any officer or employee of Lender as Borrower's true and lawful attorney-in-fact, solely for the purposes of executing and recording on Borrower's behalf any extension of this Security Instrument, as amended and/or previously extended, if, at the time of such extension, any Secured Debt is outstanding. Borrower shall promptly reimburse Lender for the costs of recording such extension. This power of attorney, being coupled with an interest, is irrevocable as long as any Secured Debt is outstanding.

19. Successors and Assigns Bound. The covenants herein contained shall bind, and the benefits and advantages inure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. All covenants of Borrower

shall be joint and several. In the event any provision of this Security Instrument or the instruments secured hereby conflicts with applicable law, such conflict shall not affect the other provisions which can be given effect without the conflicting provision, and to this end, said provisions are declared to be severable. The captions and headings of the paragraphs of this Security Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

20.1. Full Release. Upon full payment of Secured Debt, Lender shall release this Security Instrument.

20.2. Partial Prepayment; Partial Releases. **Provided, that the Borrower is not then in default hereunder or under this Installment Deed, the Borrower may partially prepay the Promissory Note and secure partial releases of real properties, as follows, but not otherwise: specifically, the Lender or its assigns shall release from the lien of this Installment Deed the following described parcels, upon cure of any pre-existing defaults and upon prepayment by the Borrower of the following corresponding principal amounts, and such prepayment and releases may occur singularly, cumulatively, or successively:**

Property:	Prepayment Amount:
201 Woodland (parcel 48, 1.47 acres)	Pay Note in Full
225 Woodland (par. 223, .25 ac.)	$125,000.00
200 Main Street (par. 33, 1.77 ac.)	$885,000.00
220 Main Street (Par. 35, .13 ac.)	$65,000.00
222 Main Street (Par. 35.01, .13 ac.)	$65,000.00
___ Main Street (Par. 224, .07 ac.)	$35,000.00
___Main Street (Par. 37, .36 ac.)	$18,000.00
5 South 2nd Street (Par. 32, .07 ac.)	$35,000.00

21. Substitute Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

22. Waivers. Borrower waives all right of homestead, equity of redemption, statutory right of redemption and relinquishes all other rights and exemptions of every kind, including, but not limited to, any statutory right to an elective share in the Property.

23. Funds for Taxes and Insurance. If Lender so demands in writing, and unless Borrower is already similarly obligated to the holder of a Permitted Lien and is in compliance with such obligation, Borrower shall pay to Lender on the day monthly payments are due under the Promissory Note, until the Promissory Note is terminated and paid in full, a sum ("Funds") equal to one-twelfth (1/12) of (a) yearly taxes and assessments which may attain priority over this Security Instrument; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard insurance premiums, and (d) yearly mortgage insurance premiums, if any. These items are hereinafter called "escrow items." Lender may estimate the Funds due on the basis of current date and reasonable estimates of future escrow items. The Funds shall be held in an institution, the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay the escrow items. Lender may not charge for holding and applying the Funds, analyzing the account or verifying the escrow items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing that interest shall be paid on the Funds. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Security Instrument. If the amount of the Funds held by Lender, together with the future monthly payments of Funds payable prior to the due dates of the escrow items, shall exceed the amount required to pay the escrow items when due, the excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly payments of Funds. If the amount of the Funds held by Lender is not sufficient to pay the escrow items when due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as required by Lender. Upon payment in full of all Secured Debt, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 16, the Property is sold or acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the Secured Debt. Lender shall have the option at any time to

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require Borrower to pay to Lender, in addition to and concurrent to the monthly installment of principal and interest and escrow for taxes and hazard insurance, a sum equal to one-twelfth (1/12th) of the annual flood insurance premium in the event Lender requires flood insurance and the same is available under the National Flood Insurance Act of 1968 or subsequent similar legislation, said sum to be held in escrow without liability on the part of Lender for interest thereon and to be used in payment of said insurance when due and payable. If the amount so held at any time be insufficient to pay said insurance premium when due and payable, the Borrower shall promptly deposit the entire amount of said deficit.

24. Intentionally left blank.

25. Pay Taxes and Assessments. Trustor further agrees to pay all taxes and assessments thereon, general or special, and to pay them when due, and, upon demand of said Trustee or the lawful owner and holder of said indebtedness, to pay, discharge, or remove, any and all liens which may be hereafter placed against said property and which shall adversely affect the lien of this instrument or enforcement of the terms and provisions hereof; to keep the improvements on said property in good repair and preservation, and in case the Trustee or his successors or the lawful owner and holder of said indebtedness shall hereafter be required to appear in any court or tribunal to enforce, or defend the title to, or possession of, said property, or the lien of this instrument, or appear in any court to prove the above indebtedness, all the costs and expenses of such appearance or proceedings, together with a reasonable attorney's fee, shall be allowed, and be payable by Trustors upon demand of the Trustee or lawful owner or holder of said indebtedness, and, upon failure to do any of these things, then said Trustee, or the lawful owner and holder of said indebtedness may do any or all of these things and the amounts so paid shall bear interest at the maximum formula rate of interest in effect when such advances and/or payments are made for the Grantor's benefit from the date of payment and shall be and become a part of the indebtedness secured hereby.

26. Power of Sale Foreclosure. The said Trustee, or successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Lender, or its assign, may bid its vendor's lien note at any sale under this trust conveyance. The Trustee may, at any time after default in the payment of any of said indebtedness, enter and take possession of said property, and shall only account for the net rents actually received by him. It is further agreed that, in the event the Trustee fails, before selling said property, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession

thereof upon the delivery to him by the Trustee of a deed for said property.

27. Successor Trustee. In case of the death, absence, inability, or refusal to act of said Trustee at any time when action under the foregoing power and trusts may be required, the lawful owner and holder of said indebtedness, or, if more than one when said indebtedness is represented by notes, then of the first-maturing unpaid note, or upon his refusal or failure so to do, then the holder in order of the next maturing notes, is hereby authorized and empowered to name and appoint a successor to execute this trust by an instrument in writing to be recorded in the Registers Office for Davidson County, Tennessee, and the title herein conveyed to the above named Trustee shall be vested in said successor.

28. Prohibition Against Sale or Transfer.

28.1. Unless otherwise permitted hereunder **(including the sale of a portion of the Property and the concurrent prepayment of principal indebtedness in exchange for a partial lien release)**, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, excluding the creation of a lien subordinate to this Security Instrument, Lender may, at its option, require immediate payment in full of all Secured Debt. If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all Secured Debt. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice of demand on Borrower.

28.2. Provided, however, the Grantee may sell or assign parts of his interest in the Property, as long as he retains at least a 25% interest in any entity owning the Property, and he may sell parts of the Property as permitted under the paragraph permitting partial releases (paragraph 20.2).

28.3. No sale, assignment or transfer of the Grantee's interest in the Property, or in any ownership entity in which he may have an interest, shall reduce the Grantee's liability to pay the Note in full and to perform any obligation he may have under the Promissory Note, or under this Installment Deed, or any other instrument delivered in connection with this transaction. The Grantor shall remain primarily and fully liable therefor, regardless of any such assignments, sales or transfers. Except as

specifically permitted hereby, a condition of this transaction is that the subject property shall not be sold, transferred or conveyed by the Grantee, or by any of his successors and/or assigns, by operation of law or otherwise. If this condition is violated, then Grantor may accelerate the maturity date of the above promissory note and call for the full payment thereof. A failure to pay the said promissory note, when so accelerated, shall be a default hereunder, entitling the Grantor, or the holder of the said note, to exercise his remedy of power of sale foreclosure hereunder.

29. DISCLAIMER:

GRANTEE ACKNOWLEDGES THAT NEITHER GRANTOR NOR ANY REAL ESTATE BROKER, AGENT, OFFICER, EMPLOYEE, SERVANT OR REPRESENTATIVE OR GRANTOR HAS MADE ANY REPRESENTATIONS WHATSOEVER REGARDING THE SUBJECT MATTER OF THIS TRANSACTION OR ANY FACET THEREOF, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, REPRESENTATIONS AS TO THE PHYSICAL NATURE OR CONDITION OF THE PROPERTY OR ANY PORTION THEREOF, OR ANY MATTER OR THING AFFECTING OR RELATED TO THE PROPERTY OR ANY PORTION THEREOF OR THE EXISTENCE, USE, OWNERSHIP, OCCUPANCY, OPERATION AND/OR MAINTENANCE THEREOF, AND GRANTEE FURTHER AGREES TO ACCEPT THE PROPERTY IN "AS IS, WHERE-IS" CONDITION AS OF THE DATE OF THE CLOSING, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, THAT THE PROPERTY IS SUITABLE OR FIT FOR ANY USE OR PURPOSE, EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT. GRANTEE AGREES THAT THE GRANTEE, IN EXECUTING, DELIVERING AND/OR PERFORMING THE SAID AGREEMENT FOR PURCHASE AND SALE, HAS NOT AND DOES NOT RELY UPON, AND THAT GRANTOR IS NOT LIABLE OR BOUND IN ANY MANNER BY, EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, PROMISES, STATEMENTS, REPRESENTATIONS, PROPOSALS OR OTHER INFORMATION PERTAINING TO THE PROPERTY OR THE OTHER DOCUMENTS SET FORTH OR DESCRIBED IN THE EXHIBITS OR SCHEDULES ATTACHED TO THE SAID AGREEMENT OF PURCHASE AND SALE (IF ANY), OR THE INCOME, FUTURE EXPENSES AND FUTURE OPERATIONS OF THE PROPERTY, MADE OR FURNISHED BY GRANTOR OR BY ANY ACCOUNTANT, ATTORNEY, AGENT, OFFICER, EMPLOYEE, SERVANT OR OTHER PERSON OR ENTITY REPRESENTING OR PURPORTING TO REPRESENT GRANTOR, TO WHOMSOEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS THE WARRANTIES, GUARANTIES, PROMISES, STATEMENTS, REPRESENTATIONS OR INFORMATION ARE EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS AGREEMENT. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, NO REPRESENTATIONS, WARRANTIES OR AGREEMENTS OF GRANTOR, EXPRESS OR IMPLIED, SHALL SURVIVE CLOSING FOR A PERIOD IN EXCESS OF SIX (6) MONTHS AND, EXCEPT FOR SUCH SURVIVAL AND AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, THE DELIVERY OF THE DEED AND BILL OF SALE SHALL BE DEEMED TO BE FULL PERFORMANCE AND DISCHARGE OF EVERY AGREEMENT AND OBLIGATION ON THE PART OF THE GRANTOR UNDER THE SAID AGREEMENT OF PURCHASE AND SALE.

MT.

EBS

WITNESS our signatures as of this the 8th day of January, 2004.

GRANTOR:

E. B. Smith, Jr.

GRANTEE:

Morris Thurman, Jr.

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, Willie Vee Cox, a Notary Public in and for said County and State, **E. B. Smith, Jr.**, the within named bargainor, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and seal at Nashville, Tennessee, this 8 day of January, 2004.

Willie Vee Cox
NOTARY PUBLIC
MY COMMISSION EXPIRES: 3-25-06

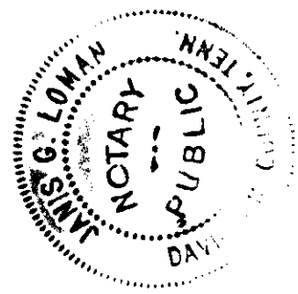


STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, JANIS G. LOMAN, a Notary Public in and for said County and State, **Morris Thurman, Jr.**, the within named bargainor, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and seal at Nashville, Tennessee, this 9th day of January, 2004.

Janis G. Loman
NOTARY PUBLIC
MY COMMISSION EXPIRES: 9/25/04



PROPERTY DESCRIPTION

PREPARED BY: WM. ROBERT SEIGENTHALER
TENN. REGISTERED LAND SURVEYOR NO. 177

JANUARY 5, 2004

OWNER OF RECORD: E. B. SMITH, JR.
4.415 ACRES / WOODLAND STREET
PROPERTY MAP 82-15
PARCELS 32, 33, 35, 35.01, 37, 48, 223, AND 224

Land lying in the 6th Councilmanic District of Metropolitan Nashville and Davidson County, Tennessee, bounded on the south by Woodland Street, on the west by South 2nd Street, on the north by Main Street, and on the west by Interstate Drive, being part of LOTS 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, and
part of LOTS 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, and 156, on the map of DR. JOHN SHELBY'S 3rd ADDITION, EDGEFIELD, registered December 11, 1858, in Plat Book 21, Page 43, Registered Office for Davidson County, Tennessee, and also
being LOT 2 on the plat of the RESUBDIVISION OF LOT 114, 115, 116, 117, 118, & 119, SHELBY'S THIRD ADDITION TO EDGEFIELD of record in Plat Book 8250, Page 23, R.O.D.C., Tennessee, and also
being that part of Alley No. 258 closed, vacated, and abandoned by the Metropolitan Government of Nashville and Davidson County, Tennessee, of record in BILL NO. 65-559 and BILL NO. 72-104, City Clerk's Office for said Metropolitan Government, and being further described as follows:

Beginning at an iron pin in the northerly margin of Woodland Street, as widened, said iron pin being the southeasterly corner of LOT 2 on the plat of the RESUBDIVISION OF LOT 114, 115, 116, 117, 118, & 119, SHELBY'S THIRD ADDITION TO EDGEFIELD of record in Plat Book 8250, Page 23, R.O.D.C., Tennessee,

Thence with said northerly margin of Woodland Street in a westerly direction around a curve to the right a distance of 60.00 feet to an iron pin, said curve having a central angle of 2 degrees 03 minutes 09 seconds, a radius of 1,674.85 feet, a tangent of 30.00 feet, a length of 60.00 feet and a chord bearing South 64 deg 56 min 31 sec West 59.99 feet; thence continuing with said margin of Woodland Street around a curve to the right a distance of 10.00 feet to a nail in pavement, said curve having a central angle of 0 degrees 20 minutes 48 seconds, a radius of 1,652.66 feet, a tangent of 5.00 feet, a length of 10.00 feet and a chord bearing South 65 deg 16 min 37 sec West 10.00 feet; thence continuing with said margin of Woodland Street around a curve to the left a distance of 196.39 feet to a nail in pavement, said curve having a central angle of 6 degrees 48 minutes 31 seconds, a radius of 1,652.66 feet, a tangent of 98.31 feet, a length of 196.39 feet and a chord bearing South 62 deg 59 min 17 sec West 196.27 feet; thence continuing with said margin of Woodland Street South 59 deg 35 min 00 sec West 250.48 feet to a drill hole in concrete pavement; thence around a curve to the right a distance of 31.42 feet to a drill hole in concrete pavement in the easterly margin of South 2nd Street, said curve having a central angle of 90 degrees 00 minutes 00 seconds, a radius of 20.00 feet, a tangent of 20.00 feet, a length of 31.42 feet and a chord bearing North 75 deg 25 min 00 sec West 28.28 feet; thence with the easterly margin of South 2nd Street North 30 deg 25 min 00 sec West 120.20 feet to an iron pin in the southerly margin of Alley No. 258; thence with the southerly margin of the Alley North 59 deg 35 min 00 sec East 54.30 feet to an iron pin at the easterly margin of the Alley; thence with said easterly margin of the Alley North 30 deg 25 min 00 sec West 16.00 feet to a point; thence with the northerly margin of the Alley South 59 deg 35 min 00 sec West 54.30 feet to a point in the easterly margin of South 2nd Street; thence with the easterly margin of South 2nd Street North 30 deg 25 min 00 sec West 137.46 feet to a nail in pavement at the beginning of a curve to the right; thence around the curve a distance of 44.44 feet to a nail in pavement in the southerly margin of Main Street said curve having a central angle of 94 deg 18 min 00 sec, a radius of 27.00

Exhibit A

feet, a tangent of 29.11 feet, a length of 44.44 feet and a chord bearing North 16 deg 44 min 00 sec East 39.59 feet; thence with the northerly margin of Main Street North 63 deg 53 min 00 sec East 207.50 feet to an iron pin at the beginning of a curve to the left; thence around the curve a distance of 242.04 feet to an iron pin, said curve having a central angle of 3 deg 20 min 00 sec, a radius of 4,160.36 feet, a tangent of 121.05 feet, a length of 242. 04 feet, and a chord bearing North 62 deg 13 min 00 sec East 242.01 feet; thence continuing with said southerly margin of Main Street around a curve to the right a distance of 225.59 feet to an iron pin, said curve having a central angle of 19 deg 35 min 02 sec, a radius of 660.00 feet, a tangent of 113.91 feet, a length of 225.59 feet, and a chord bearing North 70 deg 32 min 32 sec East 224.49 feet to an iron pin at the end of the curve; thence continuing with said margin of Main Street around a curve to the left a distance of 47.00 feet to an iron pin, said curve having a central angle of 17 deg 15 min 44 sec, a radius of 156.00 feet, a tangent of 23.68 feet, a length of 47.00 feet and a chord bearing North 68 deg 49 min 01 sec East 46.82 feet to an iron pin; thence around a curve to the right a distance of 28.88 feet to a nail in pavement in the westerly margin of Interstate Drive, said curve having a central angle of 87 deg 05 min 42 sec, a radius of 19.00 feet, a tangent of 18.06 feet, a length of 28.88 feet, and a chord bearing South 76 deg 16 min 00 sec East 26.18 feet; thence continuing with said margin of Interstate Drive South 31 deg 06 min 34 sec East 86.99 feet to an iron pin being the northeast corner of LOT 1 on the plat of the RESUBDIVISION OF LOT 114, 115, 116, 117, 118, & 119, SHELBY'S THIRD ADDITION TO EDGEFIELD of record in Plat Book 8250, Page 23, R.O.D.C., Tennessee; thence with the northerly line of said LOT 1 South 60 deg 23 min 29 sec West 230.00 feet to an iron pin at the northwesterly corner of said LOT 1; thence with the common line between said LOT 1 and LOT 2 South 31 deg 06 min 23 sec East 160.00 feet to the point of beginning, containing 4.415 acres, or 192, 330 square feet, more or less.

Being property conveyed to E.B. Smith, Jr. as follows:

PARCEL 32 being the same property conveyed to E.B. Smith, Jr. by deed from WALCO NATIONAL CORPORATION of record in Book 4653, Page 444, and described therein as TRACT NO. 3;

PARCEL 33 being part of the property conveyed to E.B. Smith, Jr. by deed from Carnell Realty Company of record in Book 4229, Page 887;

PARCELS 35, PARCEL 35.01, and PARCEL 37 being part of the property conveyed to E.B. Smith, Jr. by deed from James W. Stewart and wife, Sybil D. Stewart, of record in Book 5239. Page 1;

PARCEL 48 being property conveyed to E.B. Smith by two deeds;
one being the same property conveyed by deed from E.B. Smith Chevrolet, Inc. of record in Book 4229, Page 883;
and the second being part of the same property conveyed by deed from Carnell Realty Company of record in Book 4229, Page 887;

PARCEL 223 being part of the same property conveyed to E. B. Smith, Jr. by deed from Carnell Realty Company of record in Book 4229, Page 887;
And all of the above being of record in the Register's Office for Davidson County, Tennessee;

PARCEL 224 being part of the same property, Alley No. 258, conveyed to the adjacent owner, E. B. Smith, Jr. by the Metropolitan Government of Nashville and Davidson County by the closing, vacating, and abandoning of Alley No. 258 of record in Council Bill 72-104, City Clerk's Office for Metropolitan Government of Nashville and Davidson County, Tennessee;

And also, being that part of Alley No. 258, conveyed to the adjacent owner, E. B. Smith, Jr. by the Metropolitan Government of Nashville and Davidson County by the closing, vacating, and abandoning of Alley No. 258 of record in Council Bill 65-559, City Clerk's Office for Metropolitan Government of Nashville and Davidson County, Tennessee.

Exhibit B

PERMITTED LIENS / ENCUMBRANCES

1. 2003 and 2004 real estate taxes, which have been assumed by Morris Thurman, Jr..

2. The Premier Bank Permitted Lien, to which E.B. Smith, Jr. has subordinated according to the terms and conditions of the Installment Deed delivered to Morris Thurman, Jr.

3. General Permit granted Southern Bell Telephone and Telegraph Company of record in Book 3993, page 718, Register's Office for Davidson County, Tennessee.

4. Right of way easement granted Nashville Gas Company of record in Book 4077, page 565, said Register's Office.

5. Overhead Line easements granted Metro Electric Power Board of record in Book 8464, page 835 and Book 8464, page 837, said Register's Office.

6. Sanitary and/or storm drainage easement granted to Metropolitan Government in Book 8766, page 435, said Register's Office.

7. *Exclusive perpetual easement for the purpose of constructing and maintaining a driveway and parking area, together with all rights of vehicular and pedestrian ingress in Book 8399, page 656, said Register's Office*.

8. Matters shown on plat of record in Plat Book 21, page 43, as amended in Book 8250, page 23, said Register's Office.

8. Easements and restrictions reserved in Bill No. 65-559 of the Metropolitan Council.

9. Title to that portion (Lot 147) embraced within the easterly 20 feet of Lot 147, as shown on the survey of Parrish Engineers, Inc., dated March 30, 1968, accepted as an alley by Bill No. 65-559 of the Metropolitan Council.

10. All matters shown on the survey dated December 31, 2003, by Wm. Robert Seigenthaler, TN RLS #177.

MT