

**RESTRICTIVE COVENANTS FOR EAST POINT CROSSING SUBDIVISION,
PHASE I FILED IN PLAT BOOK 32, PAGE 182
LEE COUNTY PROBATE RECORDS**

ARGO & SONS, LLC., an Alabama Limited Liability Company, by and through its duly authorized Manager, DENNIS BLANE ARGO and C. L. REGAN, hereby adopt the following Restrictive Covenants for EAST POINT CROSSING SUBDIVISION, PHASE I, located in Section 22, Township 19 North, Range 27 East, Opelika, Lee County, Alabama, the plat of which is recorded in Plat Book 32, Page 182 in the Office of the Judge of Probate of Lee County, Alabama.

1. **LAND USE AND BUILDING TYPE:** No lot shall be used for any purpose other than residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private carport or garage for one or two motor vehicles. No carport or garage shall ever be enclosed so as to be incorporated into the heated and cooled living area. Every carport or garage constructed shall be maintained for the storage and parking of one or two motor vehicles.

2. **ARCHITECTURAL CONTROL:** No building, storage building or any other structure shall be erected, placed or altered on any lot until the written construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee. All buildings, storage buildings or other structures shall be erected and placed in compliance with the setbacks shown on the Subdivision Plat and in accordance with the regulation of the City of Opelika, Alabama. All satellite dishes must be of the small, digital size and placed to the rear of the dwelling. The Architectural Control Committee will establish a standard mailbox and post for use in the subdivision and no other type of mailbox, post or pillar shall be used without the express written consent of the Architectural Control Committee. All fences in the Subdivision shall be either black chain link or wooden privacy and no other type fence shall be used without the express written consent of The Architectural Control Committee. All dwellings, garages and any outbuildings allowed by Paragraph 7 hereinbelow must be constructed using Architectural Shingles or imitation Architectural Shingles approved, in advance, in writing by the Architectural Control Committee. At least 20% of the front of each home must be clad in brick, stone or some other type masonry material approved, in advance, in writing by the Architectural Control Committee. It is the intent of these Covenants that this Subdivision shall have a uniform, architectural style and all materials used on the exterior of all dwellings, garages and outbuildings must be approved, in advance, in writing by the Architectural Control Committee.

3. **QUALITY AND SIZE:** No main dwelling containing less than 1500 square feet of heated livable area shall be constructed on any lot in this subdivision. The minimum allowable roof pitch shall be 7 feet over 12 feet.

4. **LOT LINES:** No dwelling shall be erected or altered on any lot nearer the front lot lines than shown on the recorded plat. No dwelling shall be located nearer the side street line than the building line shown on the recorded plat. No fence or wall shall be erected, placed or altered on any lot nearer the front lot lines than shown on the recorded plat. Provided, however, retaining walls may be erected in such prohibited area when necessary for full time use and enjoyment of a lot or any adjoining lot when topography of said lot is such as to reasonably require such wall. In any event, prior to the construction of such wall, written approval must be obtained from the Architectural Control Committee.

5. **NUISANCE:** No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

6. **SEWAGE AND WASTE DISPOSAL:** No individual sewage-disposal sewage system or septic tank shall be permitted on any lot as this Subdivision will be serviced by the City of Opelika Sanitary Sewer System.

7. **OUTBUILDING:** No trailer, mobile home, pre-manufactured home, modular home, tent, shack, or barn shall at any time be used as a residence, temporarily or permanently. One accessory structure, detached garage or storage building is permitted per lot, not to exceed the maximum size of 600 sq. feet. The exterior appearance including roof and exterior walls shall match the color, texture and material of the dwelling. All accessory structures, detached garages and/or storage buildings must be approved by the Architectural Committee prior to their construction. There shall be absolutely no metal or aluminum storage buildings on any lot at any time.

8. **ANIMALS:** No animals, livestock, horses or poultry of any kind shall be raised, bred or kept on any lot; however, dogs, cats, and other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes.

9. **EASEMENT:** A four (4) foot easement is reserved along the front, rear and all side property lines for installation and maintenance of utilities and drainage facilities; additionally all other easements indicated on the subdivision plat are also reserved.

10. **SIGNS:** No sign of any kind shall be displayed to the public view on any lot except professional signs of not more than six square feet advertising the property for sale or rent used by the builder and/or real estate agents to advertise during the construction and sale period.

11. **GARBAGE AND REFUSE DISPOSAL:** Trash, garbage, and other waste shall not be kept except in sanitary containers. All other equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition.

12. **SIGHT DISTANCE AT INTERSECTIONS:** No hedge or shrub planting which obstructs sight lines at elevations between 2 and 3 feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by street property lines and a line connecting them at a point 25 feet from the intersection of the street property line extended. The same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such straight lines.

13. **FUEL STORAGE:** All fuel storage tanks shall comply with state and local utility requirements.

14. **LANDSCAPING:** All yards must be solidly sodded from the edge of the road pavement to a line twenty (20) feet to the rear of the homeplace and sidewalks, except for areas otherwise landscaped (beds, trees, shrubs, flowers, etc.) and maintained with pine straw, bark, or other natural materials. All driveways are to be constructed of concrete. Every Builder on Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 shall pour a concrete sidewalk four (4) feet in width, to be a continuous sidewalk in accordance with the rules and regulations of the City of Opelika.

15. **MEMBERSHIP:** The Initial Architectural Control Committee is composed of **DENNIS BLANE ARGO** and **C. L. REGAN**. The committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, any remaining member or members shall have authority to designate a successor. No member of the committee nor its designated representative(s) shall be entitled to any compensation for services performed pursuant to this covenant. In the event and at such time that either **DENNIE BLANE ARGO** or **C. L. REGAN** should resign from the Architectural Control Committee, **DENNIS BLANE ARGO** and/or **C. L. REGAN** shall have the right to assign the duties of the Architectural Control Committee to such other person or persons of his/their designation or to the **EAST POINT CROSSING HOMEOWNERS ASSOCIATION, INC.** (hereinafter referred to as "**THE ASSOCIATION**") which shall be a non-profit corporation set up for the sole purpose of assuming the duties of The Architectural Control Committee and representing the owners of the lots in **EAST POINT CROSSING SUBDIVISION, PHASE I**. Specifically, **EAST POINT CROSSING HOMEOWNERS ASSOCIATION, INC.** shall take title to any residual lands including, but not limited to the Subdivision's signs, common areas, drainage easements and storm water drainage area.

16. **PROCEDURE:** Any and all submissions for approval to The Architectural Control Committee shall be in writing and signed by the applicant. The Architectural

Control Committee's approval or disapproval as required in these covenants shall be written. In the event the committee or its designated representative fails to approve or disapprove within thirty (30) days after written plans and specifications have been submitted to it or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

17. **TERM:** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of ten (10) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the lots has been recorded agreeing to change said covenants in whole or in part.

18. **ENFORCEMENT:** Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or recover damages.

19. **SEVERABILITY:** Invalidation of any one of these covenants by judgment or Court Order in no wise affects any of the provisions which shall remain in full force and effect.

20. **BUSINESS:** No trade, business, occupation, boarding or rooming house or profession shall be conducted on any lot.

21. **OIL AND MINING OPERATIONS:** No oil drilling, oil development, operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected upon any lot.

22. **VEHICLE PARKING:** Vehicle parking on the street in front of the house shall be limited to temporary parking of guest or resident vehicles in current use and currently licensed. Storing automobiles, trucks, campers, boats, personal watercraft, motorcycles, motor bikes or any other vehicle of any other description in the street, driveway, yards or residences in front of the building setback lines is specifically prohibited. Vehicular maintenance or repair which renders vehicles inoperable for more than 24 hours is prohibited on the street, driveway or front yards of residences. This provision shall not permit the commercial repair of any type vehicles, such activity being expressly prohibited.

23. **LOT OWNER ASSESSMENTS:** Each owner of a Lot, by acceptance of a Deed or other instrument conveying any interest therein, regardless of whether the search Deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to **THE ASSOCIATION** assessments as established and to be collected as provided herein below, special assessments to be established and collected as provided

herein below and individual assessments against any particular Lot which are established or assessed pursuant to the terms of this Declaration, including, but not limited to, any fines that may be levied or imposed against such Lot in accordance with the provisions herein. All Assessments, together with late charges and interest as provided herein below, and all court costs and attorney's fees incurred by **THE ASSOCIATION** to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon each Lot for which the owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided herein below. Each owner shall be personally liable for the payment of all assessments coming due while he or she is the owner of a Lot and his or her Grantees shall take title to such Lot or dwelling subject to the equitable charge and continuing lien therefore, but without prejudice to the rights of such Grantee to recover from his or her Grantor any amounts paid by the such Grantee to **THE ASSOCIATION** which were the legal obligations of the Grantor. All assessments, together with late charges and interest at the applicable rate, as specified herein below, court costs and attorney's fees incurred with respect thereto by **THE ASSOCIATION**, shall also be a personal obligation of the person who was the owner of the Lot at the time such assessments and other charges and costs were assessed or incurred. In the event of co-ownership of any Lot, all of the co-owners shall be jointly and severally liable for the entire amount of such assessments. Assessments shall be paid on or before January 31st of each year or in such manner and on such dates as may be fixed by the Board of Directors of **THE ASSOCIATION**. All Assessments shall be payable in all events without offset, diminution, or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation, or by private purchase in lieu thereof with respect to any Lot or the retention pond area.

a) The annual and special Assessments provided for herein shall be used for the general purposes of promoting the common benefit and enjoyment of the Owners for the general upkeep and maintenance of the entrance to the subdivision, including, landscaping, lighting (not covered by the City of Opelika) the signs, grass, the payment of utilities (water, power and sewer) and for the maintenance of the detention pond included in the subdivision, all as may be more specifically authorized from time to time by the Board of Directors of **THE ASSOCIATION**.

b) Both annual Assessments and special Assessments shall be assessed against each Lot in the development at a uniform rate with the Owner(s) of each Lot being required to pay his/her/their pro rata portion (1/23 per Lot, to be reduced to 1/58 per Lot when Phase II of **EAST POINT CROSSING SUBDIVISION** is properly platted and recorded for record). Each Lot shall be subject to equal annual and special Assessments.

c) The initial annual Assessment for each Lot in the subdivision shall be \$100.00 (payable in advance) which shall become due upon the closing of the sale of each Lot. The initial Assessment of \$100.00 shall not be prorated and shall be a flat sum due upon the initial sale of each Lot. Thereafter, **THE ASSOCIATION** may reevaluate the amount of the annual assessment. The Board of Directors of **THE ASSOCIATION** shall determine and approve annually an annual budget covering the annual estimated

expenses for the subdivision for the upcoming year, including but not limited to, lighting, landscaping, grass cutting, irrigation, water, power, and sign maintenance, such budget to include a capital contribution or reserve amount as necessary for the capital needs of **THE ASSOCIATION** in maintaining the detention pond, drainage easements and storm water drainage areas in the subdivision. The amount set forth in such budget shall constitute the aggregate amount of annual Assessments for the then applicable year and each Owner shall pay his/her/their pro rata share (1/23 per Lot, to be reduced to 1/58 per Lot when Phase II of **EAST POINT CROSSING SUBDIVISION** is properly platted and recorded for record) of the same as provided hereinabove. A copy of the budget setting forth the amount of annual Assessments to be levied against the Lots for the following year shall be delivered to each Lot Owner.

d) If any budget or the amount of annual Assessments collected by **THE ASSOCIATION** at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of **THE ASSOCIATION**, then the Board of Directors may call a meeting of **THE ASSOCIATION** for the purpose of approving special Assessments. If the actual amount of annual Assessments collected in any one year exceeds the actual costs incurred for expenses for such year, the excess shall be retained by **THE ASSOCIATION** as a reserve for subsequent years' common expenses.

e) The expenses to be funded by the annual Assessments may include, but shall not be limited to, the following:

- (i) Compensation paid to third party contractors and legal and accounting fees incurred by **THE ASSOCIATION**;
- (ii) Utility charges for water and power serving the entrance to the subdivision and any lighting not covered by the City of Opelika;
- (iii) The cost of any insurance policies purchased for the benefit of **THE ASSOCIATION**, including errors and omissions insurance, directors and officers liability insurance;
- (iv) The expenses of maintaining, operating, repairing and replacing the detention pond, drainage easements and storm water drainage areas in the subdivision for which **THE ASSOCIATION** is responsible;
- (v) The expenses of maintaining, repairing and replacing the entrance to the subdivision which maintenance and repair obligation shall include mowing, landscaping, lighting, seeding, cleaning and trash pick-up and removal;
- (vi) Any ad valorem real and personal property taxes assessed and levied upon the detention pond, drainage easements and storm water drainage areas in the subdivision area;

24. **SPECIAL ASSESSMENTS:** In addition to the annual Assessments set forth hereinabove, the Board of Directors of **THE ASSOCIATION** may levy in any year special Assessments for expenses or any extraordinary cost incurred by **THE ASSOCIATION**; provided, however, that any such special Assessments shall be approved by a majority of the votes of the Owners who are voting in person or by proxy at the meeting called for the purpose of adopting special Assessments. The Board of

Directors may make such special Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Paragraph 23 hereinabove.

25. **INDIVIDUAL ASSESSMENTS:** Any expenses of **THE ASSOCIATION** occasioned by the conduct or misconduct of less than all of the Owners or by any Owner or Occupant, or the respective family members, agents, guests, servants, employees, invitees, or contractors of any Owner or Occupant, shall be specially assessed against such Owner(s) and their respective Lots. The individual Assessments provided for in this Section shall be levied by the Board of Directors and the amount and due date of such Assessment shall be specified by the Board of Directors in a notice to such Owner(s).

26. **NOTICE OF MEETINGS:** Written notice of the annual meeting of **THE ASSOCIATION**, as well as any other meeting called for the purpose of taking any action authorized in this Declaration shall be sent to all Owners not less than ten (10) days and not more than fifty (50) days in advance of such meetings. The vote of a majority of the Owners who are voting in person or by proxy at such meeting shall be required to approve any matter in which all of the members of **THE ASSOCIATION** are entitled to vote. There shall be no specific requirement establishing a quorum and the vote of the majority of the Owners who are voting in person or by proxy at any meeting shall be binding on all of the members of **THE ASSOCIATION**.

27. **EFFECT OF NON-PAYMENT:** Each Owner of a Lot is and shall be deemed to covenant and agree to pay to **THE ASSOCIATION** all Assessments provided for herein. In the event any Assessments or any portion thereof are not paid when due the same shall be subject to a late charge in an amount determined and uniformly applied by the Board of Directors from time to time and the Owner of such Lot shall be deemed in default herewith. In the event any Assessment or any portion thereof are not paid within thirty (30) days after the due date of the same, then the unpaid portion of the Assessment shall accrue simple interest at the lesser of eighteen (18%) per annum or the highest rate which may be charged to said Owner by law (hereinafter referred to as the "Applicable Rate") from and after the thirtieth (30th) day from the due date until the same is paid in full. In the event **THE ASSOCIATION** employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees, court costs, and all other expenses paid or incurred by **THE ASSOCIATION**. The lien and equitable charge upon each Lot for Assessments as provided above shall also include all late charges, interest at the Applicable Rate and all attorneys' fees, court costs, and all other expenses paid or incurred by **THE ASSOCIATION** in attempting to collect any unpaid Assessments. In the event any Assessments or other amounts due to **THE ASSOCIATION** are not paid by any Owner when the same comes due, then, in addition to all other rights and remedies provided at law or in equity, **THE ASSOCIATION**, acting through its Board of Directors or through

any of its officers or authorized representatives, may undertake any or all of the following remedies:

- (i) **THE ASSOCIATION** may commence and maintain a lawsuit against an Owner to enforce such charges and obligations for Assessments, and any such judgment rendered in any such action shall include the late charge and interest at the Applicable Rate, as specified hereinabove, together with attorneys' fees, court costs, and other expenses paid and incurred by **THE ASSOCIATION** in collecting such unpaid assessments; and/or
- (ii) **THE ASSOCIATION** may enforce the lien created herein in the manner hereinafter provided.

There is hereby created a continuing lien upon each Lot, with power of sale, which secures the payment to **THE ASSOCIATION** of any and all Assessments levied against or upon such Lot, all late charges and interest at the Applicable Rate assessed hereinabove and all attorneys' fees, court costs, and all other expenses paid or incurred by **THE ASSOCIATION** in collecting any Assessments. If any Assessments remain unpaid for more than sixty (60) days, then **THE ASSOCIATION**, through its Board of Directors or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, **THE ASSOCIATION** may file a claim of lien and perfect its lien against the Lot of such delinquent Owner, which claim shall be executed by any member of the Board of Directors of **THE ASSOCIATION** or any officer of **THE ASSOCIATION**, said claim shall contain the following information, and be recorded in the Office of the Judge of Probate of Russell County, Alabama:

- (i) The name of the delinquent Owner;
- (ii) The legal description and street address of the Lot upon which the lien claim is made;
- (iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and
- (iv) A statement that the claim of lien is made by **THE ASSOCIATION** pursuant to this Declaration and is claimed against such Lot in an amount equal to that stated therein.

The lien provided for herein shall be in favor of **THE ASSOCIATION**, shall be for the benefit of all other Owners (other than those Owners in default), and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. **THE ASSOCIATION** shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey, and sell any such Lot. Each Owner, by

acceptance of a deed to any Lot, shall be deemed to (1) grant to and vest in **THE ASSOCIATION** and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in **THE ASSOCIATION** and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein, and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

28. **SUBORDINATION OF LIEN:** Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot in the subdivision is and shall be subordinate to the lien of any Mortgage held by an Institutional Mortgagee, but only to the extent that the Mortgage held by any such Institutional Mortgagee is recorded in the Office of the Judge of Probate of Lee County, Alabama, prior to the filing of the claim of lien by **THE ASSOCIATION**. When an Institutional Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot, then such Institutional Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for any Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Institutional Mortgagee was recorded in the Office of the Judge of Probate of Lee County, Alabama, prior to the filing of a claim of lien by **THE ASSOCIATION**, but (b) shall be liable for all Assessments and other charges levied, assessed, or incurred with respect to such Lot from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot has been foreclosed from the personal obligation to pay all Assessments and any other charges levied, assessed, or incurred by **THE ASSOCIATION**, and **THE ASSOCIATION** shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by an Institutional Mortgagee on such Owner's Lot.

29. **CERTIFICATES:** **THE ASSOCIATION** or any officer or authorized representative thereof shall, upon request and at such reasonable charges as may from time to time be adopted by the Board of Directors, furnish to any Owner a certificate in writing setting forth whether the Assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any Assessments stated therein.

30. At such time as **EAST POINT CROSSING SUBDIVISION, PHASE II** is completed and platted, **THE ASSOCIATION** may be expanded to include the Lot Owner(s) in **PHASE II**.

IN WITNESS WHEREOF, ARGO & SONS, LLC has caused these presents to be executed by its duly authorized Manger, **DENNIS BLANE ARGO**, and **C. L.**

REGAN has hereunto set his hand and seal as of this 20th day of September, 2010.

ARGO & SONS, LLC

By: *Dennis Blane Argo*
DENNIS BLANE ARGO, Manager

C. L. Regan
C. L. REGAN

STATE OF ALABAMA }

COUNTY OF RUSSELL }

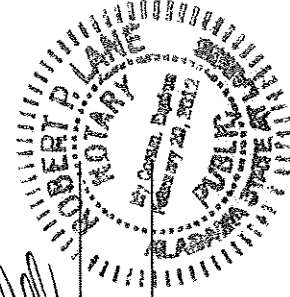
I, the undersigned, a Notary Public, in and for said County and State, hereby certify that **DENNIS BLANE ARGO**, whose name as Manager of **ARGO & SONS, LLC**, an Alabama Limited Liability Company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 20th day of September, 2010.

Robert P. Lane

NOTARY PUBLIC

My Commission Expires:



STATE OF ALABAMA }

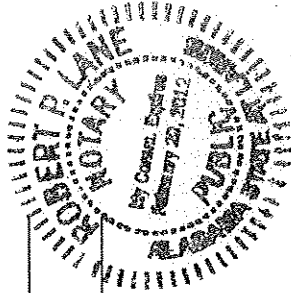
COUNTY OF RUSSELL }

I, the undersigned authority, a Notary Public, in and for the said County and State, hereby certify that **C. L. REGAN**, whose name 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 executed the same voluntarily.

Given under my hand this 20th day of **September, 2010**.



NOTARY PUBLIC
My Commission Expires:



Prepared by:
Robert P. Lane
Funderburk and Lane
P.O. Box 1268
1313 Broad Street
Phenix City, AL 36868
(334) 297-2900

laura/corporations/eastpointcrossing