

Prepared by and return to:

Phillip F. West, Esq.
Mountainprize, Inc.
200 Galleria Parkway, S.E.
Suite 900
Atlanta, Georgia 30339

SANITARY SEWER LIFT STATION EASEMENT AGREEMENT

THIS SANITARY SEWER LIFT STATION EASEMENT AGREEMENT (“**Agreement**”) is made this 31st day of August, 2020, by and between **MOUNTAINPRIZE, INC.**, a Georgia corporation (“**Mountainprize**”), whose address is 200 Galleria Parkway, S.E., Suite 900, Atlanta, Georgia 30339 and **THE COMMERCIAL DEVELOPMENT AUTHORITY OF THE CITY OF ALABASTER**, a municipal corporation (“**CDA**”), whose address is 1953 Municipal Way, Alabaster, Alabama 35007 with reference to the following facts:

A. Mountainprize is the owner of that certain real property described on Exhibit “A” (the “**Mountainprize Property**”) and CDA is the owner of that certain real property described on Exhibit “B” (the “**CDA Property**”), both of which Exhibits are attached hereto and made a part hereof by reference. The Mountainprize Property and the CDA Property are sometimes referred to herein collectively as the “**Property**”.

B. Mountainprize and CDA desire to provide such easements and rights as are necessary for the installation and use of a shared sanitary sewer lift station easement for the benefit of the Property, including, without limitation, the right to construct a sanitary sewer lift station and the right to install, use, operate and maintain underground utilities associated therewith, all as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration, paid receipt of which is hereby acknowledged, the parties agree as follows:

1. Recitals; Exhibits. The above recitals are true and correct and, together with the exhibits attached hereto, are incorporated herein by this reference.

2. Grant of Easement. Subject to the terms and conditions set forth herein, CDA hereby grants, sells, conveys, transfers and assigns to Mountainprize and its successors-in-title, for the benefit of such entities and of the Mountainprize Property, a perpetual, nonexclusive easement (the “**LS Easement**”) over, across and through that portion of the CDA Property more particularly described and depicted on



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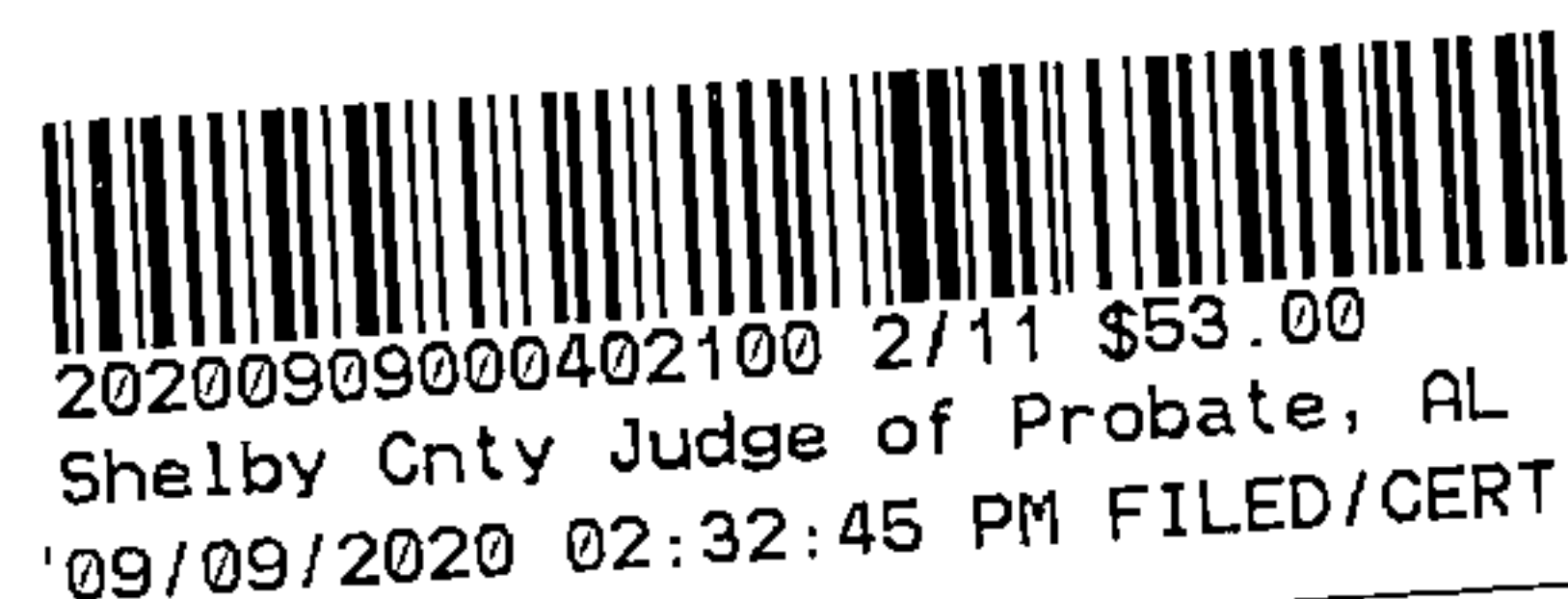
Exhibit "C" attached hereto (collectively, the "**Easement Area**"), for the purposes of installing, constructing, operating, maintaining, repairing and replacing a sanitary sewer lift station and associated fixtures, equipment and appurtenances (collectively, the "**Lift Station**"), and for purposes of connecting the Lift Station to public sanitary sewer facilities (all such associated improvements located with the Easement Area being referred to herein collectively as, the "**Lift Station Improvements**"), together with the right of ingress and egress over the CDA Property as may be necessary for purposes of exercising the easement rights specifically described herein. The LS Easement shall be appurtenant to and for the benefit of the Mountainprize Property and burden the LS Easement Area.

3. **Temporary Construction Easement.** Mountainprize shall have the right, but not the obligation, to undertake construction of the Lift Station Improvements. CDA hereby grants to Mountainprize for the benefit of Mountainprize and the Mountainprize Property, a temporary, non-exclusive slope, grading and construction easement ("**Temporary Construction Easement**") over that portion of the CDA Property within twenty (20) feet of any boundary of the Easement Area, as may be reasonably necessary for purposes of constructing the Lift Station Improvements. The Temporary Construction Easement shall terminate upon the completion of construction of the Lift Station Improvements to Mountainprize's satisfaction.

4. **Use of the Easements.** Mountainprize's use of the Easement Area and the Temporary Construction Easement Area shall be limited to the purposes expressly described in this Agreement. The easement rights granted in this Agreement shall be exercised in a reasonable manner, in compliance with all applicable laws. The Easement Areas shall not be used in any manner that would create a nuisance, or interfere with development or use of the Easement Areas or the Property.

5. **Maintenance.** Unless and until the Lift Station Improvements are dedicated to a public authority, Mountainprize shall be responsible for maintenance of the Lift Station Improvements at its sole cost and expense, except that to the extent CDA or its contractors, agents, employees or invitees damages the Lift Station Improvements or any portion thereof, in which event CDA shall reimburse Mountainprize for the cost of such repairs. Notwithstanding the foregoing, CDA shall have the right to enlarge the Lift Station Improvements as may be needed for a future use of the CDA Property. Any such enlargement shall be at CDA's (or its successor's or assign's) sole cost and expense, and shall be performed in such a manner that the Lift Station Improvements shall continue to be in service for the benefit of the Mountainprize Property at all times. Following completion of any such enlargement, the Lift Station Improvements shall be shared by Mountainprize and CDA (and/or the user, tenant or occupant of the CDA Property), and the cost of any maintenance, repair and replacement shall thereafter be shared on a 50/50 basis, except that to the extent that one party or such party's contractors, agents, employees or invitees damages the Lift Station Improvements or any portion thereof, in which event the party causing such damage shall be solely responsible for the cost of such repairs.

6. **Workmanlike Improvements; No Liens.** Mountainprize shall cause any work performed by or at its direction pursuant to this Agreement to be undertaken and performed in a good and workmanlike manner, in accordance with applicable laws, and shall not cause or permit any liens for labor, services or materials to be created against title to the Easement Area. To the extent any such lien is created as a result of Mountainprize's exercise of its rights under this Agreement, Mountainprize shall cause such lien to be bonded over or released of record within thirty (30) days of Mountainprize receiving written notice of such lien.



7. Compliance with Laws. The parties, and their respective employees, agents, contractors, sub-contractors, guests and invitees, shall each comply with all applicable permits, laws, statutes, ordinances, rules, codes and regulations.

8. Covenants Running with the Land; Binding Effect; Termination. Except for the Temporary Construction Easement, which will terminate at the time stated in Section 3 above, the easements and covenants set forth in this Agreement shall be deemed appurtenant to the Mountainprize Property, benefiting the Mountainprize Property and burdening the CDA Property, and shall constitute covenants running with the land, binding upon the CDA Property, CDA, and its successors and assigns.

9. No Public Dedication. Except for Mountainprize, no person or entity shall be deemed a beneficiary of the terms of this Agreement. Neither this Agreement nor the easements granted herein shall constitute dedications to the public, and no person nor entity shall have any rights or entitlements except as specifically set forth herein.

10. Miscellaneous Provisions.

(a) Notice. Notices given or served pursuant hereto or in connection herewith, must be in writing, and may be given either by (i) certified or registered mail and shall be deemed delivered on the third (3rd) business day after such notice, properly addressed and with postage prepaid, is deposited in the United States mail; or (ii) by personal delivery or overnight delivery, charges prepaid, and shall be deemed delivered when actually received (or delivery is refused) by the party to whom it is addressed. Such notices shall be given to the parties hereto at the addresses set forth in the preamble. Any party hereto may, at any time by giving five (5) days' written notice to the other party hereto, designate any other party or address in substitution of any foregoing party or address to which such notice shall be given.

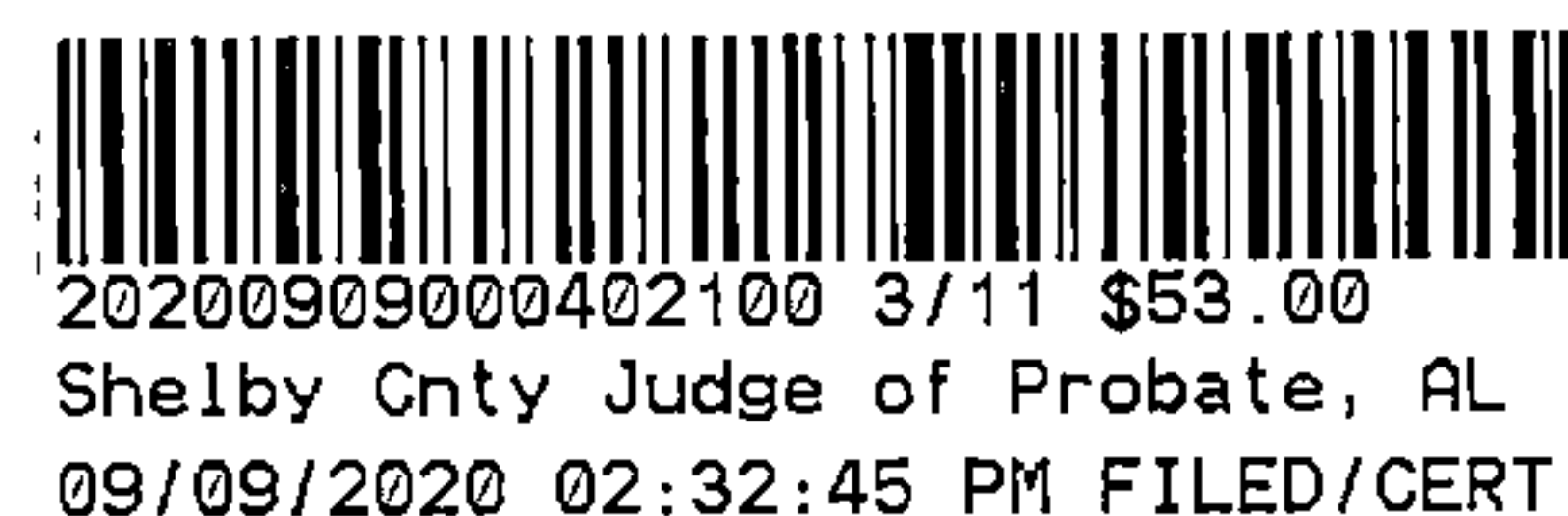
(b) Time is of the Essence. Time is of the essence as to all matters set forth in this Agreement.

(c) Enforcement. Except as expressly provided herein to the contrary, in the event of a default by either party or their successors or assigns under this Agreement, the non-defaulting party shall deliver to the defaulting party written notice specifying the default, and the defaulting party shall have fifteen (15) days to remedy the same, failing which the non-defaulting party shall be entitled to seek damages, specific performance, injunctive relief, and any other legal or equitable remedy on account of such default.

(d) Governing Law; Venue. This Agreement shall be governed in accordance with Alabama law. Venue for any dispute arising under this Agreement shall lie exclusively in the courts having jurisdiction with respect to Shelby County, Alabama.

(e) Jury Trial Waiver. The parties each knowingly, voluntarily and intentionally waive any right which either of them may have to a trial by jury with respect to any litigation or legal proceeding based upon or arising directly, indirectly or otherwise in connection with, out of, related to or from the Easements or this Agreement including, by way of example but not limitation, any course of conduct, course of dealings, verbal or written statements or acts or omissions of either party which in any way relate to the Easements or this Agreement. The parties have specifically discussed and negotiated for this waiver and understand the legal consequences of it.

(f) Attorneys' Fees. In the event of any dispute arising under this Agreement, the prevailing party in such action shall be entitled, in addition to all other relief granted or awarded by the court, to a judgment for its reasonable attorneys' and paralegals' fees and costs incurred by reason of such action and



all costs of mediation, arbitration, suit at both the trial and appellate levels, and any bankruptcy action. This provision shall survive any termination of this Agreement or the rights granted hereby.


(g) Amendment; Waiver. This Agreement may only be amended, modified or terminated by an instrument executed by both parties hereto, or their respective successors or assigns. No waiver of any provision hereof shall be effective unless done so in writing signed by the party entitled to enforce such matter, nor shall any single waiver constitute a waiver of any subsequent obligation.

(h) Entire Agreement. This Agreement embodies the entire agreement between the parties concerning the subject matter hereof, and supersedes any and all prior or contemporaneous negotiations, understandings or agreements concerning the subject matter hereof, all of which are hereby superseded and of no force or effect.

(i) Severability. In case any one (1) or more of the provisions contained in this Agreement is found to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein unless such unenforceable provision results in a frustration of the purpose of this Agreement or the failure of consideration.

(j) Counterparts. This Agreement may be executed in counterparts, all of which shall be effective as original, but all of which taken together shall constitute one and the same document.

[Signatures on Following Pages]


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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

WITNESSES:

CDA:

**THE COMMERCIAL DEVELOPMENT
AUTHORITY OF THE CITY OF ALABASTER,**
a municipal corporation



Print Name:

Brian J. Bilzer
City Administrator

By:

Name: Dennis Torrealba

Title: Chairman

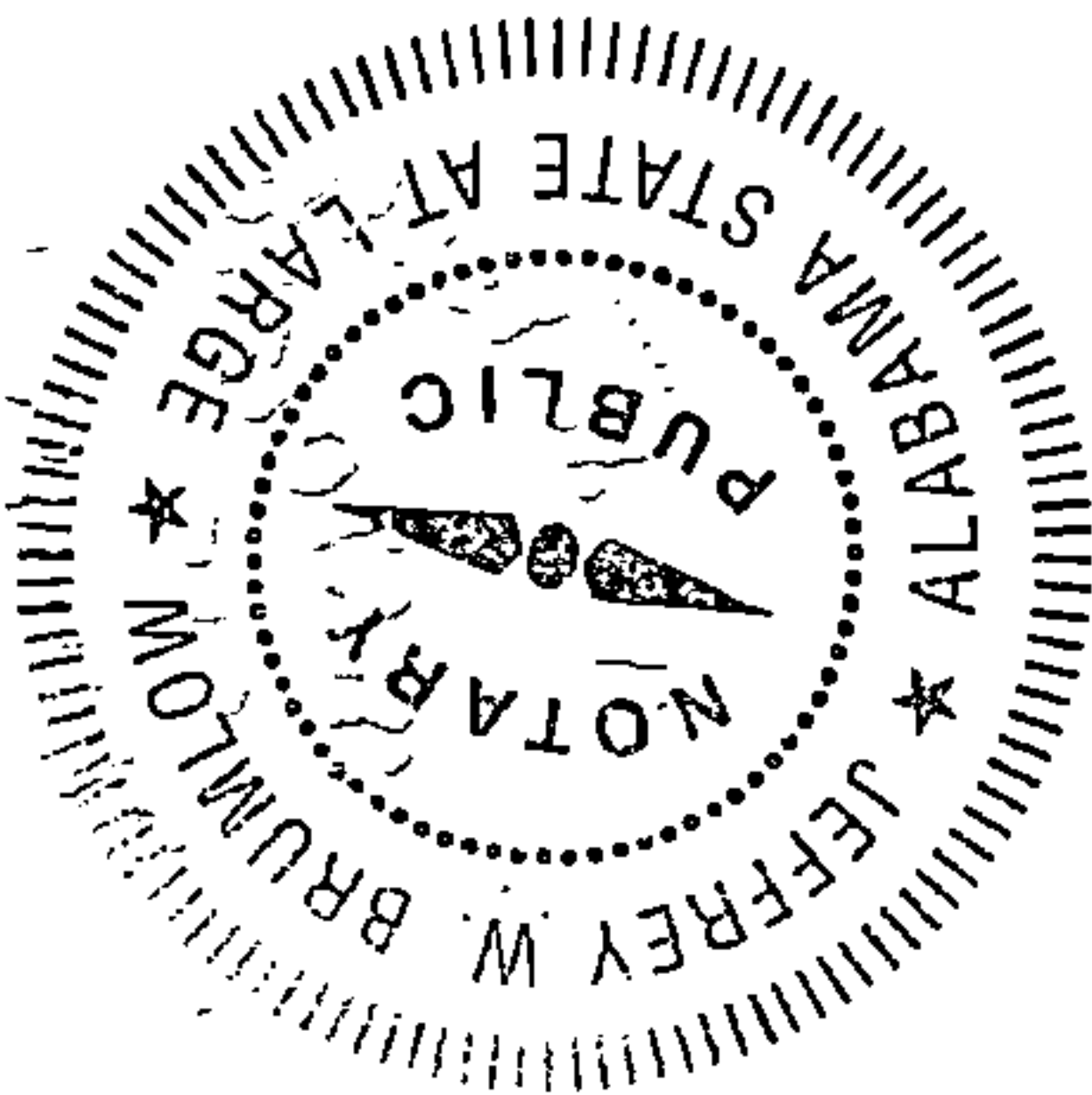
Print Name: _____

STATE OF ALABAMA)

)

SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that **Dennis Torrealba, Chairman of THE COMMERCIAL DEVELOPMENT AUTHORITY OF THE CITY OF ALABASTER**, a municipal corporation, has signed the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the declaration, he executed the same voluntarily on the day the same bears date. Given under my hand and official seal this 31st day of August, 2020.



Notary Public

My Commission Expires:

Jeffrey W Brumlow

Notary Public

State of Alabama - At Large

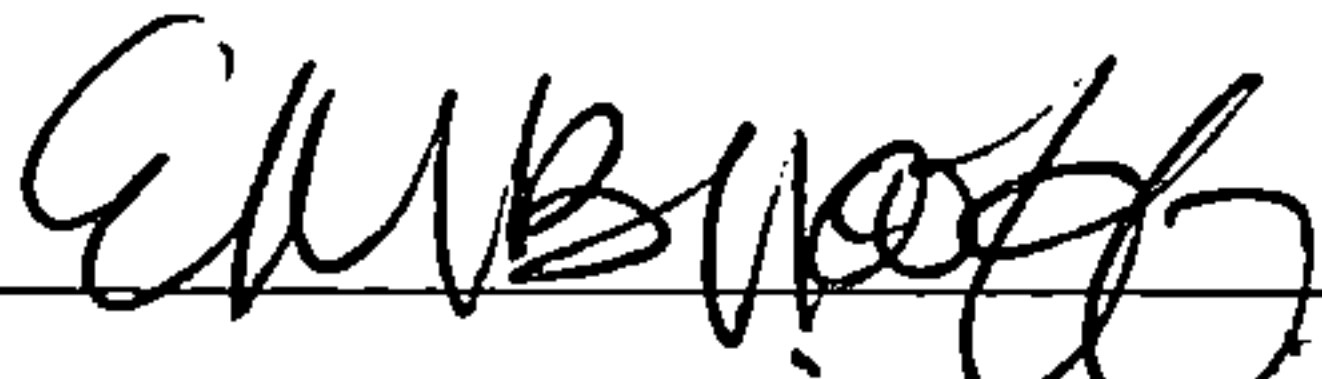
My Commission Expires Dec. 10, 2022


[Signatures Continue on Following Page]



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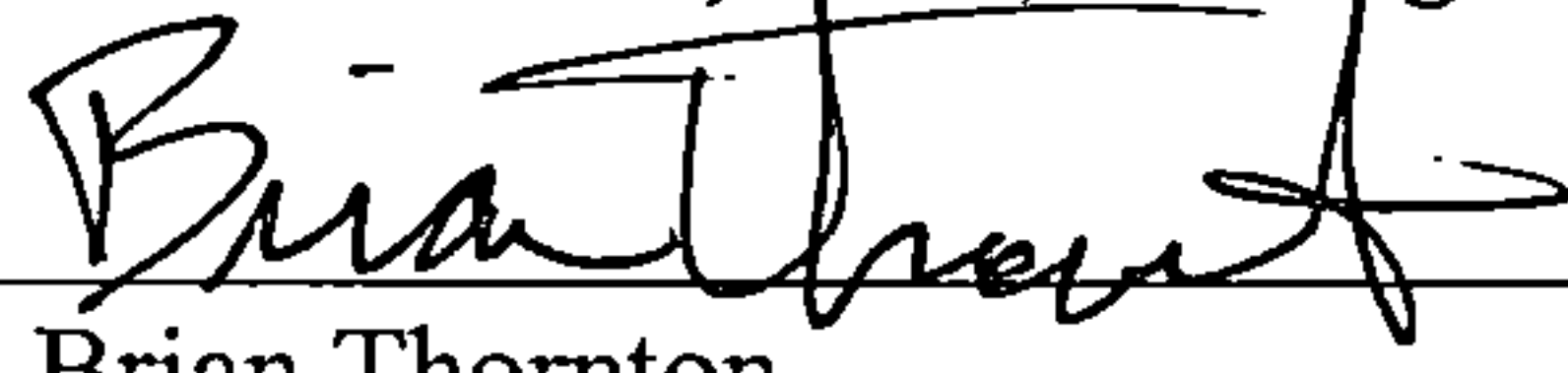
WITNESSES:


Print Name: Erin Bikoff


Print Name: Tim Thau

MOUNTAINPRIZE:

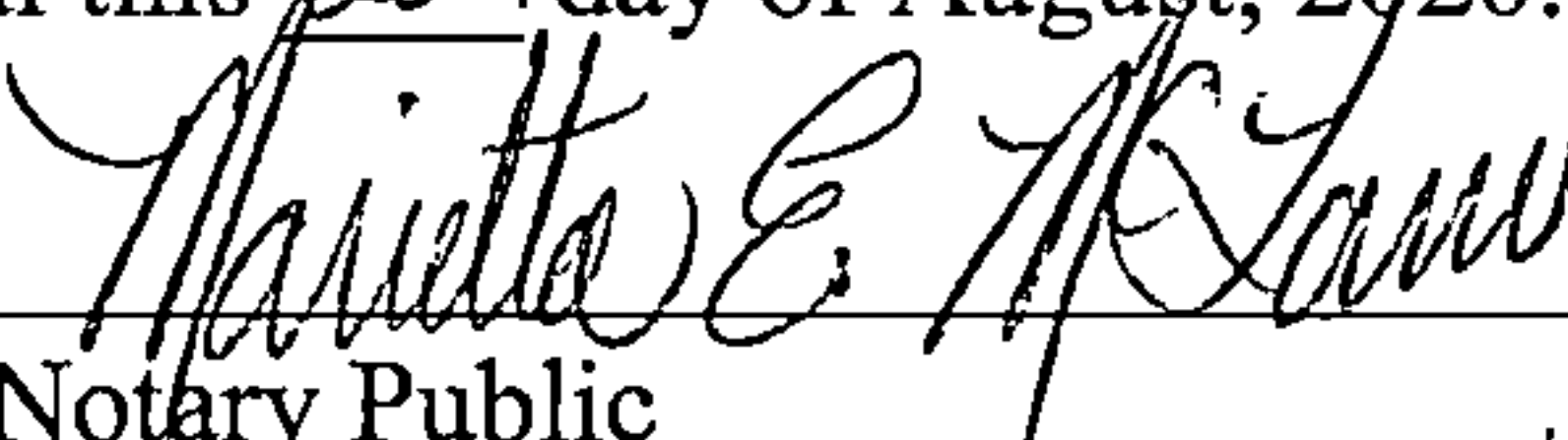
MOUNTAINPRIZE, INC., a Georgia corporation

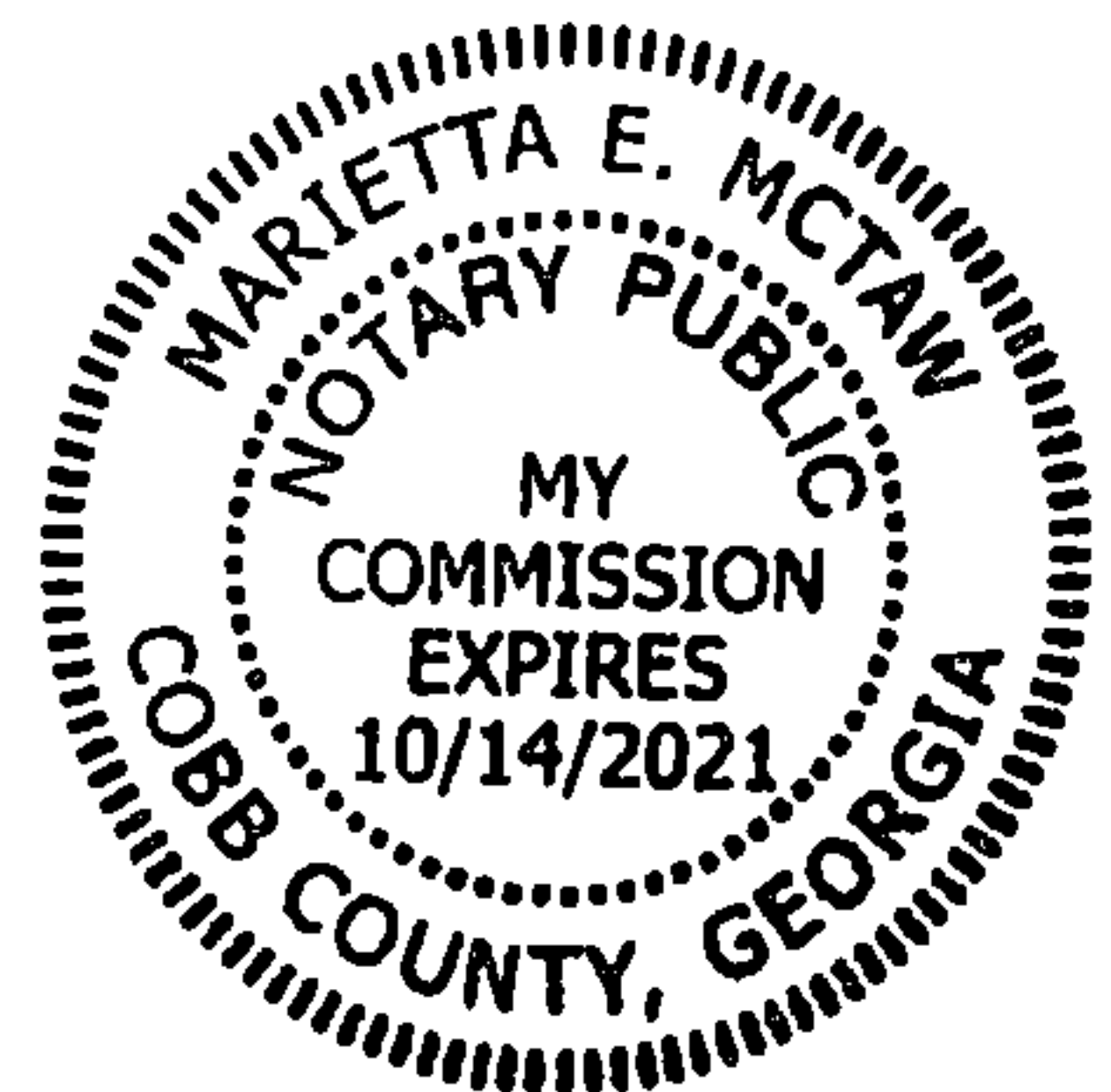
By: 
Name: Brian Thornton
Title: Vice President of Real Estate, Engineering
and Construction

STATE OF GEORGIA)

COBB COUNTY)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that **Brian Thornton**, Vice President of Real Estate, Engineering and Construction, of **Mountainprize Inc.**, a Georgia corporation, has signed the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the declaration, he executed the same voluntarily on the day the same bears date. Given under my hand and official seal this 25th day of August, 2020.


Notary Public
My Commission Expires: 10/14/2025





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EXHIBIT "A"

Mountainprize Property

A parcel of land being situated in the Northeast-Quarter of the Southeast-Quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

Commence at an iron pin being the Southeast corner of said Northeast-Quarter of the Southeast-Quarter of Section 12; thence run North 00 Degrees 27 Minutes 50 Seconds West along the East line of said Quarter-Quarter section for a distance of 300.13 feet to a found capped rebar stamped 00065LS, said point also being on the Westerly right-of-way line of U.S. Highway 31 (200' R.O.W.); thence leaving said East line run North 44 Degrees 54 Minutes 56 Seconds West along said Westerly right-of-way line for a distance of 431.81 feet to a set capped rebar stamped GSA CA-560-LS, said point being at the intersection of said Westerly right-of-way line of U.S. Highway 31 and the Westerly right-of-way line of Fulton Springs Road (100' R.O.W.), said point also being the POINT OF BEGINNING; thence leaving said Westerly right-of-way line of U.S. Highway 31 run South 00 Degrees 07 Minutes 13 Seconds West along said Westerly right-of-way line of Fulton Springs Road for a distance of 85.35 feet to a set capped rebar stamped GSA CA-560-LS; thence run South 45 Degrees 07 Minutes 06 Seconds West along said Westerly right-of-way line of Fulton Springs Road for a distance of 190.26 feet to a set capped rebar stamped GSA CA-560-LS; thence leaving said Westerly right-of-way line of Fulton Springs Road run North 46 Degrees 54 Minutes 33 Seconds West for a distance of 139.50 feet to a set capped rebar stamped GSA CA-560-LS; thence run North 86 Degrees 50 Minutes 01 Seconds West for a distance of 172.47 feet to a found car jack; thence run North 08 Degrees 18 Minutes 19 Seconds East for a distance of 210.16 feet to a found iron pin; thence run North 84 Degrees 39 Minutes 02 Seconds West for a distance of 118.01 feet to a found bolt; thence run North 00 Degrees 22 Minutes 29 Seconds West for a distance of 396.10 feet to a found 3/4 inch open-top pipe, said point being on said Westerly right-of-way line of U.S. Highway 31; thence run South 44 Degrees 54 Minutes 56 Seconds East along said Westerly right-of-way line for a distance of 706.45 feet to the POINT OF BEGINNING. Said parcel contains 170,728 square feet or 3.92 acres more or less.



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EXHIBIT "B"

CDA Property

PARCEL I:

Beginning at a one-inch open top pipe corner that represents the Southeast corner of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, and run thence North $00^{\circ}31'10''$ West along the East line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section a distance of 299.84 feet to a found capped rebar pipe corner on the Southerly right of way line of U.S. Highway No. 31; thence run North $45^{\circ}03'08''$ West along the said South margin of said Highway No. 31 a distance of 534.62 feet to a found rebar corner; thence run North $85^{\circ}50'53''$ West a distance of 95.31 feet to a found old fence post corner recognized as a property corner on a 1979 survey of Lewis Armstrong, Alabama Licensed Land Surveyor and Engineer; thence run South $18^{\circ}37'06''$ West a distance of 505.46 feet to a found flat iron corner; thence run South $25^{\circ}38'54''$ West a distance of 233.09 feet to a found one-inch open pipe corner on the Northerly margin of Old Highway 31 and Shelby County Highway 26 right of ways; thence run South $77^{\circ}34'58''$ East along said margin of said Highway a distance of 266.55 feet to a found two-inch open pipe corner; thence run North $13^{\circ}27'15''$ East a distance of 136.06 feet to a found solid bar corner; thence run South $80^{\circ}00'43''$ East a distance of 131.31 feet to a found steel corner; thence run South $80^{\circ}06'19''$ East a distance of 100.56 feet to a found steel corner; thence run South $00^{\circ}54'19''$ East a distance of 28.00 feet to a set capped rebar corner on the South line of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 12; thence run South $89^{\circ}24'32''$ East along said $\frac{1}{4}$ - $\frac{1}{4}$ line a distance of 217.65 feet to the point of beginning.

LESS AND EXCEPT THEREFORM that certain parcel described as follows: A parcel of land being situated in the Northeast-Quarter of the Southeast-Quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

Commence at an iron pin being the Southeast corner of said Northeast-Quarter of the Southeast-Quarter of Section 12; thence run North 00 Degrees 27 Minutes 50 Seconds West along the East line of said Quarter-Quarter section for a distance of 300.13 feet to a found capped rebar stamped 00065LS, said point also being on the Westerly right-of-way line of U.S. Highway 31 (200' R.O.W.); thence leaving said East line run North 44 Degrees 54 Minutes 56 Seconds West along said Westerly right-of-way line for a distance of 431.81 feet to a set capped rebar stamped GSA CA-560-LS, said point being at the intersection of said Westerly right-of-way line of U.S. Highway 31 and the Westerly right-of-way line of Fulton Springs Road (100' R.O.W.), said point also being the POINT OF BEGINNING; thence leaving said Westerly right-of-way line of U.S. Highway 31 run South 00 Degrees 07 Minutes 13 Seconds West along said Westerly right-of-way line of Fulton Springs Road for a distance of 85.35 feet to a set capped rebar stamped GSA CA-560-LS; thence run South 45 Degrees 07 Minutes 06 Seconds West along said Westerly right-of-way line of Fulton Springs Road for a distance of 190.26 feet to a set capped rebar stamped GSA CA-560-LS; thence leaving said Westerly right-of-way line of Fulton Springs Road run North 46 Degrees 54 Minutes 33 Seconds West for a distance of 139.50 feet to a set capped rebar stamped GSA CA-560-LS; thence run North 18 Degrees 41 Minutes 48 Seconds East for a distance of 215.62 feet to a found rebar; thence run South 87 Degrees 48 Minutes 37 Seconds East for a distance of 91.60 feet to a point, said point being on said Westerly right-of-way line of U.S. Highway 31; thence run South 44 Degrees 54 Minutes 56 Seconds East along said Westerly right-of-way line for a distance of 107.94 feet to the POINT OF BEGINNING. Said parcel contains 46,618 square feet or 1.07 acres more or less.



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Exhibit "B" (Continued)

PARCEL II:

Commence at a one-inch open top pipe corner that represents the Southeast corner of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama and run thence North $00^{\circ}31'10''$ West along the East line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section a distance of 299.84 feet to a found capped rebar pipe corner on the Southerly right of way line of U.S. Highway No. 31; thence continue North $00^{\circ}53'47''$ West along said $\frac{1}{4}$ - $\frac{1}{4}$ line a distance of 287.06 feet to set rebar corner on the North margin of U.S. Highway No. 31 and the point of beginning of the property, Parcel 2, being described: thence continue North $00^{\circ}53'47''$ West a distance of 74.42 feet to a found rebar corner; thence run North $87^{\circ}30'13''$ West a distance of 76.50 feet to a set rebar corner on the same said North margin of same said Highway 31; thence run South $44^{\circ}56'39''$ East along said margin of said highway a distance of 109.84 feet to the point of beginning. All being situated in Shelby County, Alabama.

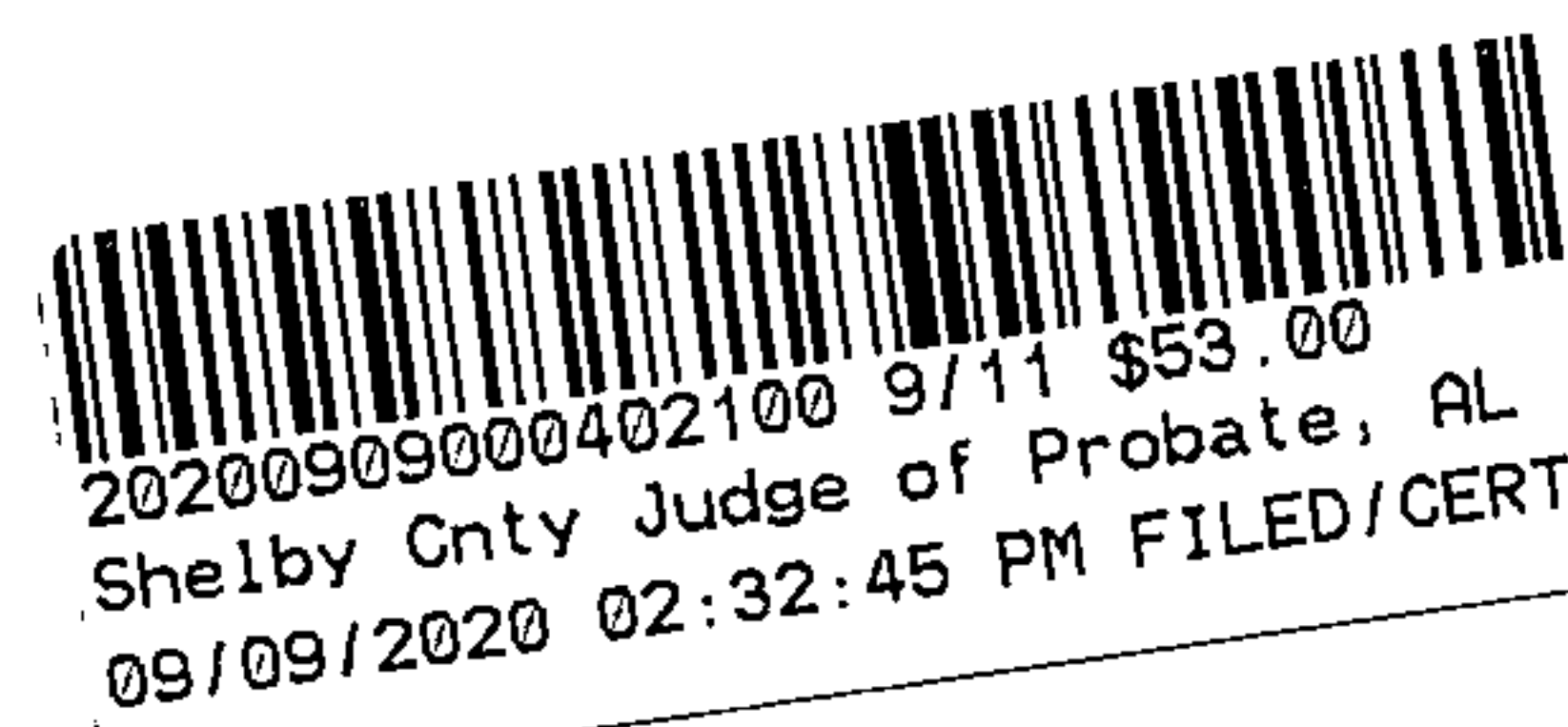
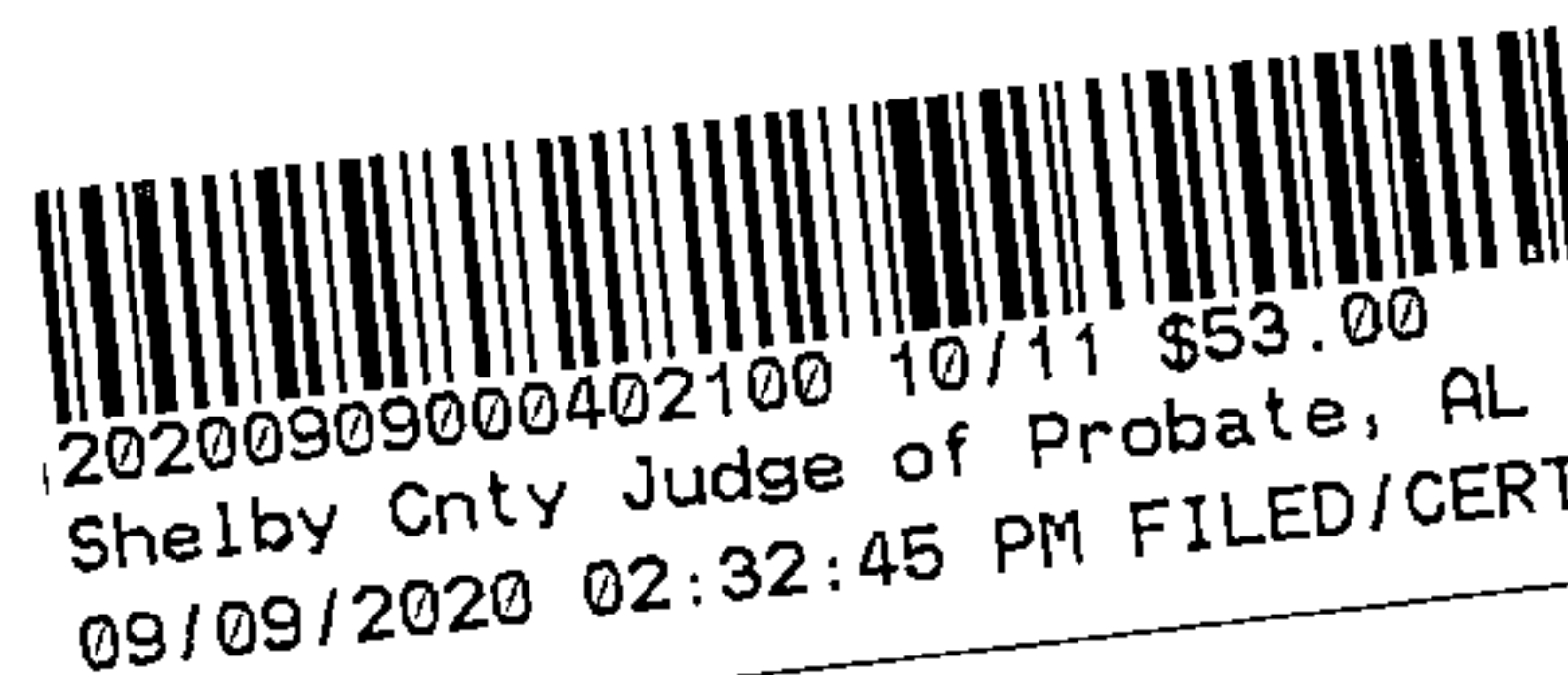


Exhibit "C"

Legal Description and Sketch of LS Easement Area

A parcel of land being situated in the Northeast-Quarter of the Southeast-Quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

Commence at an iron pin being the Southeast corner of said Northeast-Quarter of the Southeast-Quarter of Section 12; thence run North 00 Degrees 27 Minutes 50 Seconds West along the East line of said Quarter-Quarter section for a distance of 300.13 feet to a found capped rebar stamped 00065LS, said point also being on the Westerly right-of-way line of U.S. Highway 31 (200' R.O.W.); thence leaving said East line run North 44 Degrees 54 Minutes 56 Seconds West along said Westerly right-of-way line for a distance of 211.41 feet to a point, said point being at the intersection of said Westerly right-of-way line of U.S. Highway 31 and the Easterly right-of-way line of Fulton Springs Road (100' R.O.W.); thence leaving said Westerly right-of-way line of U.S. Highway 31 run South 89 Degrees 54 Minutes 20 Seconds West along said Easterly right-of-way line of Fulton Springs Road for a distance of 85.23 feet to a point; thence run South 45 Degrees 07 Minutes 10 Seconds West along said Easterly right-of-way line of Fulton Springs Road for a distance of 305.56 feet to a point, said point being on a curve turning to the left, said curve having a radius of 450.00 feet, a central angle of 18 degrees 31 minutes 06 seconds, a chord bearing of South 35 Degrees 51 Minutes 36 Seconds West, and a chord distance of 144.81 feet; thence run along said Easterly right-of-way line and along the arc of said curve for a distance of 145.44 feet to the POINT OF BEGINNING; thence leaving said Easterly right-of-way line of Fulton Springs Road run South 68 Degrees 18 Minutes 11 Seconds East for a distance of 54.98 feet to a point; thence run South 21 Degrees 41 Minutes 49 Seconds West for a distance of 76.88 feet to a point; thence run North 68 Degrees 18 Minutes 11 Seconds West for a distance of 54.98 feet to a point on said Easterly right-of-way line of said Fulton Springs Road, said point also being on a curve turning to the right, said curve having a radius of 450.00 feet, a central angle of 09 degrees 48 minutes 03 seconds, a chord bearing of North 21 Degrees 42 Minutes 02 Seconds East, and a chord distance of 76.88 feet; thence run along said Easterly right-of-way line and along the arc of said curve for a distance of 76.98 feet to the POINT OF BEGINNING. Said parcel contains 4,311 square feet or 0.10 acres more or less.



Continuation of Exhibit "C"

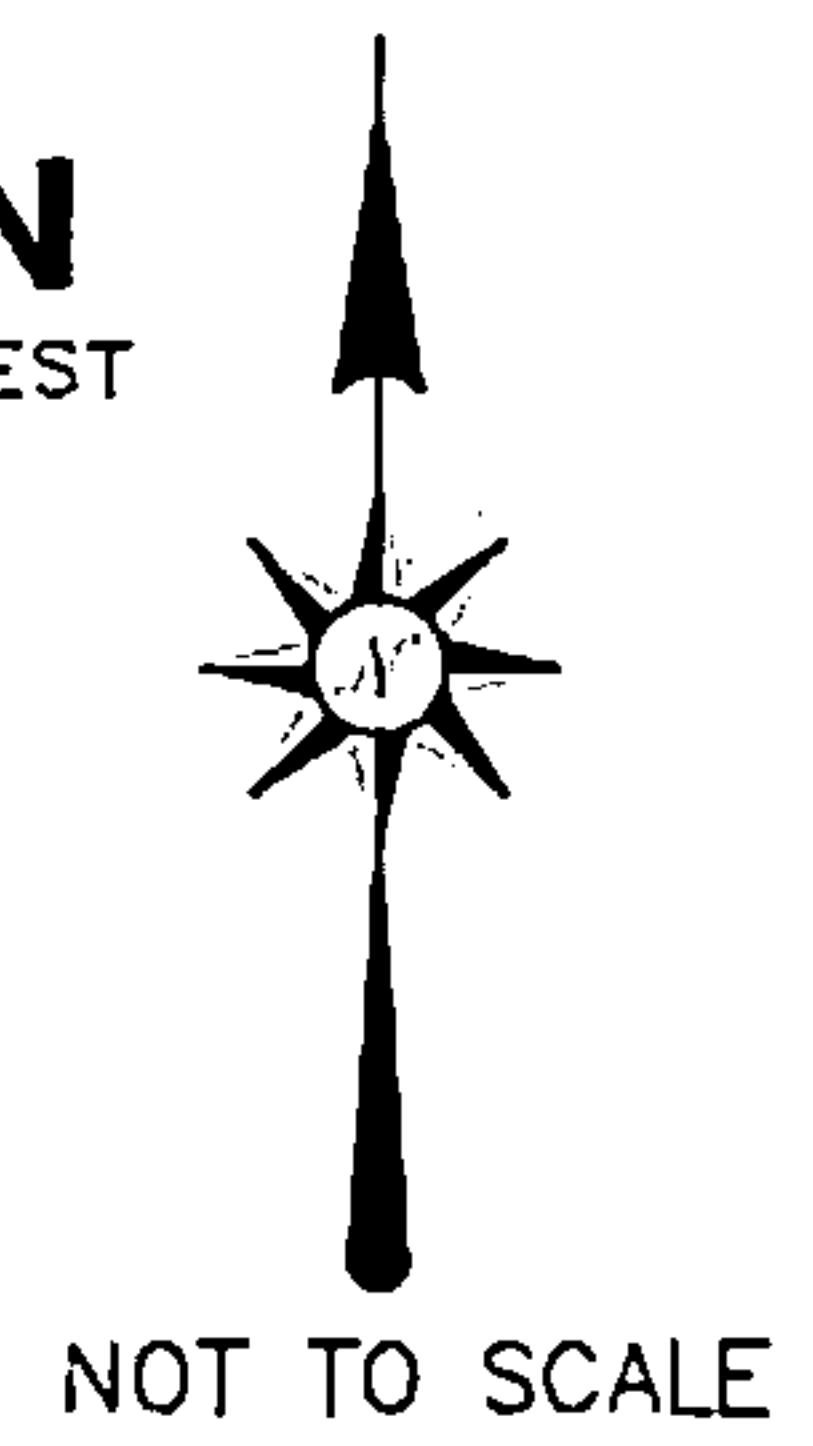
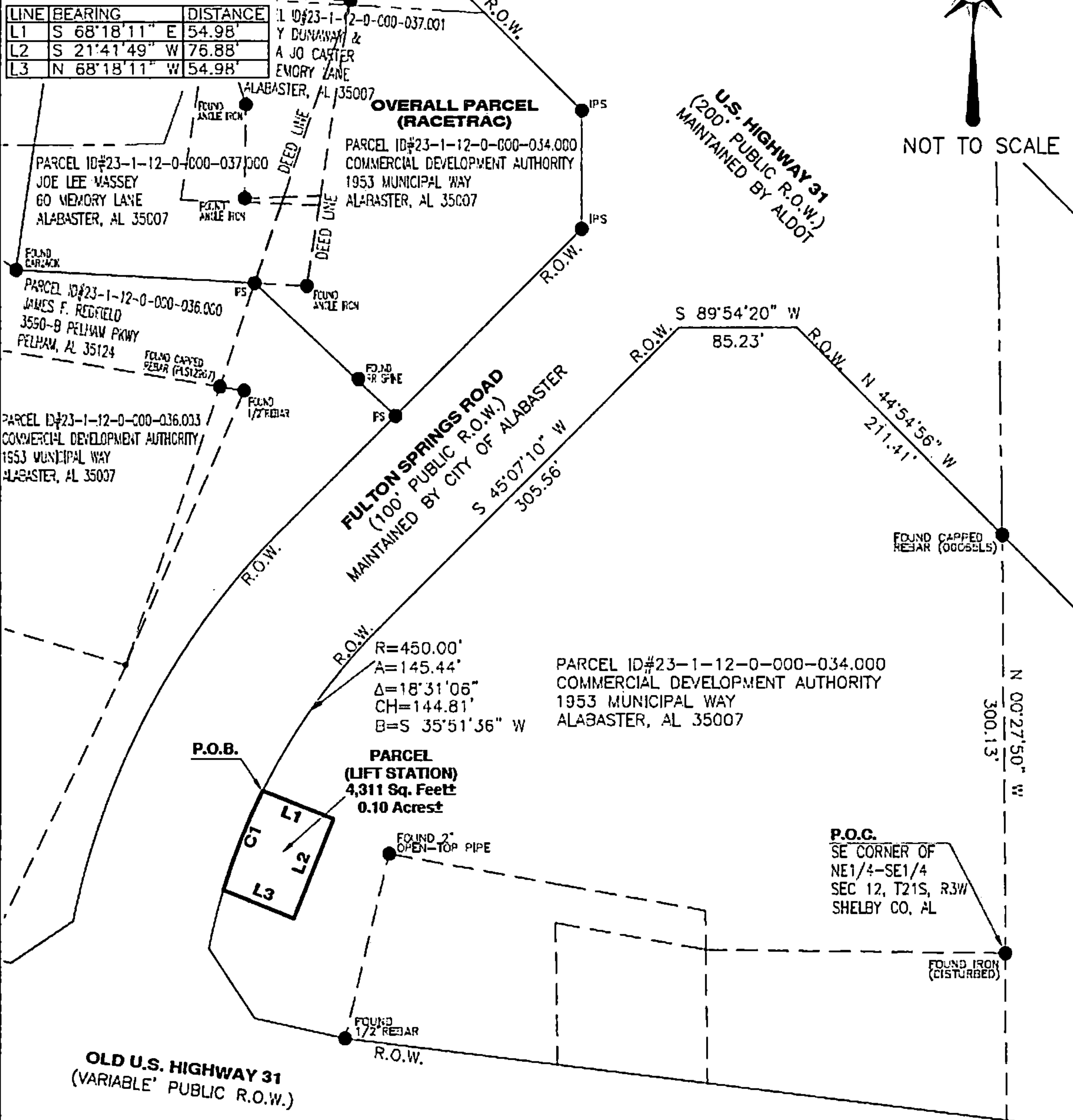
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EXHIBIT MAP SANITARY SEWER LIFT STATION

NE 1/4 OF THE SE 1/4 OF SECTION 12, TOWNSHIP 21 SOUTH, RANGE 3 WEST
SHELBY COUNTY, ALABAMA

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	76.98'	450.00'	9°48'03"	N 21°42'02" E	76.88'

LINE	BEARING	DISTANCE
L1	S 68°18'11" E	54.98'
L2	S 21°41'49" W	76.88'
L3	N 68°18'11" W	54.98'



ABBREVIATION	
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING

GSA
GONZALEZ - STRENGTH & ASSOCIATES, INC.
 ENGINEERING, LAND PLANNING, & SURVEYING
 1550 WOODS OF RIVERCHASE DRIVE SUITE 200
 HOOVER, ALABAMA 35226
 PHONE: (205) 942-2400
 FAX: (205) 942-3033
 www.Gonzalez-Strength.com



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