

STATE OF ALABAMA     )  
                             :  
COUNTY OF SHELBY    )

**FIFTH AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT**

THIS FIFTH AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT (this "Amendment") is made and entered into as of the 23<sup>rd</sup> day of June, 2006 by and among GREYSTONE RESIDENTIAL ASSOCIATION, INC., an Alabama nonprofit corporation ("GRA"), GREYSTONE GOLF CLUB, INC., an Alabama nonprofit corporation ("GGC"), and JOHN WESLEY BOYCE, SR., AS TRUSTEE UNDER THE REVOCABLE TRUST AGREEMENT OF JOHN WESLEY BOYCE, SR., dated July 8, 1994 ("Boyce").

**RECITALS:**

Daniel Oak Mountain Limited Partnership, an Alabama limited partnership ("DOM"), and Daniel Links Limited Partnership, an Alabama limited partnership ("Links") have heretofore entered into a Reciprocal Easement Agreement dated as of January 1, 1990 and recorded in Book 312, Page 274 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"), as amended by First Amendment thereto dated as of November 6, 1990 and recorded in Book 317, Page 253 in the Probate Office, Second Amendment thereto dated as of January 27, 1993 and recorded as Instrument # 1993-03124 in the Probate Office, Third Amendment thereto dated as of January 1, 1999 and recorded as Instrument # 1999-08816 in the Probate Office and Fourth Amendment thereto dated September 8, 2003 between DOM and Golf LLC, as indirect assignee of Links, which has been recorded as Instrument #20030909000604410 in the Probate Office (collectively, the "Reciprocal Easement Agreement"). *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Reciprocal Easement Agreement.*

Links has heretofore leased the Golf Club Property to GGC pursuant to a lease agreement which is evidenced by a Memorandum of Ground Lease dated as of January 1, 1991 and recorded in Real 355, Page 880 in the Probate Office, as amended by First Amendment thereto dated March 26, 1992 and recorded as Instrument No. 1992-4726 in the Probate Office, as amended by Second Amendment thereto dated as of February 2, 1993 and recorded as Instrument No. 1993-03119 in the Probate Office, as amended by Third Amendment thereto dated January 1, 1999 and recorded as Instrument No. 1999-12257 in the Probate Office and Fourth Amendment thereto dated as of December 21, 2000 and recorded as Instrument # 2001-2192 in the Probate Office.

Pursuant to Statutory Warranty Deed, Quitclaim Deed and Assignment dated January 26, 2004 and recorded as Instrument No. 20040123000039510 in the Probate Office, DOM transferred and assigned to GRA all of the right, title and interest of DOM under the Reciprocal Easement Agreement.



Boyce is the Owner of Lot 48A, being a Resurvey of Lots 46, 47, 48 and 49 according to the Survey of Greystone, 5<sup>th</sup> Sector, Phase I as recorded in Map Book 17, Page 114 in the Probate Office (the "Boyce Lot"). The Boyce Lot is situated directly adjacent to the Golf Club Property.

The parties hereto desire to further amend the Reciprocal Easement Agreement in order to provide for the creation of additional, permanent, perpetual and non-exclusive rights and easements over and upon the Boyce Lot for the benefit of the GGC and the Golf Club Property.

NOW, THEREFORE, in consideration of the premises, the mutual covenants, promises and agreement hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties do hereby agree as follows:

1. **Additional Maintenance Area.** The Reciprocal Easement Agreement is amended by adding the following thereto as new Paragraph 18:

"18. Additional Maintenance Area.

(a) Boyce does hereby grant, bargain, sell and convey to GGC, for the benefit of the Golf Club Property, a permanent, perpetual and non-exclusive easement appurtenant over, across, through, under, and upon that portion of the Boyce Lot which is shown and shaded in the drawing attached hereto as Exhibit A and incorporated herein by reference (the "Maintenance Area"). The Maintenance Area shall be used only for the purposes specified in the remaining terms and provisions of this Paragraph 18.

(b) The easement rights granted herein by Boyce to GGC shall include the right to construct, install, operate, maintain, repair and replace from time to time within the Maintenance Area grass, whether seed or sod, and underground irrigation systems, as part of the Golf Club Property.

(c) GGC covenants and agrees to maintain the Maintenance Area in good condition and repair as part of the Golf Club Property, which will include mowing and fertilizing as needed. Furthermore, GGC covenants and agrees to install and maintain out of bound markers in appropriate locations within the Maintenance Area.

(d) The Maintenance Area and any portion thereof may be used by GGC, its members, employees, agents, contractors, invitees and licensees, as part of the golf course situated on the Golf Club Property for the play of golf, including, specifically, (i) for entry thereon by golfers and their caddies to play or remove golf balls therefrom, (ii) to undertake any of the activities described in Paragraph 18(b) above and (iii) to conduct any of the maintenance activities described in Paragraph 18(c) above.

(e) GGC covenants and agrees at all times to maintain and keep in full force and effect, at its sole expense, a policy or policies of commercial general liability insurance having a combined single limit of not less than \$1,000,000.00 per occurrence for personal injury



(including death) to persons or damage to property occurring in, on or upon the Maintenance Area. Such insurance policy may be written for all of the Golf Club Property so long as the Maintenance Area is covered thereby. From and after the date hereof, GGC does hereby indemnify, agree to defend and hold Boyce harmless from and against any and all claims, losses, costs, damages or liability for death, injury or damage to person or property whatsoever occurring in, on or upon the Maintenance Area resulting from any actions or omissions of GGC, its members, employees, agents, consultants, invitees and licensees.

(f) Notwithstanding anything provided herein to the contrary, Boyce covenants and agrees not to construct, install, erect, place or maintain any additional buildings, structures, landscaping, personal property or other improvements within any portion of the Maintenance Area without the prior written consent and approval of GGC.

(g) The easements granted pursuant to this Paragraph 18 shall be and are (i) appurtenant to and shall serve the Golf Club Property, (ii) covenants running with the Boyce Lot and Golf Club Property and (iii) binding upon and shall inure to the benefit of Boyce and GGC and their respective heirs, executors, personal representatives, successors and assigns. All of the terms and provisions of this Paragraph 18 shall survive the exercise of the purchase option granted to GGC under the Ground Lease.

(h) The terms and provisions of this Paragraph 18 may not be modified or amended except by a written instrument executed by GRA, GGC and Buyer."

2. **Full Force and Effect.** All of the terms and provisions of the Reciprocal Easement Agreement, as previously amended, are incorporated herein by reference, shall continue in full force and effect and are hereby ratified, confirmed and approved by all of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

**GREYSTONE RESIDENTIAL ASSOCIATION, INC.,** an Alabama nonprofit corporation

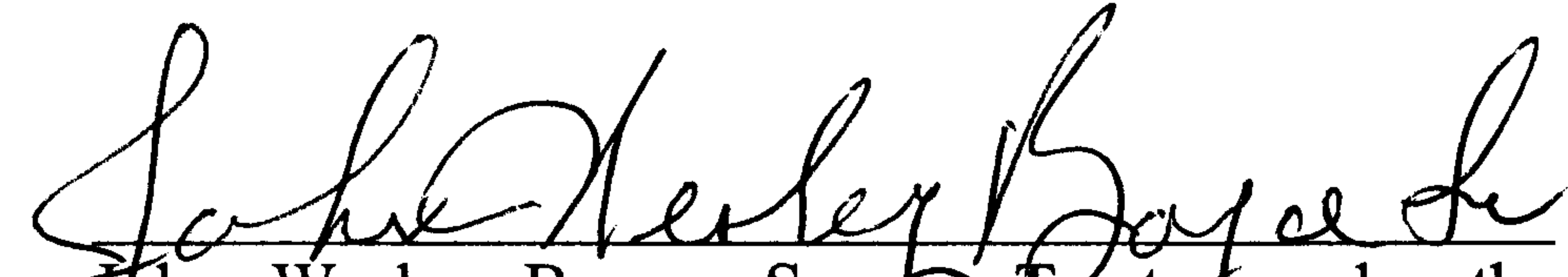
By: Mary Sue Ludwig  
Its: President

**GREYSTONE GOLF CLUB, INC.,** an Alabama nonprofit corporation

By: [Signature]  
Its: G.M./C.O.O.




20060717000343420 4/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
07/17/2006 02:06:38PM FILED/CERT

  
John Wesley Boyce, Sr., as Trustee under the  
Revocable Trust Agreement of John Wesley Boyce,  
Sr., dated July 8, 1994



STATE OF ALABAMA     )  
                                     :  
COUNTY OF SHELBY     )

  
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Shelby Cnty Judge of Probate, AL  
07/17/2006 02:06:38PM FILED/CERT

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Mary Sue Ludwig, whose name as President of GREYSTONE RESIDENTIAL ASSOCIATION, INC., an Alabama nonprofit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 23<sup>rd</sup> day of June, 2006.

Mae R. Smith  
Notary Public  
My Commission Expires: 2/3/10

[NOTARIAL SEAL]

STATE OF ALABAMA     )  
                                     :  
COUNTY OF Shelby     )


I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Calvin Bolling Jr. whose name as G.M./C.O.O. of GREYSTONE GOLF CLUB, INC., an Alabama nonprofit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation.

Given under my hand and official seal this the 23<sup>rd</sup> day of June, 2006.

Mae R. Smith  
Notary Public  
My Commission Expires: 2/3/10

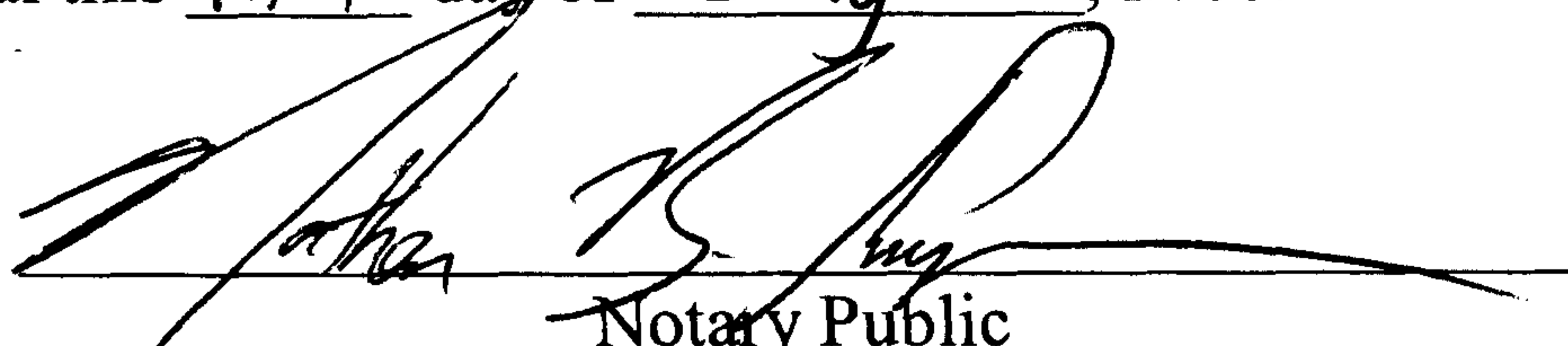
[NOTARIAL SEAL]

STATE OF ALABAMA     )  
                                     :  
COUNTY OF Shelby     )

  
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Shelby Cnty Judge of Probate, AL  
07/17/2006 02:06:38PM FILED/CERT

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that John Wesley Boyce, Sr, whose name as Trustee under the Revocable Trust Agreement of John Wesley Boyce, Sr., dated July 8, 1994, 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, in his capacity as such Trustee, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 14th day of July, 2006.

  
\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: My Commission Expires January 26, 2009

This instrument prepared by  
Stephen R. Monk  
Bradley Arant Rose & White LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2104  
(205) 521-8000

**EXHIBIT A**

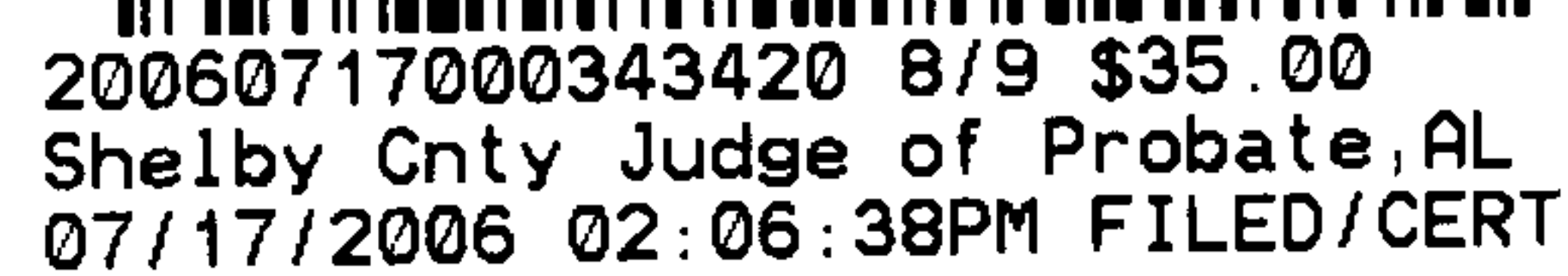
**Maintenance Area**

See Attached.



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Shelby Cnty Judge of Probate, AL  
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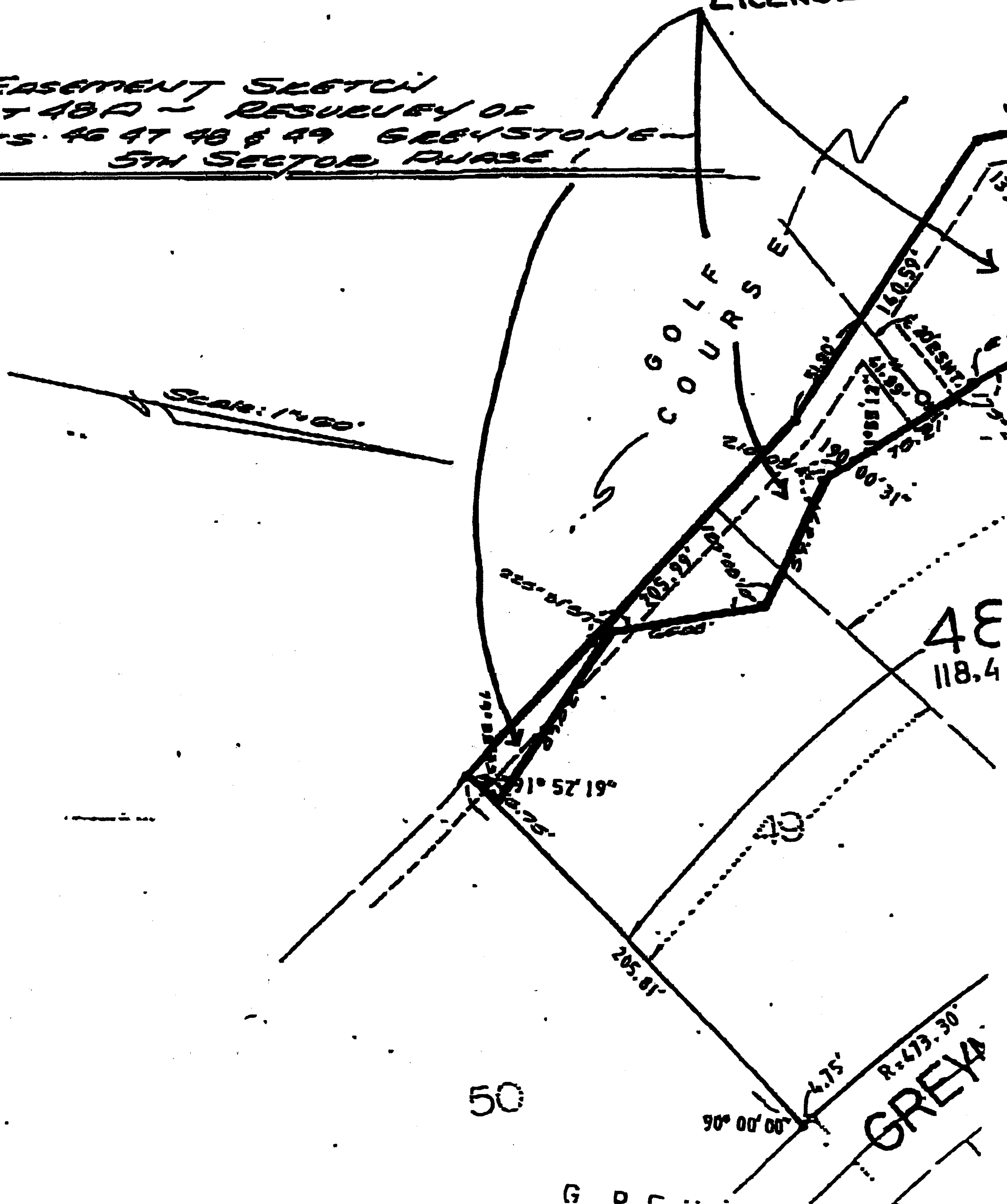




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**LICENSE PROPERTY**

EASEMENT SKETCH  
LOT 48A - RESURVEY OF  
LOTS 46 47 48 & 49 GREYSTONE  
5TH SECTOR PHASE I

# EXHIBIT A







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Shelby Cnty Judge of Probate, AL  
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