

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)


20181031000385880 1/11 \$45.00
Shelby Cnty Judge of Probate, AL
10/31/2018 11:24:32 AM FILED/CERT

**FIRST AMENDMENT TO RESTRICTIVE USE AND
RECIPROCAL EASEMENT AGREEMENT**

THIS FIRST AMENDMENT TO RESTRICTIVE USE AND RECIPROCAL EASEMENT AGREEMENT (this “Amendment”) is made and entered into as of the 31st day of October, 2018 by and among **EBSCO INDUSTRIES, INC.**, a Delaware corporation (“EBSCO”), **CGP MEDVEST BW, LLC**, a Delaware limited liability company (“Medvest”), and **THE MEDICAL CLINIC BOARD OF THE CITY OF HOOVER, ALABAMA**, a public corporation and instrumentality under the laws of the State of Alabama (the “Authority”).

RECITALS:

EBSCO and Medvest have heretofore entered into that certain Restrictive Use and Reciprocal Easement Agreement dated as of February 11, 2015 (the “Agreement”) which has been recorded as Instrument 20150213000048170 in the Office of the Judge of Probate of Shelby County, Alabama. *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Agreement.*

Subsequent to the execution of the Agreement, (a) Medvest transferred and conveyed the Medvest Property to the Authority and (b) the Authority leased the Medvest Property to Medvest pursuant to a Lease Agreement dated as of February 12, 2015.

The parties hereto desire to acknowledge and agree that (a) EBSCO’s rights to remove Fill Dirt and Soil from the Medvest Property has terminated, (b) the Access Road has been completed and dedicated as a public roadway, (c) the Construction Access Easement and the Staging Easement have terminated and (d) pursuant to the provisions of Section 6.02 of the Agreement, EBSCO has elected to relocate the Storm Water Drainage Property and has constructed and installed the Alternative Storm Water Drainage Facility to serve the Medvest Property.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Definitions.

 (a) Section 1.01(a) of the Agreement is deleted in its entirety and the following is substituted in lieu thereof:

“(a) “Greystone Way Pond” means that certain detention pond situated on the EBSCO Property designated as “Pond” on the Site Plan.”
From and after the date hereof, any and all references in the Agreement to the “280 Pond” are hereby deleted and replaced with the term “Greystone Way Pond”.

(b) Construction Access Easement and Construction Access Easement Property. The parties acknowledge and agree that the Construction Access Easement has been terminated and, accordingly, Sections 1.01(l) and 1.01(m) of the Agreement are deleted in their entirety and the phrase “Intentionally Deleted” is inserted in lieu thereof.

(c) Site Plan. Section 1.01(ee) of the Agreement is deleted in its entirety and the following is substituted in lieu thereof:

“(ee) “Site Plan” means the Site Plan consisting of one (1) page attached hereto as Exhibit E-1 and incorporated herein by reference which reflects the approximate locations of the Greystone Way Pond and the Storm Water Drainage Easement Property.”

(d) Storm Water Drainage Easement Property. Section 1.01(ii) of the Agreement is deleted in its entirety and the following is substituted in lieu thereof:

“(ii) “Storm Water Drainage Easement Property” means that portion of the EBSCO Property upon which underground storm water drainage lines have been constructed under portions of Tattersall Boulevard, a private roadway, as shown on the Site Plan, and continuing along a 20’ storm sewer easement dedicated and shown on subdivision plats recorded in Map Book 48, Page 53 and Map Book 49, Pages 81A and 81B in the Office of the Judge of Probate of Shelby County, Alabama, as shown on the Site Plan, and which collectively are designated as the “Storm Water Drainage Easement Property” on the Site Plan.”

(e) Staging Area and Staging Easement. The parties acknowledge and agree that the Staging Easement has been terminated and, accordingly Sections 1.01(ff) and 1.01(gg) of the Agreement are deleted in their entirety and the phrase “Intentionally Deleted” is substituted in lieu thereof.

2. Grant of Right to Remove Fill Dirt and Soil and Temporary Easement. The parties hereto acknowledge and agree that the terms and provisions of Section 3.02 of the Agreement have been satisfied in full and, accordingly, Section 3.02 of the Agreement is deleted in its entirety and the phrase “Intentionally Deleted” is substituted in lieu thereof.

3. Obligation of EBSCO to Construct Access Road. All of Article 4 of the Agreement (including Sections 4.01 through 4.05, inclusive, of the Agreement) are deleted in their entirety and the phrase “Intentionally Deleted” is substituted in lieu thereof. By execution hereof, the parties hereto acknowledge and agree that EBSCO has completed construction of the Access Road and the Access Road has been dedicated to the City as a public roadway.

4. Grant of Temporary Construction Easements to Medvest. All of Article 5 of the Agreement (including Sections 5.01 through 5.04, inclusive, of the Agreement) are deleted in their entirety and the phrase “Intentionally Deleted” is substituted in lieu thereof. The parties acknowledge and agree that the provisions of Article 5 of the Agreement are no longer applicable.

5. Grant of Storm Water Drainage Easement to Medvest. Section 6.01(a) of the Agreement is deleted in its entirety and the following is substituted in lieu thereof:

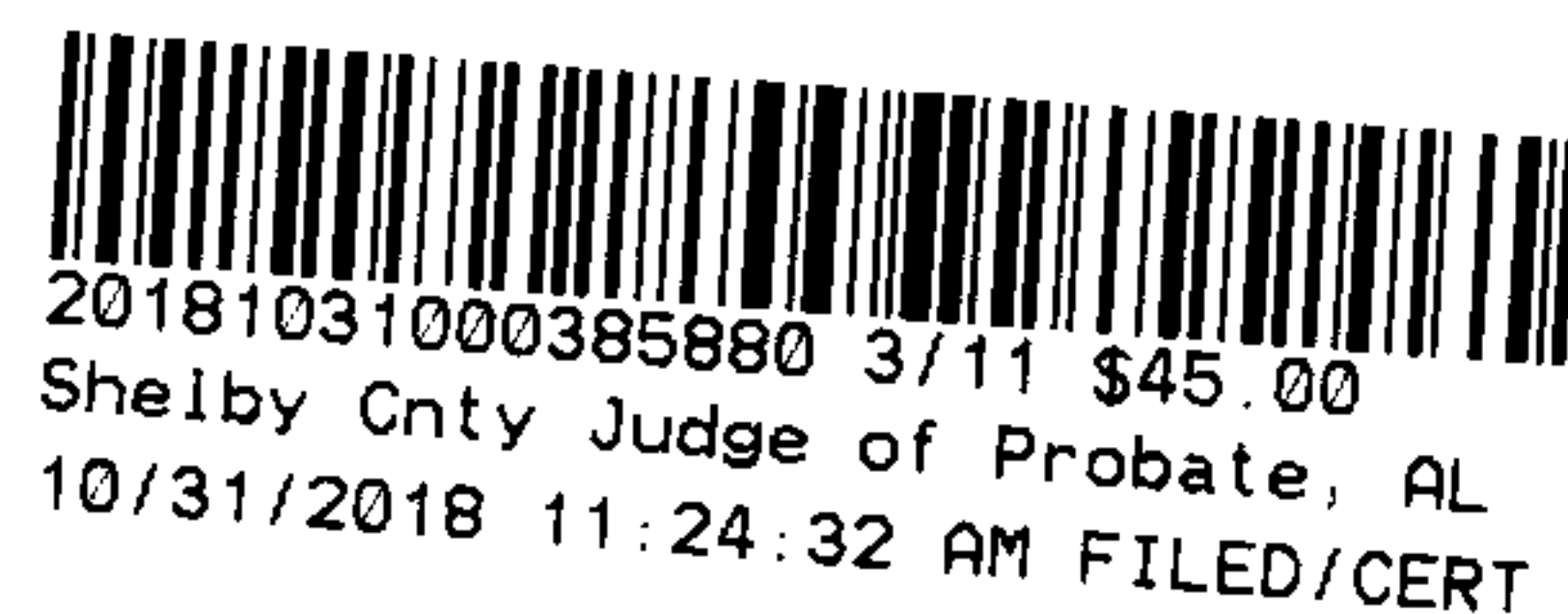
“(a) EBSCO does hereby grant to the Medvest Parties, for the benefit of the Medvest Property, a permanent, perpetual and non-exclusive easement (the “Storm Water Drainage Easement”) over, across, through, under and upon the Storm Water Drainage Easement Property for the purposes of discharging and transporting storm and surface water from the Medvest Property through the Storm Water Drainage Facilities into the Greystone Way Pond.”

6. Relocation and Termination Rights Affecting the Storm Water Drainage Easement Property. Section 6.02 of the Agreement is deleted in its entirety and the phrase “Intentionally Deleted” is substituted in lieu thereof.

7. Joinder by Brookwood Health Systems, Inc. Brookwood Health Systems, Inc., an Alabama corporation, has joined in the execution of this Amendment with Medvest and the Authority as part of the parties defined as “Medvest” in the Agreement in order to consent to the foregoing terms and provisions of this Amendment.

8. Full Force and Effect. Except as expressly modified and amended herein by the terms and provisions of this Amendment, all of the terms and provisions of the Agreement shall remain in full force and effect and are hereby ratified and confirmed by the parties hereto.

[Signatures on the following pages]



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

EBSCO INDUSTRIES, INC., a Delaware corporation

By: *Brooks Knapp*
Printed Name: Brooks Knapp
Title: Vice President

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

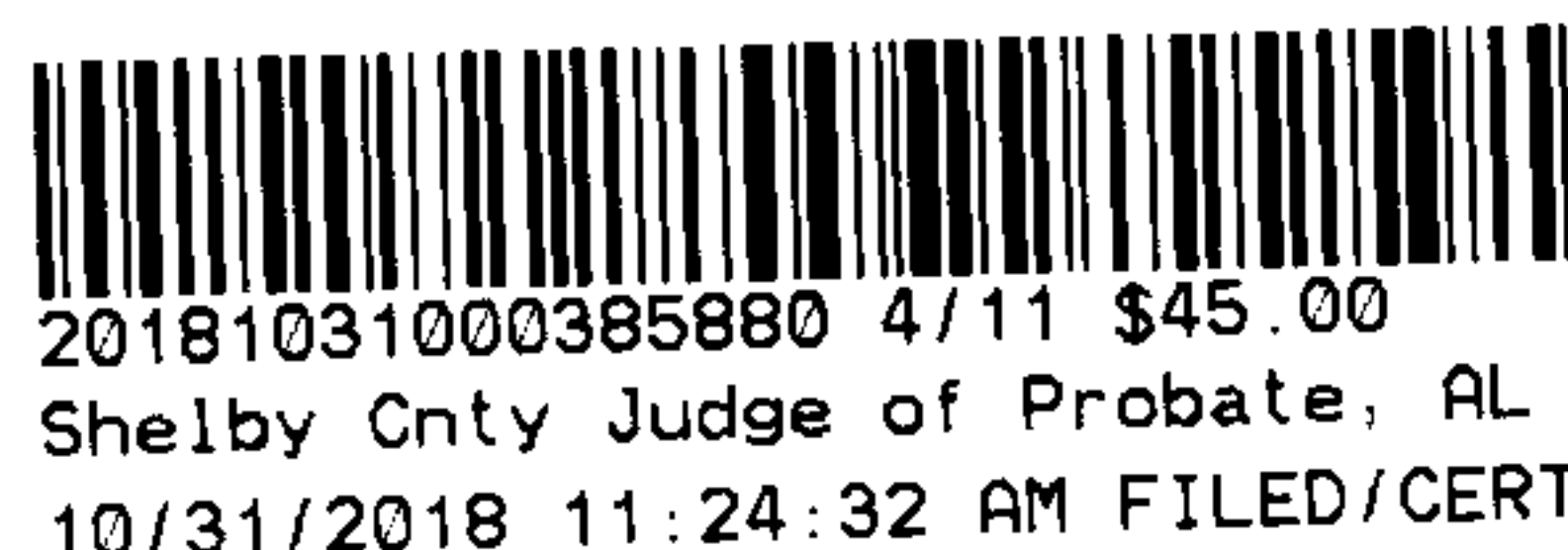
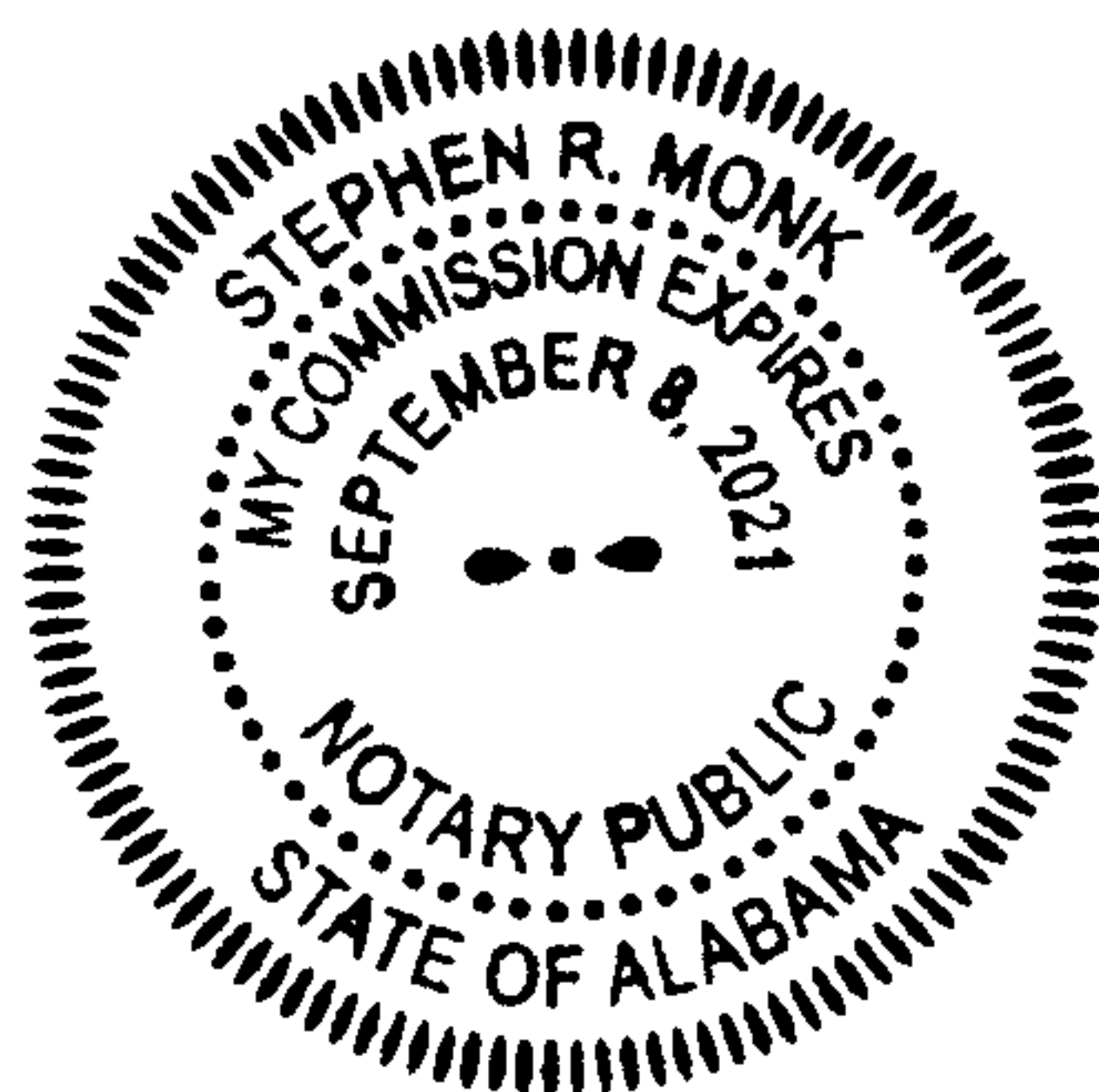
I, the undersigned Notary Public in and for said County, in said State, hereby certify that Brooks Knapp, whose name as Vice President of EBSCO Industries, Inc., a Delaware corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of this 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 and official seal this 31st day of October, 2018.

[Signature]
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 9/8/2021



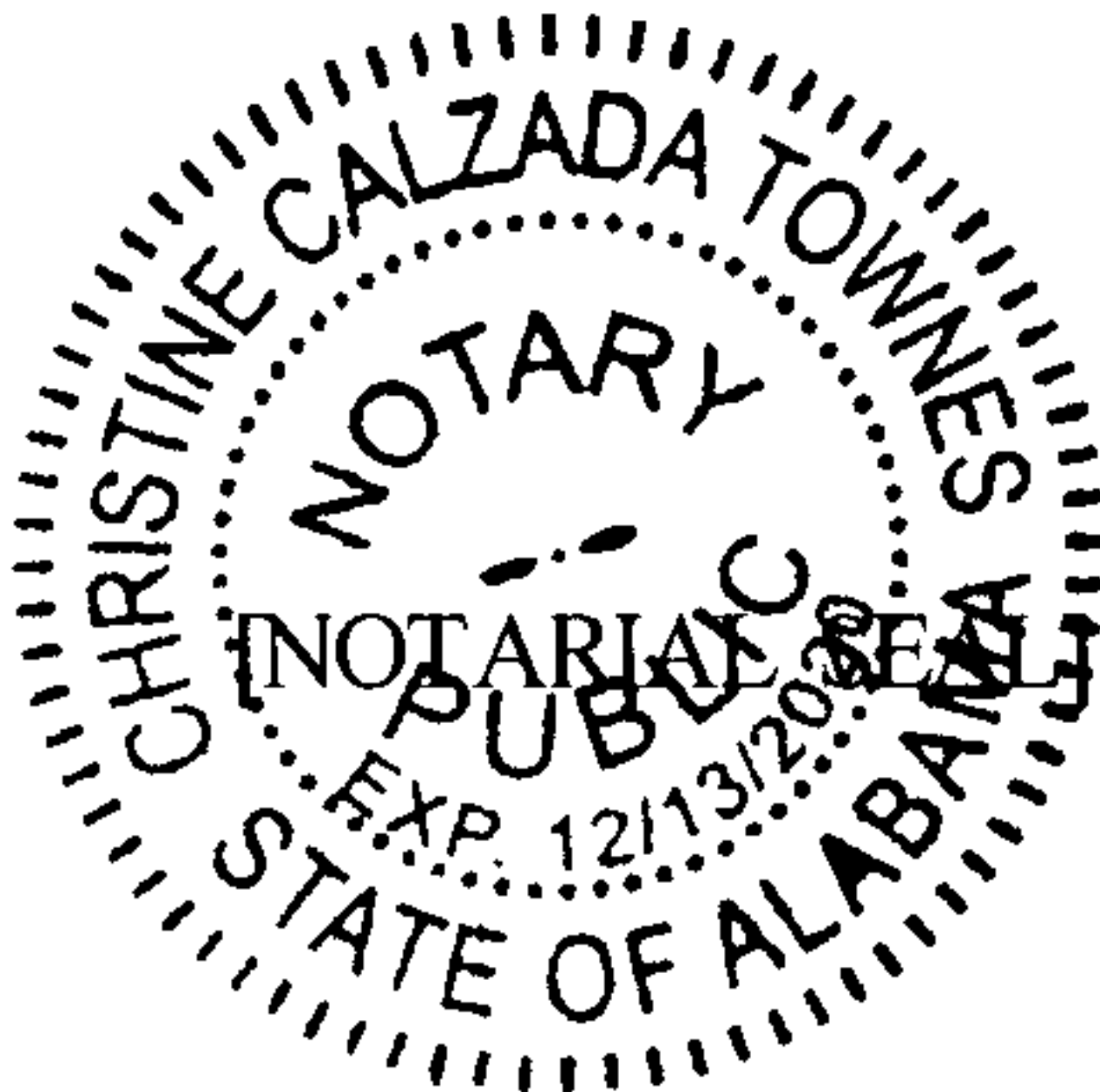
CGP MEDVEST BW, LLC, a Delaware limited liability company

By: [Signature]
Printed Name: Joseph M. Baugh
Title: Manager

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

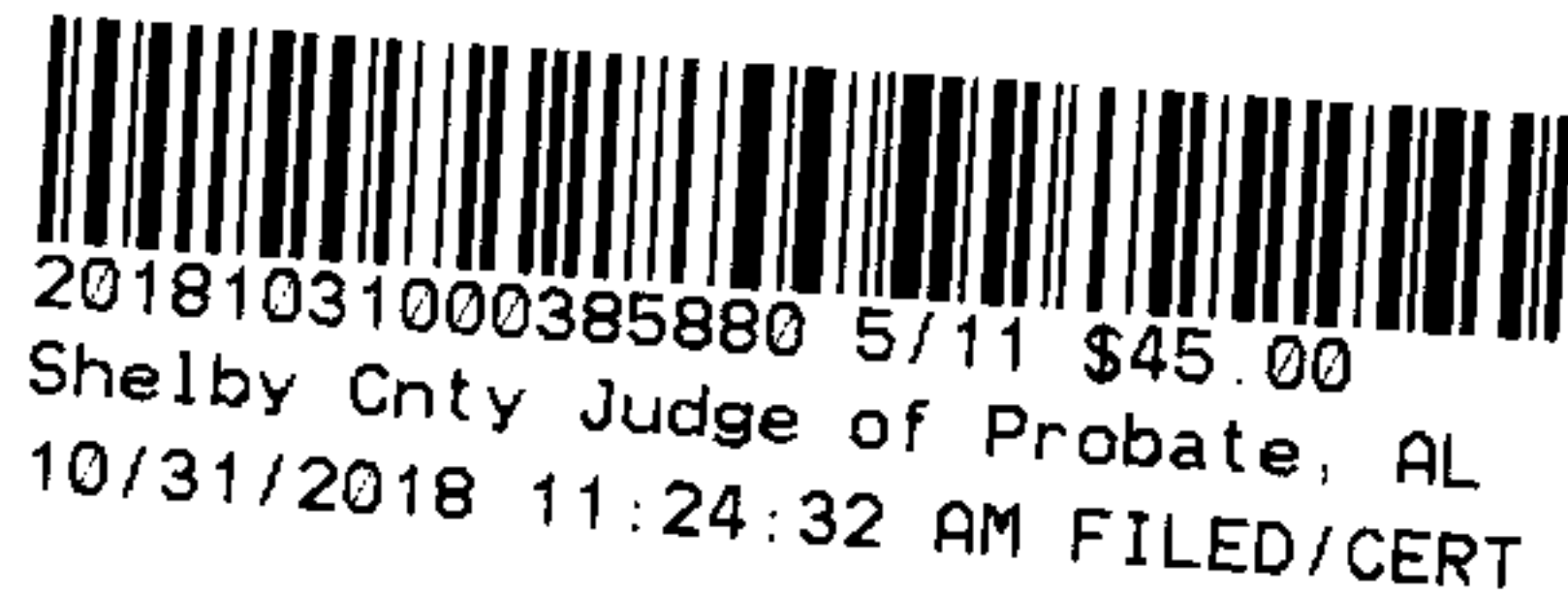
I, the undersigned Notary Public in and for said County, in said State, hereby certify that Joseph M. Baugh, whose name as Manager of CGP Medvest BW, LLC, a Delaware limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of this instrument, he as such Manager and with full authority, executed the same voluntarily for and as the act of aforesaid limited liability company.

Given under my hand and official seal this 22 day of October, 2018.



[Signature]
Notary Public

My Commission Expires: 12/13/2020



THE MEDICAL CLINIC BOARD OF THE
CITY OF HOOVER, ALABAMA, a public
corporation and instrumentality under the laws of the
State of Alabama

By: CA Faulkner
Printed Name: CHARLES FAULKNER
Title CHAIR

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that
Charles Faulkner, whose name as Chairman
of The Medical Clinic Board of the City of Hoover, Alabama, a public corporation and
instrumentality under the laws of the State of Alabama, 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
this instrument, he as such officer and with full authority, executed the same voluntarily for and
as the act of aforesaid public corporation.

Given under my hand and official seal this 25th day of October, 2018.

Margie Handley
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 3/30/18

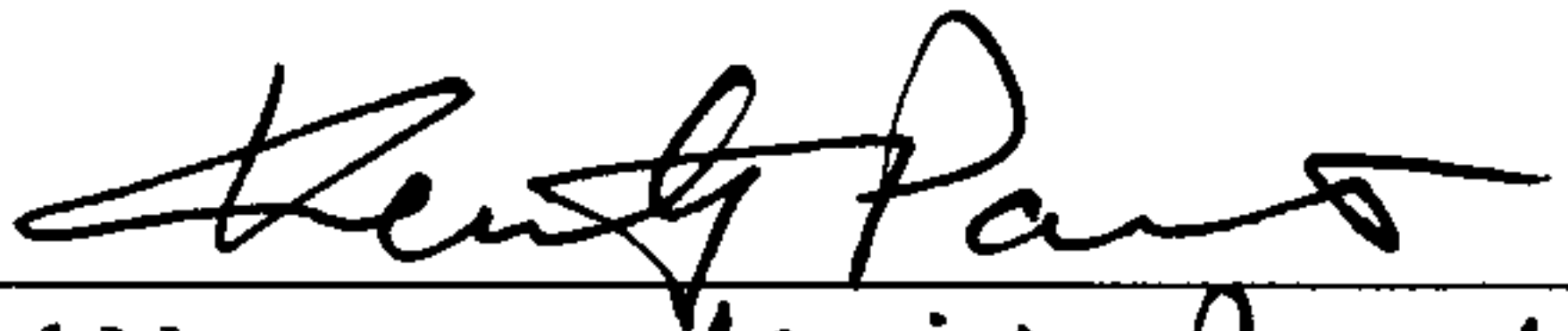


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CONSENT OF BROOKWOOD HEALTH SERVICES, INC.

Brookwood Health Services, Inc., an Alabama corporation, does hereby join in the execution of this Amendment and does hereby consent to all of the terms and provisions hereof.

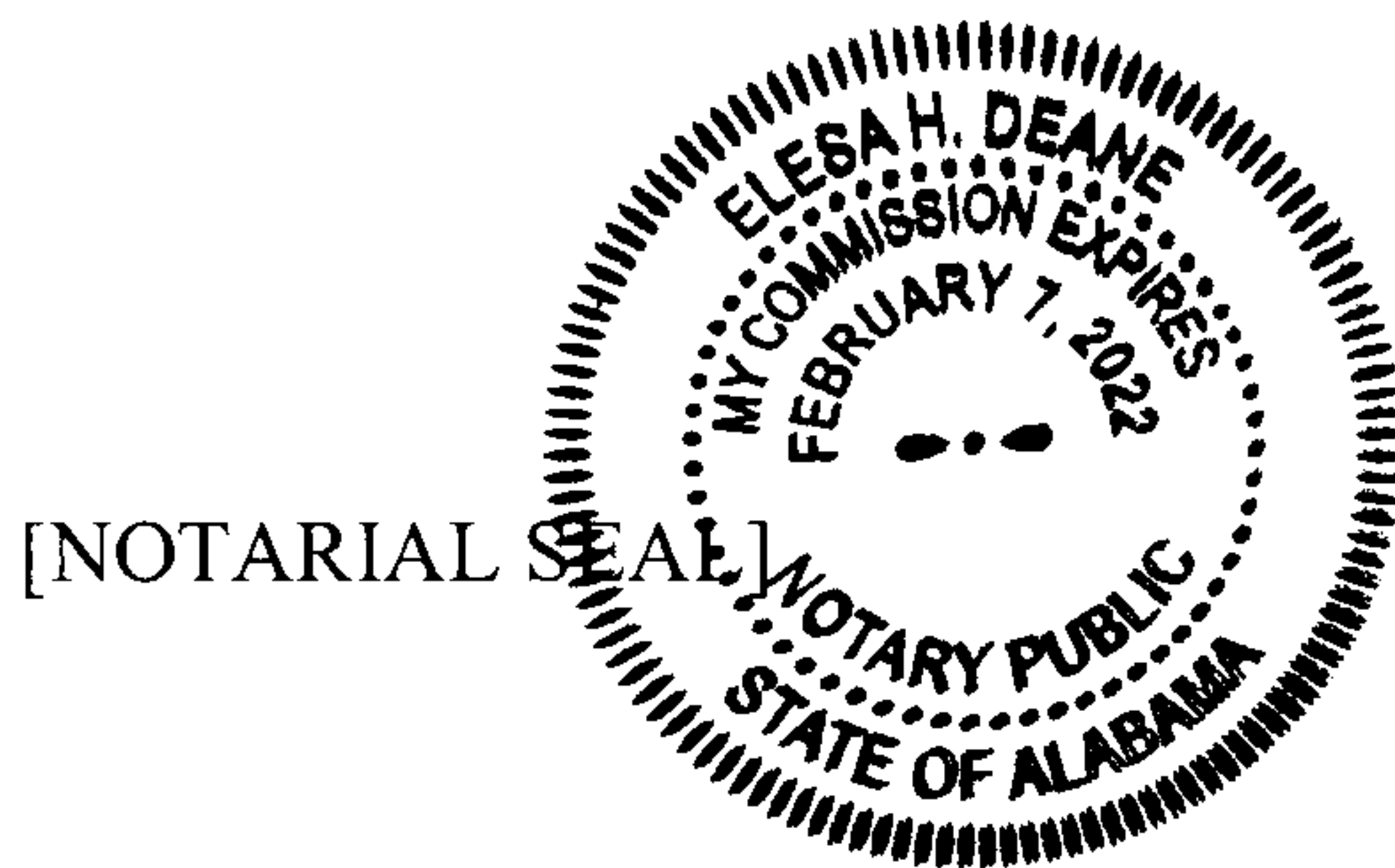
BROOKWOOD HEALTH SERVICES, INC., an
Alabama corporation

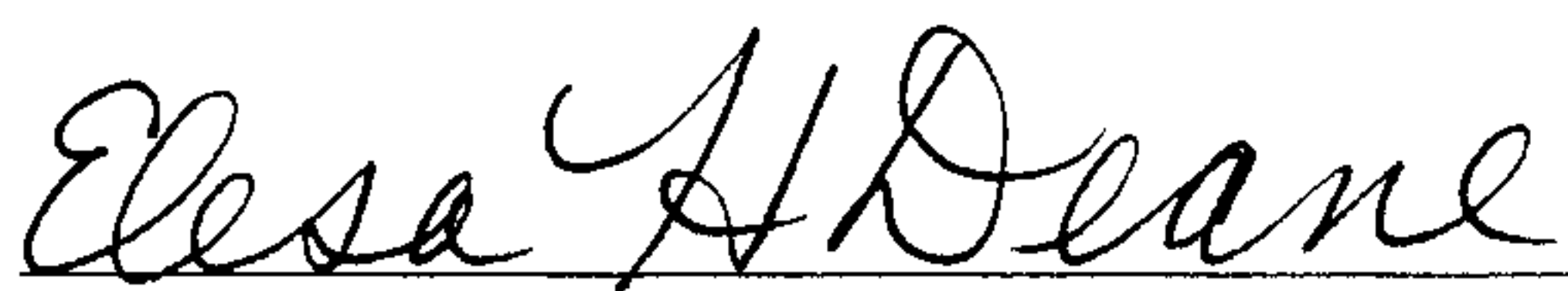
By: 
Printed Name: Keith Parrott
Title: CEO

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Keith Parrott, whose name as CEO of Brookwood Health Services, Inc., an Alabama 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 this instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of aforesaid corporation.

Given under my hand and official seal this 29 day of October, 2018.




Notary Public

My Commission Expires: Feb. 7, 2022


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This instrument prepared by:
Stephen R. Monk
Bradley Arant Boult Cummings LLP
One Federal Place
1819 5th Avenue North
Birmingham,

Alabama

35203

CONSENT OF MORTGAGEE

THIS CONSENT OF MORTGAGEE (this "Consent") is made and entered into as of the ____ day of _____, 2018 by **IBERIABANK**, a Louisiana state chartered bank ("Mortgagee").

RECITALS:

Mortgagee is the holder of the following mortgages (collectively, the "Mortgages"):

(a) Mortgage dated February 12, 2015 executed by CGP Medvest BW, LLC ("Mortgagor") in favor of Mortgagee and recorded as Instrument 20150213000048180 in the Office of the Judge of Probate of Shelby County, Alabama; and

(b) Leasehold Mortgage dated February 12, 2015 executed by Mortgagor in favor of Mortgagee and recorded as Instrument 20150213000048210 in the Office of the Judge of Probate of Shelby County, Alabama.

The Mortgages encumber the Medvest Property, as defined in the Agreement, which is more particularly defined in the Amendment, as hereinafter defined.

Contemporaneously herewith, EBSCO Industries, Inc., Mortgagor and The Medical Clinic Board of the City of Hoover, Alabama have entered into that certain First Amendment to Restrictive Use and Reciprocal Easement Agreement (the "Amendment") to which this Consent is attached. *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Amendment or the Agreement.*

Mortgagee desires to consent to the execution of the Amendment by Mortgagor and to acknowledge and agree that the rights and interests of the parties under the Agreement, as amended by the Amendment, shall continue following any Foreclosure Action, as hereinafter defined.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagee does hereby:

1. Consent to the execution of the Amendment by Mortgagor.
2. Agree that, upon and after a foreclosure of the Mortgages, the granting of any deed in lieu of foreclosure or the taking of any other action by Mortgagee under the Mortgages which results in Mortgagee or any third party acquiring title to or any interest in the Medvest Property (collectively, a "Foreclosure Action"), then (a) the Agreement, as amended by the Amendment, and all of the rights and privileges under the Agreement, as amended by the Amendment, shall not be affected or disturbed by virtue of such Foreclosure Action, but shall continue in full force and effect, (b) each and every party to the Agreement, as amended by the

privileges set forth in the Agreement, as amended by the Amendment, without any interference by any person claiming by, through or under Mortgagee, (c) Mortgagee or any purchaser at foreclosure, as applicable, shall succeed to the interests of Mortgagor under the Agreement, as amended by the Amendment with respect to Medvest Property and shall be bound by all of the terms and provisions of the Agreement, as amended by the Amendment and (d) Mortgagee or any purchaser at foreclosure shall execute any documents or instruments reasonably requested by any of the parties to the Agreement or any of their respective successors and assigns to confirm that all of the terms and provisions of the Agreement, as amended by the Amendment, shall continue in full force and effect following any such Foreclosure Action.

IN WITNESS WHEREOF, Mortgagee has executed this Consent as of the day and year first above written.

IBERIABANK, a Louisiana state chartered bank

By: Martin Brown
Printed Name: Martin Brown
Its: SVP

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Martin Brown, whose name as SVP of IBERIABANK, a Louisiana state chartered bank, 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, 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 25 day of October, 2018.

Misty Dawn Rigdon
Notary Public

[NOTARIAL SEAL]

My commission expires: _____

MISTY DAWN RIGDON
Notary Public, Alabama State At Large
My Commission Expires July 12, 2020

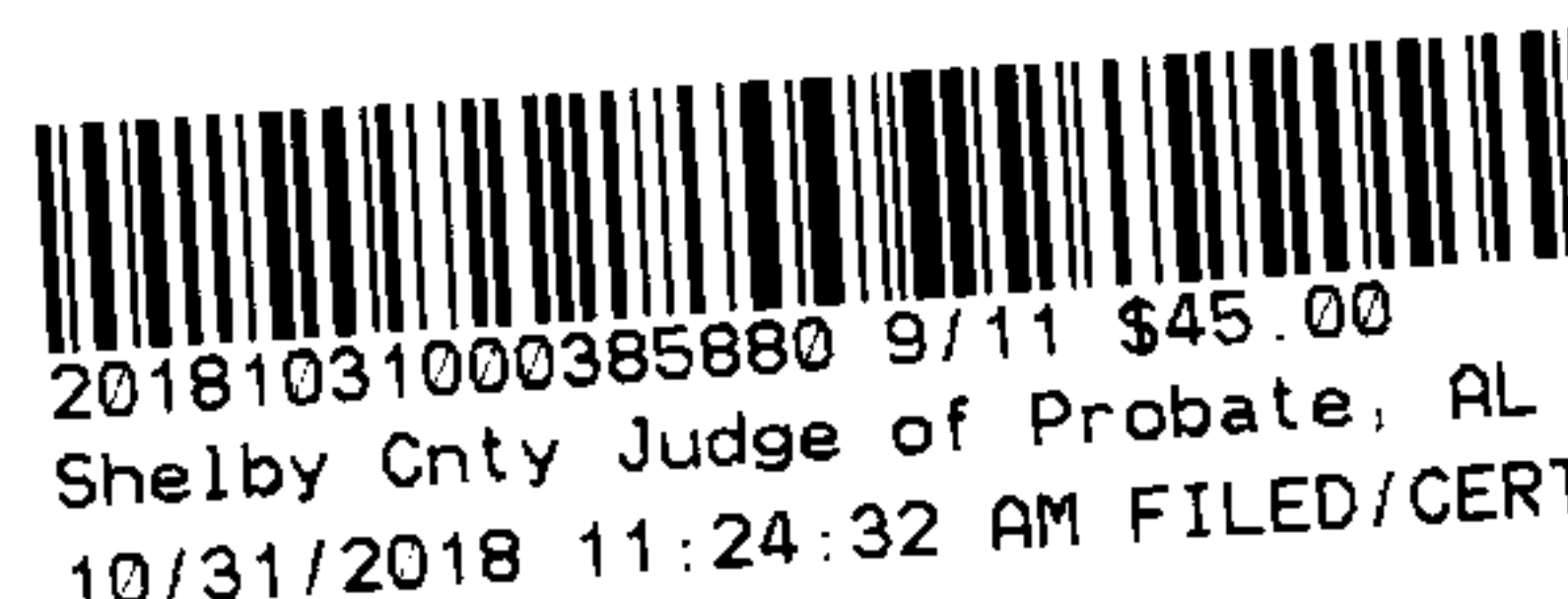
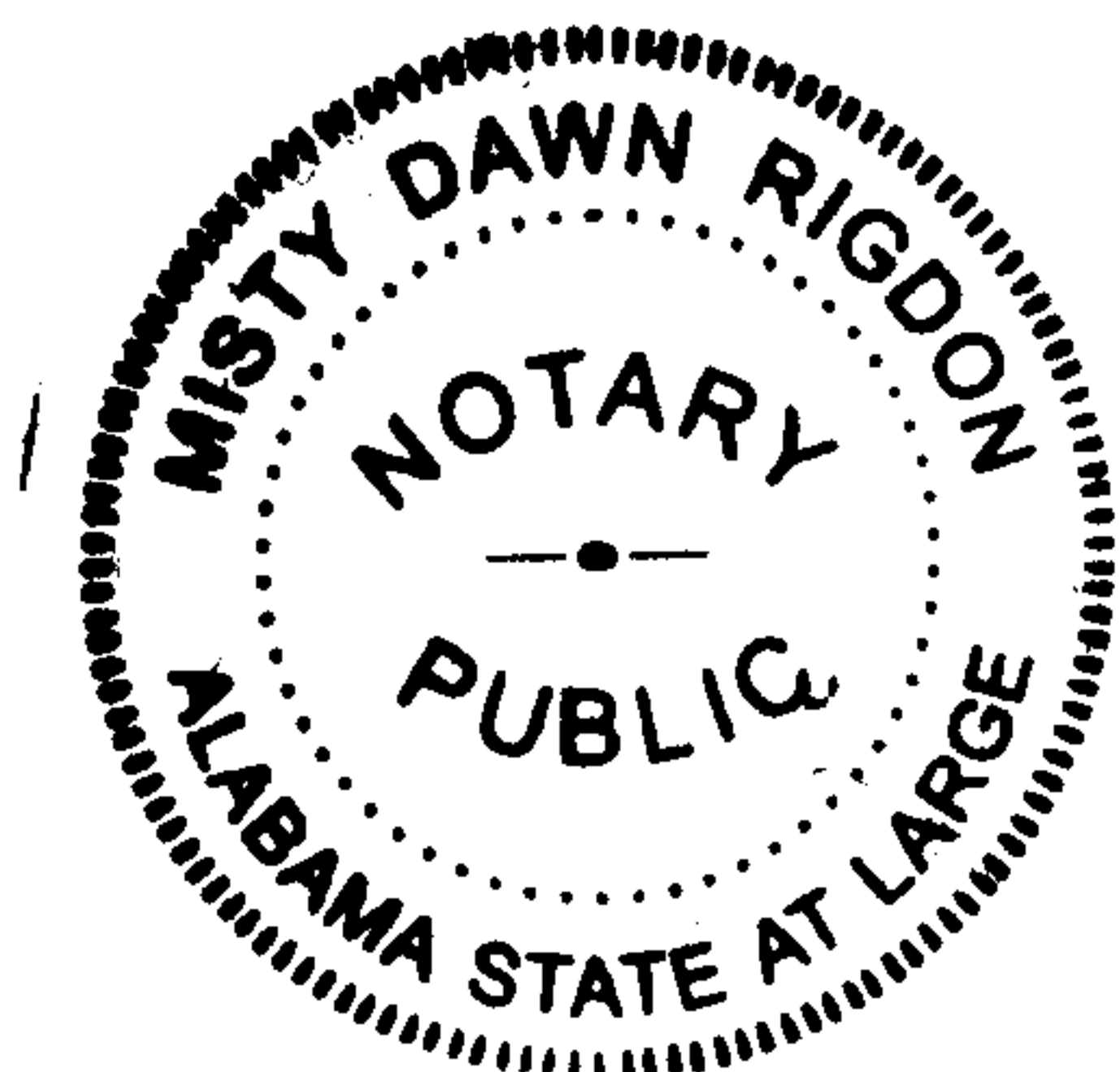
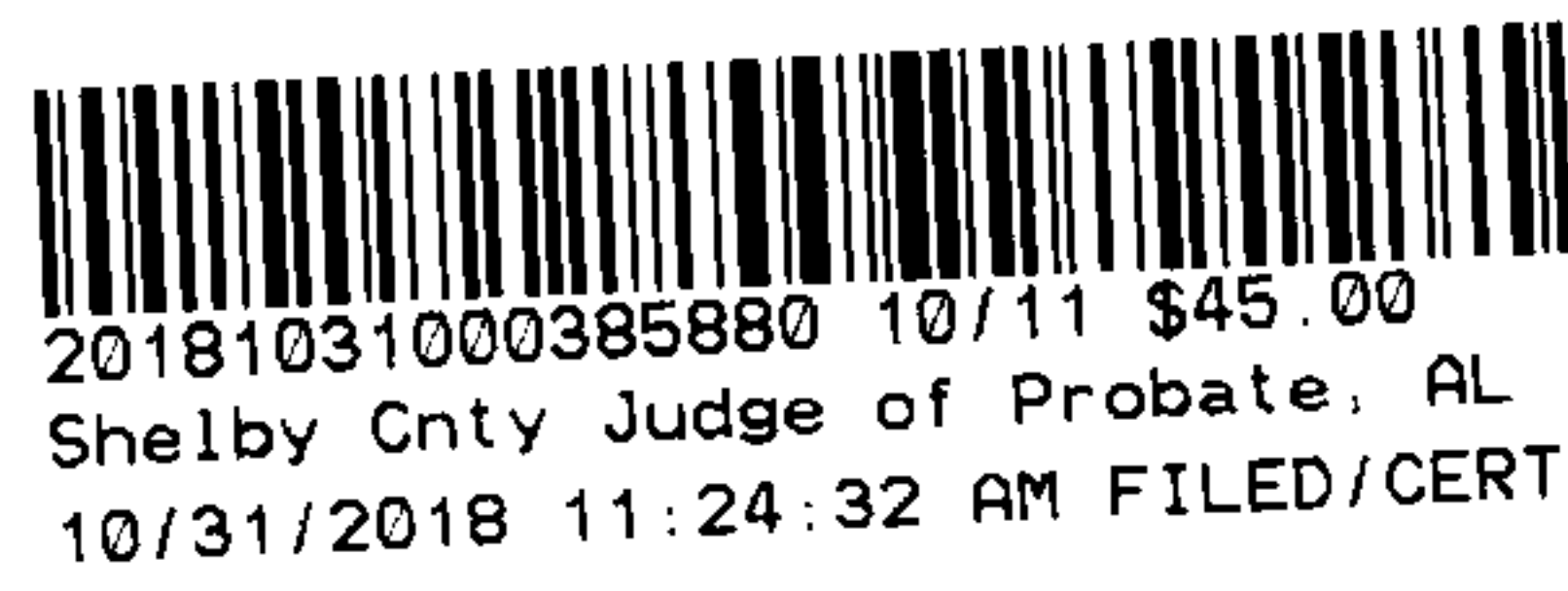


EXHIBIT E-1

Site Plan

(see attached)





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