

*This instrument was prepared by:*  
Alton L. Lightsey, Esquire  
Lightsey & Associates, P.A.  
2105 N. Park Ave.  
Winter Park, Florida 32789

### ACCESS AGREEMENT

THIS ACCESS AGREEMENT (this “Agreement”) is made as of the 1<sup>st</sup> day of November, 2018, by and between **EBSCO INDUSTRIES, INC.**, a Delaware corporation (“EBSCO”), and **GREYSTONE WAY, LLC**, a Florida limited liability company authorized to do business in Alabama (“Greystone”).

### WITNESSETH:

WHEREAS, EBSCO is the fee simple owner of certain real property situated in Shelby County, Alabama, more particularly shown on Exhibit “A” attached hereto and incorporated herein by this reference (the “EBSCO Parcel”); and

WHEREAS, contemporaneously herewith, EBSCO has sold, transferred and conveyed to Greystone that certain real property situated in Shelby County, Alabama, adjacent to the EBSCO Parcel and more particularly described on Exhibit “B” attached hereto and incorporated herein by this reference (the “Greystone Parcel”) (the EBSCO Parcel and the Greystone Parcel are sometimes hereinafter collectively referred to as the “Parcels”); and

WHEREAS, a point of access to Tattersall Boulevard is to be provided to and from both Parcels by a shared driveway (the “Common Driveway”) that is to be constructed by Greystone on a portion of the EBSCO Parcel as more particularly described on Exhibit “C” attached hereto and incorporated herein by this reference (the “Common Driveway Parcel”); and

WHEREAS, EBSCO wishes to grant to Greystone a perpetual, non-exclusive easement for access, ingress and egress over the Common Driveway Parcel, expressly reserving to EBSCO the right to use the Common Driveway in common with Greystone, all on the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

2. Common Driveway Easement.

A. Grant of Easement. EBSCO hereby declares, grants and conveys to Greystone a perpetual, non-exclusive easement for ingress, egress and access for vehicular and pedestrian traffic, upon, over and across the Common Driveway Parcel to and from Tattersall

Boulevard, presently a private roadway, for the benefit of the Greystone Parcel (the "Common Driveway Easement"). EBSCO hereby expressly reserves the right to use the Common Driveway in common with Greystone for any and all uses and purposes, not inconsistent with the use of the Common Driveway by Greystone for ingress, egress and access for vehicular and pedestrian traffic, and subject to the terms and provisions of this Agreement, including, without limitation, for vehicular and pedestrian access, ingress and egress and the installation of underground Utility Lines for Utility Services (as such terms are defined in the REA, as hereinafter defined) over, across, through under and upon the Common Driveway. Any Utility Lines installed in the Common Driveway shall adhere to the requirements of the REA. The Common Driveway Easement shall include the right of Greystone to enter onto the Common Driveway Parcel for purposes of performing its maintenance and repair obligations hereunder. EBSCO also hereby grants to Greystone the temporary right and easement to enter onto the Common Driveway Parcel and the adjoining area on the EBSCO Parcel within twenty (20) feet of the boundaries of the Common Driveway Parcel from time to time for purposes of constructing the Common Driveway Improvements (the "Temporary Construction Easement"), which Temporary Construction Easement shall expire and be of no further force and effect upon the earlier of: (1) Greystone's completion of the Common Driveway in accordance with the terms hereof; or (2) one (1) year from the date of recording this Agreement.

B. Construction of Common Driveway. At its sole cost and expense, Greystone shall construct the curb cuts, accessways, driveways, sidewalks, curbing, and other related access improvements for the Common Driveway (the "Common Driveway Improvements"). The Common Driveway Improvements shall be designed and constructed in a manner consistent with the "Plans", as such term is defined in that certain Restrictive Use and Reciprocal Easement Agreement of even date herewith between EBSCO and Greystone, to be recorded (the "REA"). All construction work shall be undertaken in a good and workmanlike manner, in accordance with all laws, codes and ordinances.

C. No Barriers. No fences or other obstructions shall be erected, placed, installed or permitted on, across or upon any portion of the Common Driveway; provided, however, that the foregoing shall not prohibit Greystone from erecting temporary barriers or fences which may be necessary or required in connection with the construction or maintenance of the Common Driveway, so long as such action does not materially, adversely affect ingress or egress to and from the Parcels.

D. No Parking or Signage. No parking or signage shall be permitted on the Common Driveway Parcel.

3. Maintenance.

A. Nature of Repair and Maintenance Obligation. Greystone shall maintain and repair the Common Driveway to standards required for the "Owner Property", as set forth in Section 4.02 of the REA.

B. Sharing of Maintenance Costs. Until such time as the first building on the EBSCO Parcel is constructed and has received a certificate of occupancy from the City of Hoover, Alabama, and the owner, occupants or customers of such building begin using the Common Driveway for vehicular access to Tattersall Boulevard, the cost of maintenance and repair of the Common Driveway shall be Greystone's sole cost and expense. Commencing at such time as the first building on the EBSCO Parcel is constructed and has received a certificate of occupancy from the City of Hoover, Alabama, and the owner, occupants or customers of such building begin using the Common Driveway for vehicular access to Tattersall Boulevard, EBSCO shall maintain the Common Driveway as part of the Common Area, as defined in the REA, and in accordance with the maintenance standards set forth in the REA.

4. Default. In the event that either party shall fail to perform its obligations hereunder, then the non-defaulting party may give the defaulting party written notice of its default, in which case the defaulting party shall have thirty (30) days to cure such default; provided, however, that if such violation or failure to timely and completely observe and perform cannot, with reasonable diligence, be fully and completely remedied and cured within such 30-day period, then the defaulting party shall have a reasonable period of time to cure the same, provided the defaulting party promptly commences and diligently pursues the remedy to completion. If the defaulting party shall fail to cure such default within the cure period, the non-defaulting party shall have all rights and remedies available at law or equity, and shall also have the right, without the obligation, to perform the defaulting party's obligations, in which event, the defaulting party shall be obligated to reimburse the non-defaulting party for all costs incurred by the non-defaulting party in performing the defaulting party's obligations, including interest thereon, at the Applicable Rate. Such amounts shall be due upon written demand by the non-defaulting party, delivered with supporting bills, receipts and other evidence supporting the costs set forth in such demand. Notwithstanding anything to the contrary set forth in this Agreement, for so long as "Publix" (as defined in the REA) shall lease the Publix Grocery Store (as defined in the REA), EBSCO shall deliver notice of any default hereunder by Greystone to Publix concurrent with delivery of such notice to Greystone. If Publix shall elect to cure such Greystone default, EBSCO agrees to accept such cure from Publix, it being expressly understood that Publix has the right, but not the obligation, to cure a Greystone default.

5. Insurance and Indemnification.

A. Insurance. Prior to any entry onto the Common Driveway Parcel and continuing thereafter for as long as this Agreement remains in effect, Greystone shall provide and maintain, at its sole cost and expense, commercial general liability insurance coverage (including contractual liability coverage regarding the indemnification obligations hereinafter set forth) for bodily injury or property damage with a combined single limit of not less than \$2,000,000.00 for each occurrence, which commercial general liability insurance policy shall name EBSCO and any subsequent owner of any portion of the EBSCO Parcel as additional insureds thereunder. Certificates of insurance evidencing the foregoing coverage shall be delivered to EBSCO and any subsequent owner of any portion of the EBSCO Parcel prior to the commencement of any construction activities on any portion of the Common Driveway Parcel. Should Publix become the successor or assignee of Greystone under this Agreement, Publix may thereafter elect to provide the insurance required under this Agreement through a program of self-insurance.



B. Indemnification by Greystone. Greystone, for itself and its successors and assigns, shall and does indemnify, agree to defend and hold EBSCO and its successors and assigns harmless from and against any and all claims, demands, damages, costs, liabilities and expenses, including reasonable attorneys' fees through all levels of proceedings, which EBSCO or any of its successors and assigns may suffer, pay or incur as a result of:

(i) Any injury or damage to person (including death) or property occurring in, on or upon the Common Driveway Parcel arising out of or caused by the negligent, intentional or willful acts or omissions of Greystone or its successors and assigns, except to the extent caused by the negligence or willful misconduct of EBSCO or any of its successors and assigns; and

(ii) Any mechanics', materialmen's, and/or laborers' liens arising from or related to any work performed or labor or materials provided in connection with the construction or maintenance of the Common Driveway or Common Driveway Improvements, and, in the event any portion of the EBSCO Parcel shall become subject to any lien as a result of such work, then Greystone, its successors and assigns, shall promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or posting such bond or other security as shall be required by law to obtain such release and discharge.

C. Indemnification by EBSCO. Commencing at such time as the first building on the EBSCO Parcel is constructed and has received a certificate of occupancy from the City of Hoover, Alabama, and the owner, occupants or customers of such building begin using the Common Driveway for vehicular access to Tattersall Boulevard, EBSCO, for itself and its successors and assigns, shall and does indemnify, agree to defend and hold Greystone and its successors and assigns harmless from and against any and all claims, demands, damages, costs, liabilities and expenses, including reasonable attorneys' fees through all levels of proceedings, which Greystone or any of its successors and assigns may suffer, pay or incur as a result of any injury or damage to person (including death) or property occurring in, on or upon the Common Driveway Parcel arising out of or caused by the negligent, intentional or willful acts or omissions of EBSCO or its successors and assigns, except to the extent caused by the negligence or willful misconduct of Greystone or any of its successors and assigns.

6. Estoppel Certificates. EBSCO, Greystone and their successors and permitted assigns, each agree that it will, within thirty (30) days following request by any other party or Publix, furnish a certificate signed by a duly authorized officer indicating, if true, the absence of any known violation of the provisions of this Agreement, or if known violations exist, specifying those known violations, and setting forth any amounts due hereunder.

7. Modification. This Agreement may not be amended or modified except by an instrument in writing executed by the then owners of the Greystone Parcel and EBSCO Parcel.

For so long as Publix shall lease the Publix Grocery Store, any amendment to this Agreement shall also require the written consent and joinder of Publix.

10. Notices. All notices which are required or permitted hereunder shall be given in the manner required by Section 6.03 of the REA.

11. Binding Effect; Covenants Running With Land; Waiver. The easements and provisions contained in the Agreement are intended to touch and concern the Greystone Parcel and the EBSCO Parcel and shall run with title to the Greystone Parcel and the EBSCO Parcel, and shall be binding upon, and inure to the benefit of, Greystone, EBSCO and their respective successors and assigns. No waiver by either party of any default under this Agreement shall be effective or binding upon such party unless made in writing. No waiver of any default shall be deemed a waiver of any other or subsequent default hereunder.

12. Attorneys' Fees. In the event litigation arises concerning this Agreement, the prevailing party in such action shall be entitled to recover, in addition to any amounts or relief otherwise awarded, all reasonable costs incurred in connection therewith (before trial and at both the trial and appellate levels), including attorneys' and paralegals' fees and costs.

13. Permittees. Each party shall have the right to permit the use of the Common Driveway by its Permittees, for the uses permitted under this Agreement and to delegate and impose upon any such Permittee the duty to perform any of the obligations of the delegating party hereunder. "Permittees" shall mean and refer to any tenants, permitted subtenants, licensees, occupants, employees, contractors, vendors, invitees, lenders, customers and visitors of EBSCO and Greystone. Publix shall expressly be a Permittee as to the Greystone Parcel. Except for Publix, the joinder of Permittees in any amendment to this Agreement shall not be required.

14. Governing Law; Venue. The terms and conditions of this Agreement shall be governed and construed under the laws of the State of Alabama. Venue for any action arising out of or related to this Agreement shall lie in the state courts sitting in Shelby County, Alabama.

15. Third Party Rights. This Agreement and all of its terms, covenants, conditions and provisions are solely for the benefit of EBSCO, Greystone, their successors and assigns, and any Permittees, including Publix. No other third party will have any rights, privileges or other beneficial interest herein or hereunder.

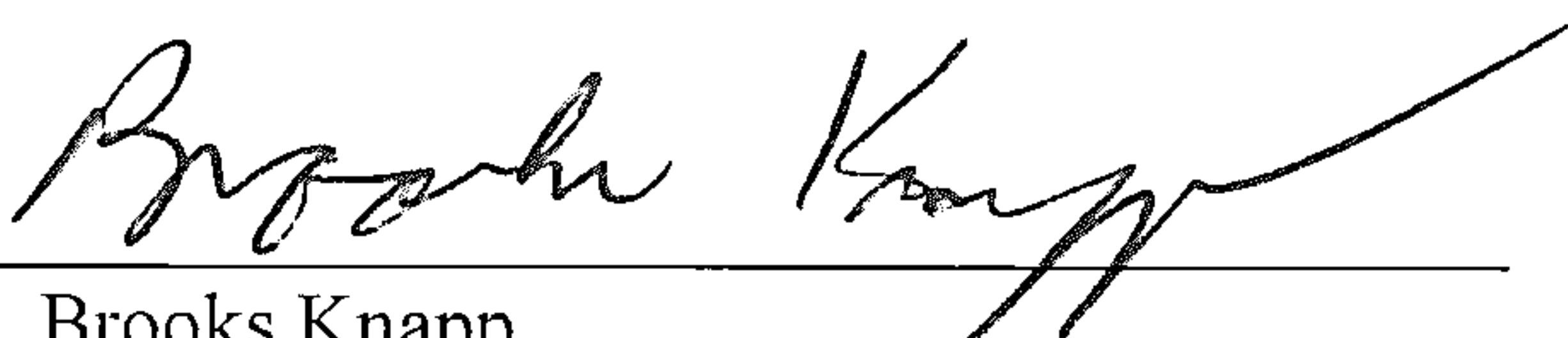
16. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which shall constitute one and the same instrument.

*[Signatures on Following Page]*

IN WITNESS WHEREOF, EBSCO and Greystone have caused this Agreement to be executed by their duly authorized representatives on the date first written above.

EBSCO:

EBSCO INDUSTRIES, INC., a Delaware corporation

By:   
Brooks Knapp  
Its Vice President

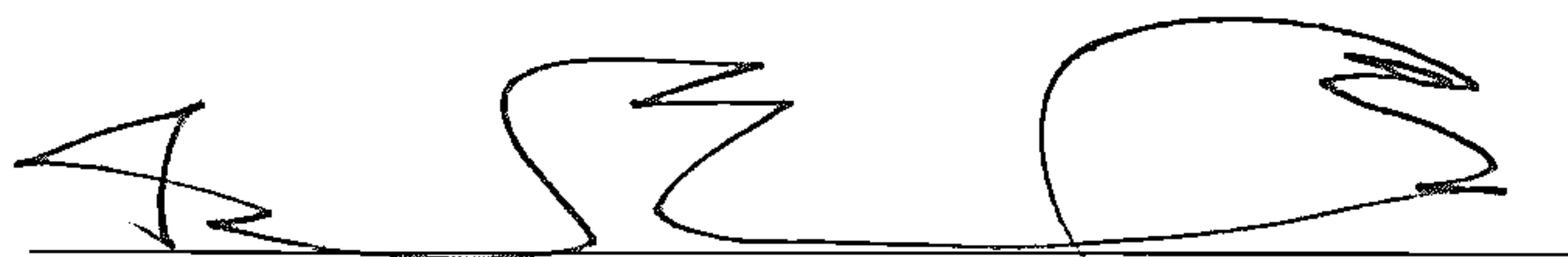
STATE OF ALABAMA }

ss:

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.

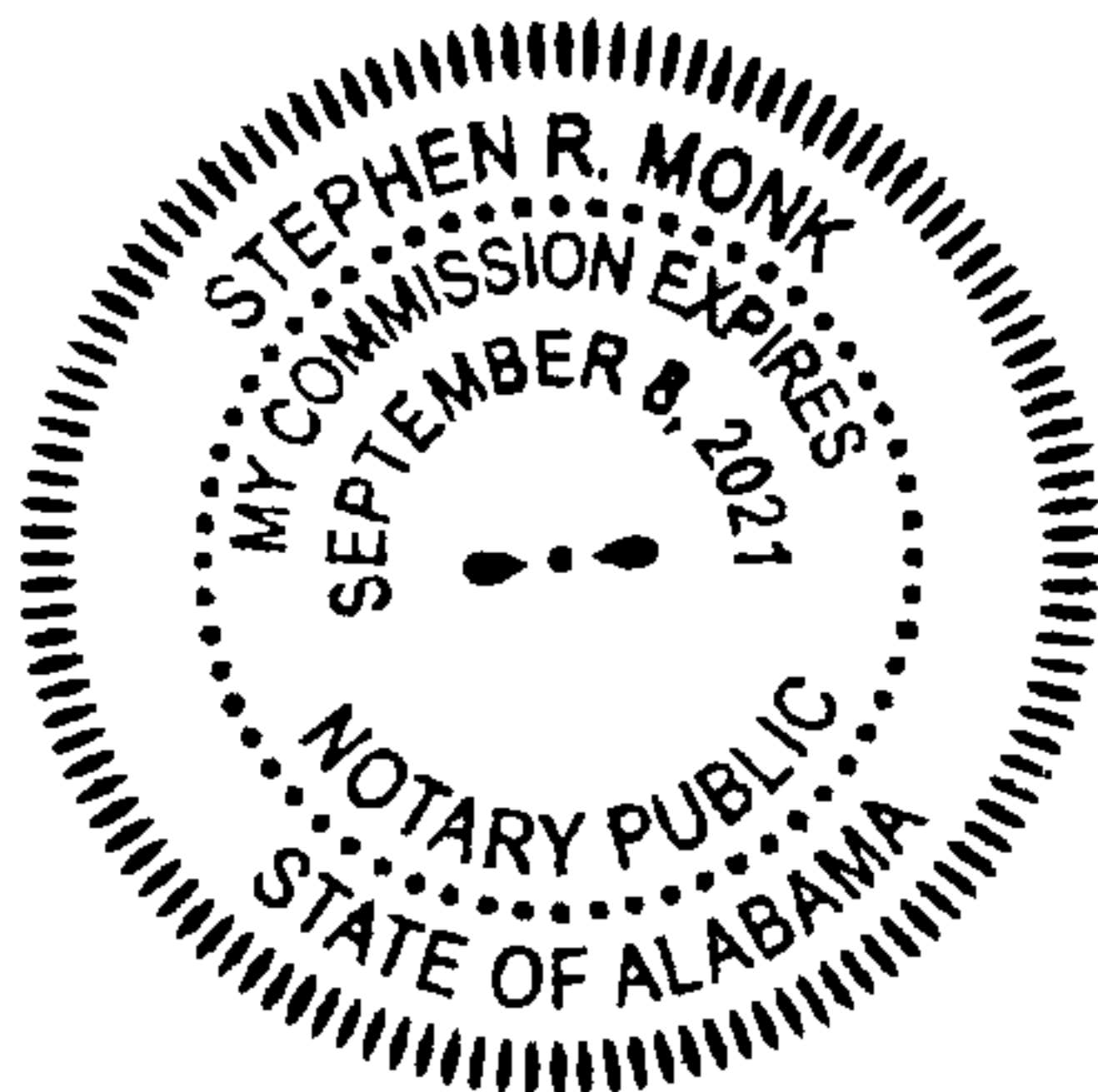
Given under my hand and official seal this 1st day of November, 2018.



Notary Public

My Commission Expires: 9/8/2021

[NOTARIAL SEAL]





**GREYSTONE**

**GREYSTONE WAY, LLC**, a Florida limited liability company, authorized to do business in Florida

By: [Signature]  
Printed Name: James J. White  
Title: Manager

STATE OF Florida }

SS:

COUNTY OF Hillsborough }

I, the undersigned Notary Public in and for said County, in said State, hereby certify that James J. White, whose name as Manager of Greystone Way, LLC, a Florida 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.

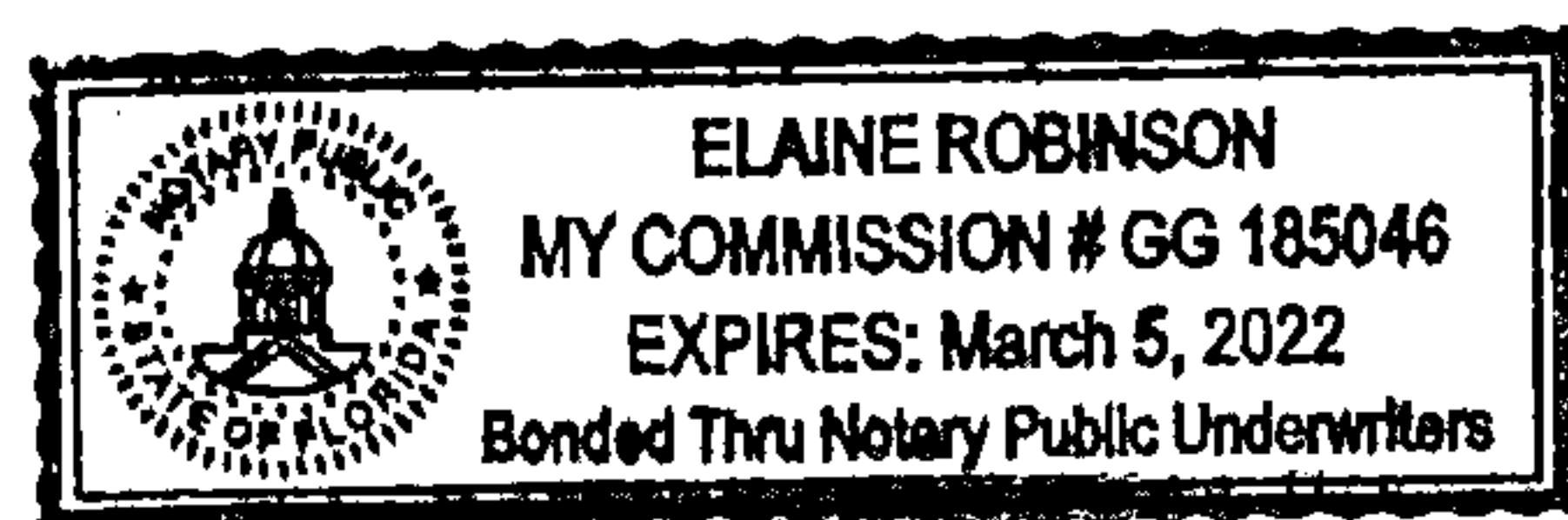
Given under my hand and official seal this 30<sup>th</sup> day of October, 2018.

[Signature]

Notary Public

[NOTARIAL SEAL]

My Commission Expires: \_\_\_\_\_



**INDEX OF EXHIBITS**

Exhibit “A” - Crosshatch of the EBSCO Parcel

Exhibit “B” – Legal Description of the Greystone Parcel

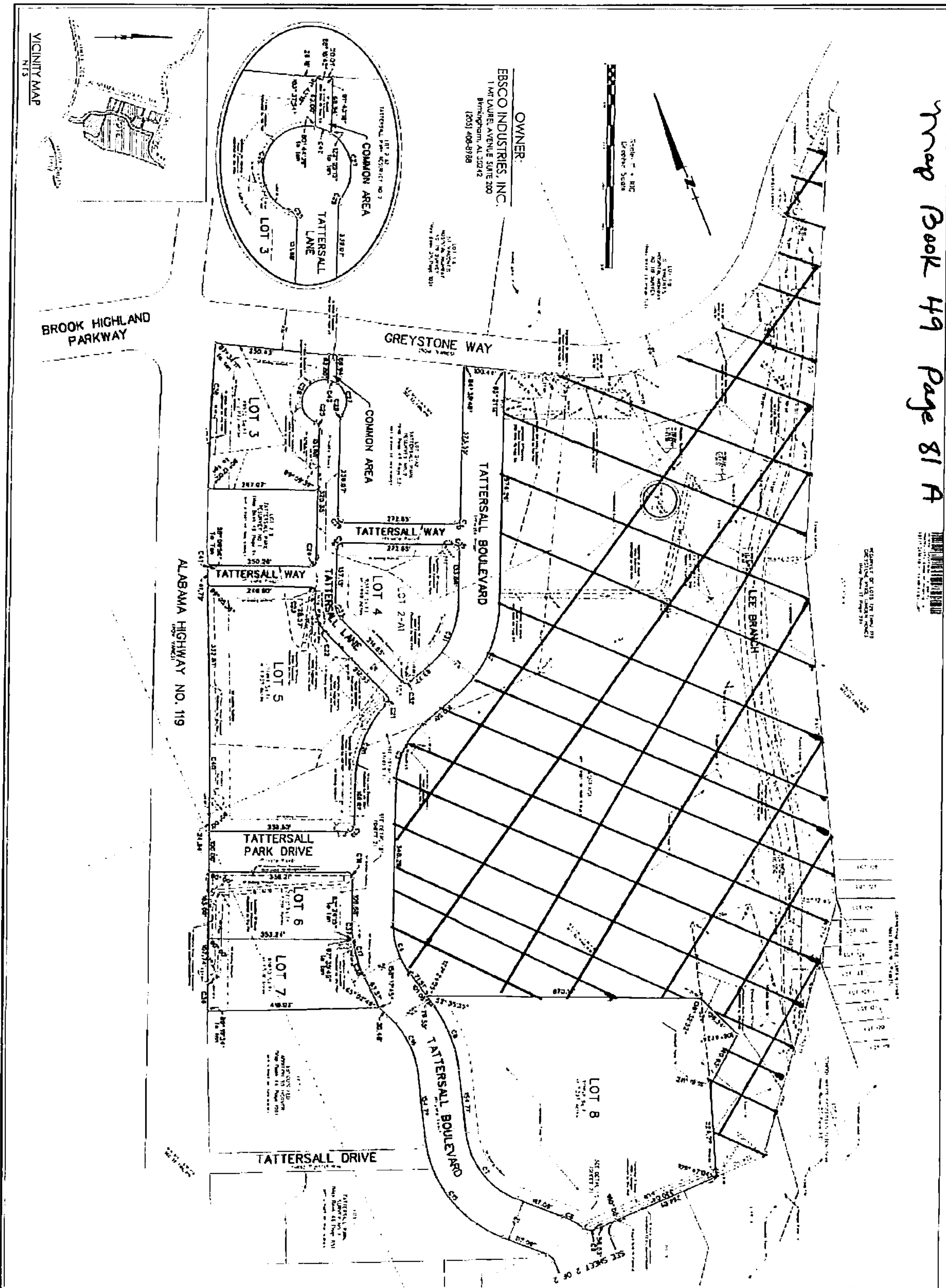
Exhibit “C” Sketch and Description of the Common Driveway Easement

S



"EBSCO Parcel" Exhibit "A"

Map Book 49 Page 81 A



TATTERSALL PARK RESURVEY NO. 3

BEING A RESURVEY OF LOT 2A-1, TATTERSALL PARK RESURVEY NO. 2  
(MAP BOOK 48, PAGE 53), AND ACREAGE

SITUATED IN THE E 1/4 OF THE N 1/4 THE W 1/4 OF THE E 1/4 THE N 1/4 OF THE E 1/4,  
AND THE N 1/4 N 1/4 S 1/4 S 1/4 ALL IN SECTION 32, TOWNSHIP 18 SOUTH, RANGE 1 WEST  
SHELBY COUNTY, ALABAMA

SCHOFEL

Consulting Engineers

121 1/2 1st Street S.W.  
Birmingham, Alabama 35226  
205 222 2222

Carl  
Schofel  
Engineer  
Professional Seal  
Highway Engineering  
Alabama

**20181102000389890 11/02/2018 12:45:04 PM AGREEMNT  
10/12**

**EXHIBIT B**

**Legal Description of Greystone Property**

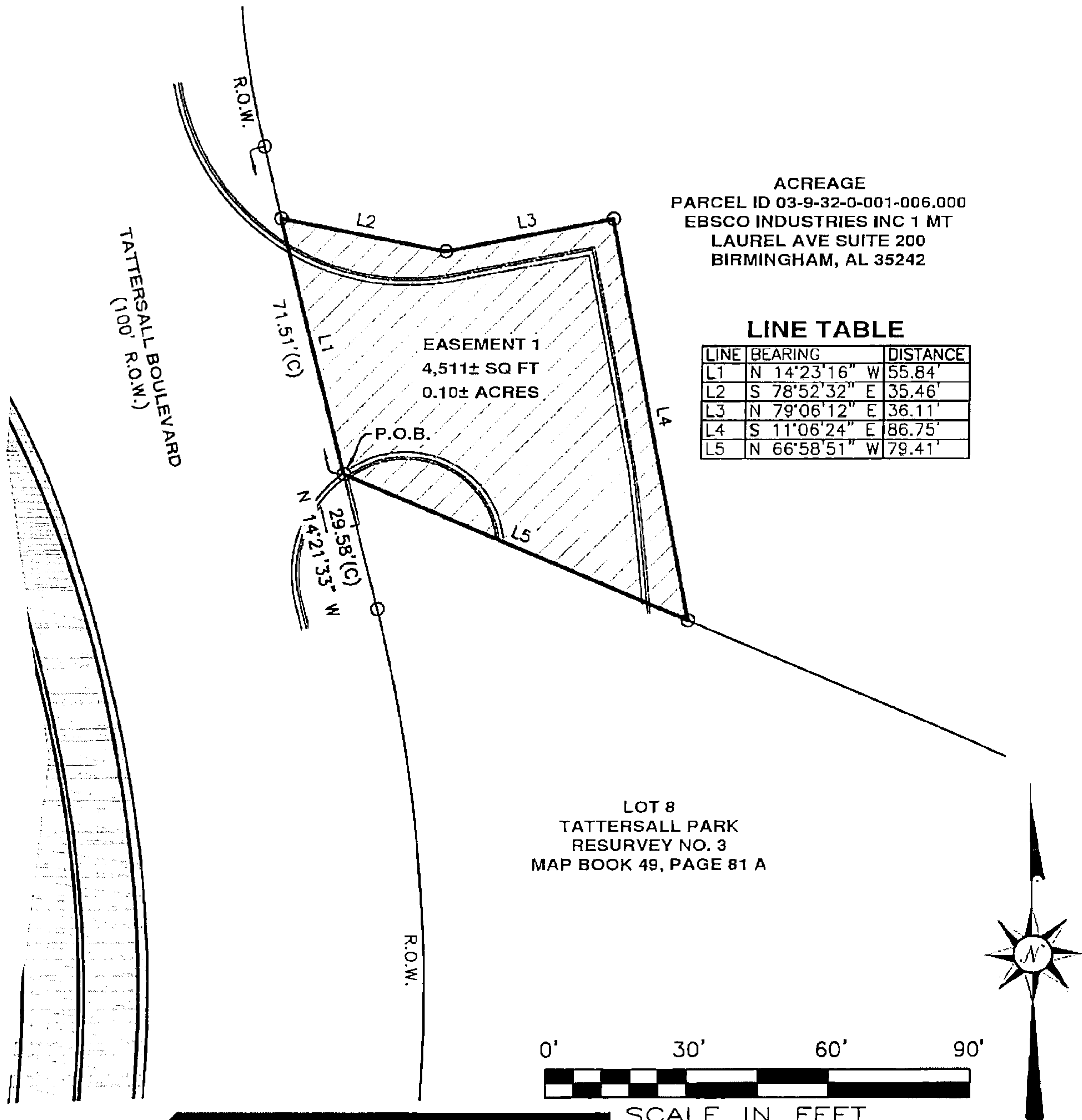
Lot 8, according to the Survey of Tattersall Park Resurvey No. 3, as recorded in Map Book 49, Pages 81A and 81B, in the Office of the Judge of Probate of Shelby County, Alabama.

Exhibit "C"

# DRIVE EASEMENT

DRAWING: #28814

NE 1/4 OF THE SW 1/4 OF SECTION 32, TOWNSHIP 18 SOUTH, RANGE 1 WEST  
SHELBY COUNTY, ALABAMA



## LEGEND

- PF IRON PIN FOUND
- PS IRON PIN SET
- PC CALCULATE POINT
- R.O.W. RIGHT OF WAY

**GSA**  
GONZALEZ - STRENGTH & ASSOCIATES, INC.  
ENGINEERING, LAND PLANNING, & SURVEYING  
2176 PARKWAY LAKE DRIVE  
HOOVER, ALABAMA 35226  
PHONE: (205) 942-2486  
FAX: (205) 942-3033  
www.Gonzalez-Strength.com

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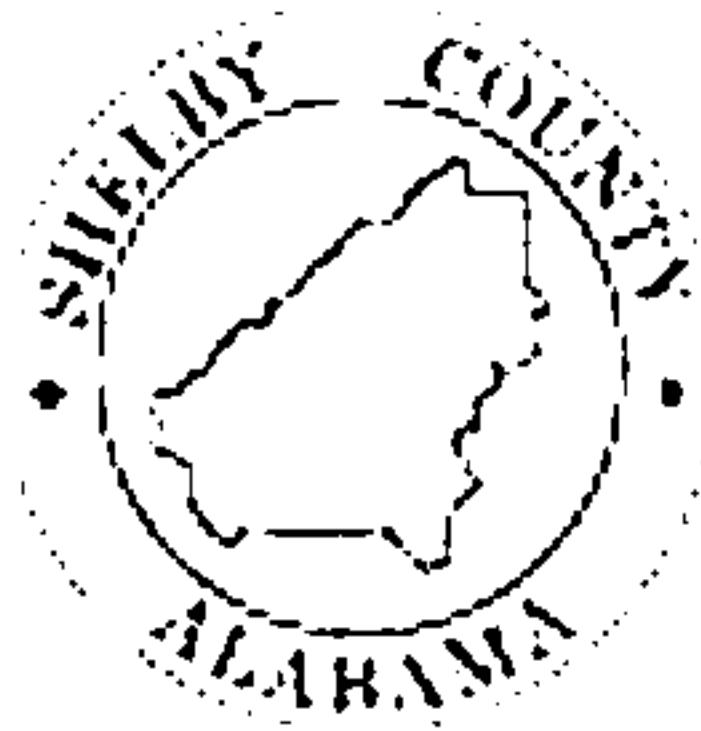
# Exhibit "C" - Legal Description

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12/12

## Drive Easement:

An easement over and across a parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama, said easement being more particularly described as follows:

Begin at a found capped rebar stamped WSE marking the Northwest corner of Lot 8, Tattersall Park Resurvey No. 3, as recorded in Map Book 49, Page 81 A, in the Probate Office of Shelby County, Alabama, said point lying on the Eastern Right of Way of Tattersall Boulevard (100' R.O.W.); thence run North 14 degrees 23 minutes 16 seconds West along said Tattersall Boulevard Right of Way for a distance of 55.84 feet to a point; thence leaving said Right of Way run South 78 degrees 52 minutes 32 seconds East for a distance of 35.46 feet to a point; thence run North 79 degrees 06 minutes 12 seconds East for a distance of 36.11 feet to a point; thence run South 11 degrees 06 minutes 24 seconds East for a distance of 86.75 feet to a point, said point lying on the North line of said Lot 8; thence run North 66 degrees 58 minutes 51 seconds West along the North line of said Lot 8 for a distance of 79.41 feet to the POINT OF BEGINNING of the easement herein described. Said easement contains 4,511 Square Feet or 0.10 Acres more or less.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
11/02/2018 12:45:04 PM  
\$48.00 CHERRY  
20181102000389890

*Allen S. Bayl*