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Shelby Cnty Judge of Probate, AL
10/17/2019 08:32:14 AM FILED/CERT

**This instrument was prepared by and
upon recording should be returned to:**

Brad S. Anderson
Butler Snow LLP
One Federal Place
1819 Fifth Avenue North, Suite 1000
Birmingham, Alabama 35203

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

SEWER AND ACCESS EASEMENT AGREEMENT

THIS SEWER AND ACCESS EASEMENT AGREEMENT (this “Agreement”) is made effective as of October 15, 2019, from **ALABAMA AIRPORT PROPERTIES, LLC**, an Indiana limited liability company (“Grantor”), whose address is 524 NE Third Street, Paoli, Indiana 47454, in favor of **GROUNDWATER PROPERTIES, INC.**, an Alabama corporation, its successors and/or assigns, whose address is 1200 Corporate Drive, Ste. 100, Birmingham, AL 35242 (“Grantee”). Each of Grantor and Grantee are sometimes referred to herein as a “Party.”

RECITALS

A. Grantor is the owner of that certain real property located in Shelby County, Alabama, being more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the “Grantor Property”).

B. Grantee is the owner of that certain real property located in Shelby County, Alabama, being more particularly described on Exhibit B attached hereto and by this reference made a part hereof (the “Grantee Property”).

C. Grantor wishes to grant and Grantee wishes to receive a certain sewer easement over, upon, under, across and through a portion of the Grantor Property, and an access easement over the Grantor Property, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the foregoing and the covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Grant of Easements.**

A. Sewer Easement. Grantor hereby irrevocably and unconditionally grants and conveys to Grantee, its agents, contractors, subcontractors, successors, successors-in-title and assigns, for the benefit of and as an appurtenance to the Grantee Property, an unobstructed perpetual non-exclusive easement over, upon, across, under, and through that portion of the Grantor Property more particularly described on Exhibit C, attached hereto and by this reference made a part hereof (the “Sewer Easement Area”), to (i) access, construct, install, improve,

Easement Agreement

operate, use, inspect, maintain, repair and replace sanitary sewer improvements (the "Improvements"), (ii) tap onto/tie into any existing or future sanitary sewer improvements within the Grantor Property, and (iii) to discharge sewage and waste matter from the Grantee Property and other connected systems through the Improvements to the applicable public or private sanitary sewer system (collectively, the "Sewer Easement"). Without limiting the generality of the foregoing, Grantee may remove any obstruction within the Sewer Easement Area during the construction and installation of the Improvements.

Construction and Maintenance. The Parties acknowledge and agree the location of the Sewer Easement Area is an approximate location based upon pre-construction engineering and planning. If the Improvements are located outside of the Sewer Easement Area at the time of construction, the permanent location of the Sewer Easement Area shall be ten feet (10') on either side of the centerline of the Improvements when installed. If the installed location of the Improvements is outside of the Sewer Easement Area, the Parties agree the Grantee, at Grantee's sole expense, will have an as-built survey completed by an Alabama licensed surveyor to identify the location of the installed Improvements. Accordingly, the Parties will enter into an amendment to this Agreement to record a legal description establishing the exact location of the Sewer Easement Area, which amendment shall be effective upon its recording.

All costs in connection with the design, engineering, construction, maintenance, repair, and replacement of the Improvements within the Grantor Property shall be borne by Grantee. The Improvements shall be constructed in compliance with all applicable city, county and state requirements. All such work shall be done in a good and workmanlike manner.

Grantor hereby grants to the Grantee and its contractors, on a non-exclusive basis and subject to the terms hereof, all easements, rights and privileges necessary or convenient for the full enjoyment and use of the Sewer Easement Area, including, without limitation, that certain portion of the Grantor Property within the area twenty feet (20') on each side of the Sewer Easement Area to access, construct, install, and make the improvements necessary for the Improvements, to use such adjacent additional areas as temporary work space and as a construction/maintenance staging area for the purpose of exercising the rights granted herein, the right of ingress and egress to and from the Grantor Property, the right to excavate for installation, replacement, repair and removal of the Improvements, and also the right to cut, remove and otherwise keep clear any and all structures, obstructions or obstacles of whatever character, on, under, adjacent to, and above said Improvements.

In the event it becomes necessary or desirable for Grantee or its successor or assigns from time to time to move any of the Improvements in connection with the construction or improvement of any public road or highway in proximity to the Improvements, Grantor hereby grants to Grantee the right to relocate the Improvements and, as to such relocated Improvements, to exercise the rights granted herein; provided, however, the Grantee shall not relocate the Improvements at a distance greater than ten feet (10') outside the boundary of the right of way of any such public road or highway as established or re-established from time to time.

Grantee covenants and agrees that after Grantee's completion of any activity within or about the Sewer Easement Area pursuant to the terms of this Agreement, Grantee shall restore

any portion of the Grantor Property disturbed by such activity as nearly as practical to its former condition.

B. Access Easement. Subject to the terms hereof, Grantor hereby grants to Grantee, its invitees, lessees, guests, employees, agents, contractors, subcontractors, successors, successors-in-title and assigns, as an easement appurtenant to the Grantee Property, a perpetual, non-exclusive easement for pedestrian and motor vehicle access, ingress and egress over, through and across all access ways located on the Grantor Property (whether now or in the future existing). Except as otherwise expressly provided herein, Grantor, at its sole cost and expense, shall at all times be obligated to maintain, repair, restore, replace, or cause to be maintained, repaired, restored, or replaced all access ways lying within the Grantor Property, so as to keep the same in good, working condition for reasonable use.

If, at any time Grantee reasonably determines that any access ways lying within the boundaries of the Grantor Property is in need of repair, maintenance, or restoration, then the Grantee shall give Grantor written notice of such fact. If Grantor fails to commence such reasonably necessary construction, repair, maintenance, or restoration, within thirty (30) days after receipt of such notice or after commencement fails to diligently proceed to complete such reasonably necessary construction, repair, maintenance, or restoration, then Grantee may perform such reasonably necessary work and furnish to Grantor a copy of the invoices evidencing such costs of construction, repairs, maintenance, or restoration. Grantor shall, within ten (10) business days after receipt thereof, pay to Grantee the amount evidenced by such invoice(s).

2. Reservation of Other Rights. Grantor shall have the right to use the surface of the Grantor Property, for any purpose or purposes whatsoever, including, without limitation, the right to grade, pave and otherwise fully utilize the surface of the property hereinabove described, and any subsurface portion thereof, provided that (i) such use or modification of the said areas does not unreasonably interfere with Grantee's proposed or actual use and enjoyment of the applicable easements granted hereunder and (ii) no buildings or other structures, obstructions, or improvements shall be constructed or located within the Sewer Easement Area.

3. Indemnification.

A. Grantee agrees to indemnify and save harmless Grantor from all claims, demands, actions, causes of action, liabilities or judgments, including, without limitation, all costs, expenses and reasonable attorney fees actually incurred, due to injury, damage or loss of any nature occurring to persons or property, to the extent proximately caused by Grantee's (or any of its agents', employees' or contractors') use and enjoyment of the Grantor Property, except to the extent such claims, demands, actions, causes of action, liabilities or judgments result from the negligence or willful misconduct of Grantor (or its agents, employees or contractors).

B. Grantor agrees to indemnify and save harmless Grantee from all claims, demands, actions, causes of action, liabilities or judgments, including, without limitation, all costs, expenses and reasonable attorney fees actually incurred, due to injury, damage or loss of any nature occurring to persons or property, to the extent proximately caused by Grantor's (or any of its agents', employees' or contractors') use of or activity in the Grantor Property, except to the extent such claims, demands, actions, causes of action, liabilities or judgments result from

the negligence or willful misconduct of Grantee (or its agents, employees or contractors).

4. **Default.** In the event that either party to this Agreement breaches any of the terms hereof and such failure continues for thirty (30) days after written notice (or such shorter period of time as is reasonable under the circumstances in the event of an emergency), the non-breaching party shall have the right to pursue any and all remedies available at law or in equity (including, without limitation, damages, specific performance and injunctive relief), except that this Agreement may not be canceled, rescinded, or terminated on account of such breach. The prevailing party in any legal action undertaken to enforce the terms of this Agreement shall be entitled to recover all reasonable costs and fees incurred in connection therewith, including, without limitation, reasonable attorney's fees, and the parties hereto acknowledge and agree if legal action is undertaken by a party hereto to enforce the rights and obligations herein contained, the non-prevailing party shall promptly reimburse the prevailing party for any and all reasonable costs and fees incurred in connection with the enforcement of the terms of this Agreement.

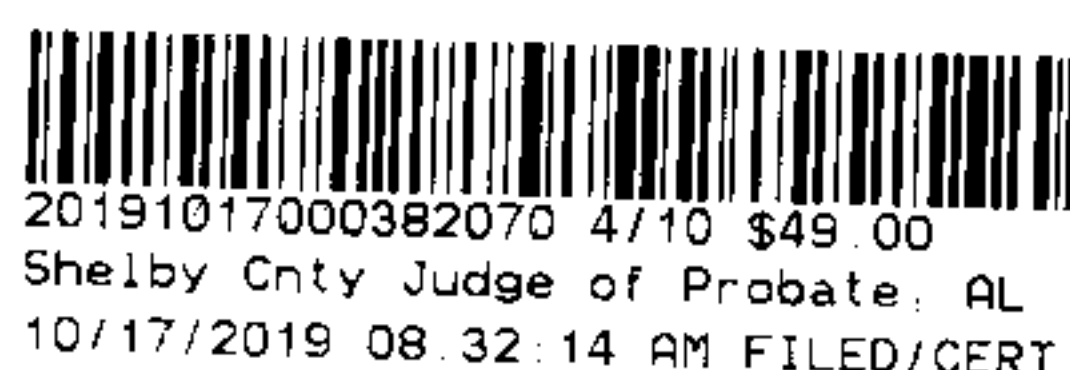
5. **Covenants Running With the Land.** The rights, agreements, duties, obligations and easements set forth in this Agreement shall run with the land and shall be binding upon and benefit the owners of the Grantor Property and Grantee Property as herein specified. Any transferee of the Grantor Property or Grantee Property, as the case may be, shall automatically be deemed, by acceptance of the title to said property, to have assumed all obligations of this Agreement relating thereto to the extent of its interest in said property and the transferor shall upon the completion of such transfer be relieved of all further liability under this Agreement except liability with respect to matters that may have arisen during its period of ownership of the property so conveyed that remain unsatisfied as of the date of transfer.

6. **Not a Public Dedication.** Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Grantor Property (including without limitation the easement areas) to the general public, it being the intention that this Agreement shall be strictly limited to and for the purposes herein expressed.

7. **Running of Benefits and Burdens.** All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto.

8. **Enforcement; Attorney's Fees.** In the event of any default under this Agreement, and such default is not cured within thirty (30) days after written notice from the non-defaulting party setting forth in reasonable detail the nature of the default, then the non-defaulting party shall be entitled to cure such default and obtain prompt reimbursement from the defaulting party of all reasonable costs actually incurred by the non-defaulting party in effecting such cure, and any and all remedies available at law or in equity. Any party which prevails in any such litigation to enforce the provisions hereof shall recover as part of its costs all reasonable attorneys' fees, together with such other costs and expenses as the court deems appropriate.

9. **Construction.** The rule of strict construction does not apply to this grant. This grant shall be given a reasonable construction so that the intention of the parties to confer a commercially usable right of enjoyment on each party is carried out. If any provision of this



Agreement shall be held to be violative of any applicable law or unenforceable for any reason, the invalidity or unenforceability of any such provision shall not invalidate or render unenforceable any other provision hereof, which shall remain in full force and effect.

10. **Notice.** All notices shall be sent by hand delivery (by local courier or otherwise), registered or certified mail, return receipt requested, postage prepaid, or by Federal Express, United Parcel Service or other reputable overnight courier, prepaid, to the addresses of Grantor and Grantee as set forth in the initial paragraph hereof or to such other address or addresses in the continental United States of America as Grantor or Grantee shall designate by notice given in like manner.

11. **Entire Agreement; Amendment.** The parties hereto agree that the entire agreement between the parties with respect to the easement granted herein is set forth in this instrument. This Agreement may be amended only by an instrument in writing and signed by the then owners of the Grantor Property and the Grantee Property.

12. **Waiver.** No waiver of any of the provisions hereof shall be effective unless it is in writing and signed by the party against whom the waiver is asserted. Any such written waiver shall be applicable only to the specific instance to which it relates and shall not be deemed to be a continuing waiver or waiver of any future matter.

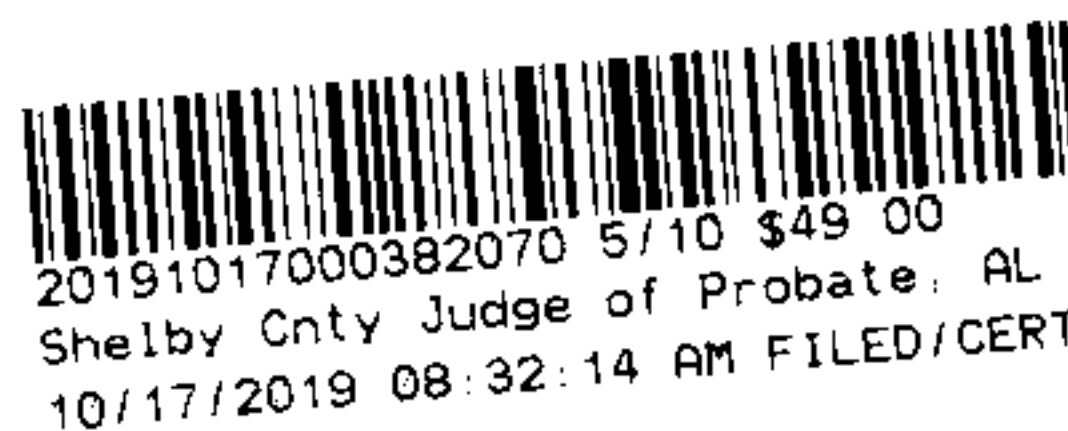
13. **Governing Law.** This Agreement shall be interpreted under and governed by the laws of the State of Alabama.

14. **Recordation.** This Agreement, and any amendments hereto, will be recorded in the public records of Shelby County, Alabama, at Grantee's expense.

15. **Further Assurances.** Grantor and Grantee covenant and agree, for themselves and their respective successors and permitted assigns, to execute such other documents, and take such further actions, as may reasonably be requested by the other in order to carry out the provisions of this Agreement, including without limitation, in the event the applicable local recorder's office shall refuse or otherwise fail to record this instrument, the execution of another instrument granting the easement herein described in form acceptable for recording.

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SIGNATURES ON FOLLOWING PAGE(S)



IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed and delivered as of the date first above written.

GRANTOR:

ALABAMA AIRPORT PROPERTIES, LLC

By: William H. Reynolds

Print Name: William H. Reynolds

Title: Member

STATE OF Alabama
COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said County in said State hereby certify that William Reynolds, whose name as Member of Alabama Airport Properties, LLC, an Indiana limited liability company, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of this conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and seal on this 16th day of Oct, 2019.



[SEAL]

Cystal Chappell
NOTARY PUBLIC

My Commission Expires: 1/8/2023

[SIGNATURE OF GRANTEE ON FOLLOWING PAGE]



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GRANTEE:

GROUNDWATER PROPERTIES, INC.

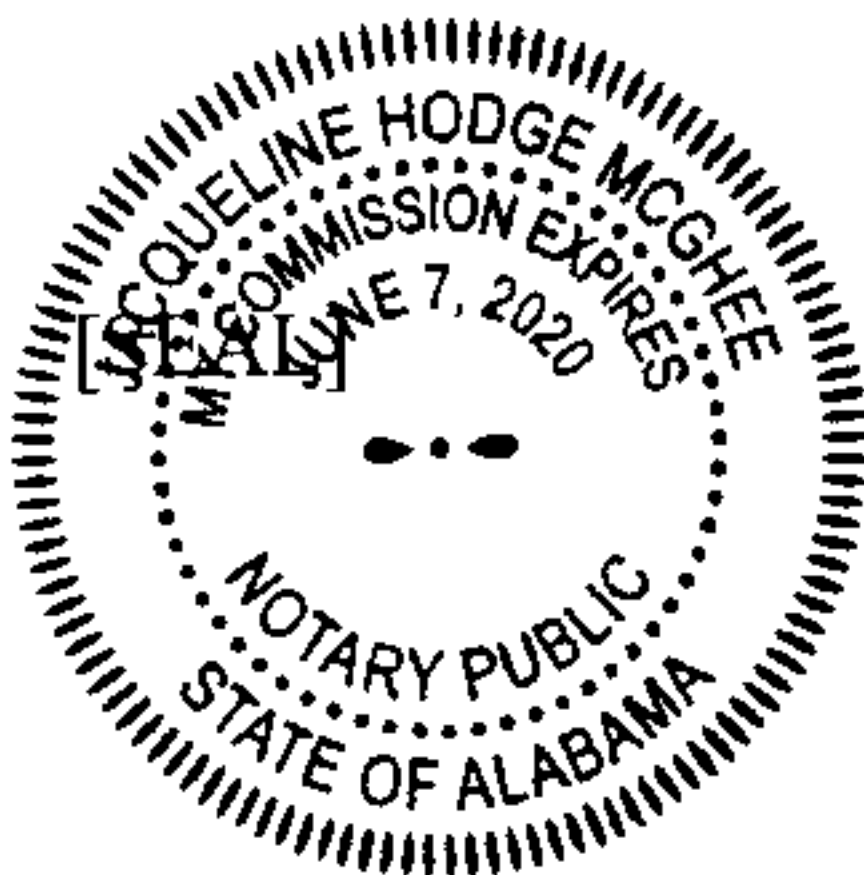
By: [Signature]
Print Name: STANLEY L. GRAVES
Title: PRESIDENT

STATE OF Alabama)
COUNTY OF Jefferson)

I, the undersigned, a Notary Public in and for said County in said State hereby certify that Stanley L. Graves, whose name as President of Groundwater Properties, Inc., an Alabama corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of this conveyance, 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 seal on this 14 day of October, 2019.

Jacqueline Hodge McShee
NOTARY PUBLIC
My Commission Expires: June 7, 2020



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EXHIBIT A
GRANTOR PROPERTY

A 20 foot easement situated in Section 26 & 27, Township 19 South, Range 1 East, Shelby County, Alabama being more particularly described as follows; Commence at a 1 ¼" pipe locally accepted as the Northwest corner of said Section 26 and the Northeast corner of said Section 27; thence run South 00° 12' 19" West along the West line of said Section 26 and the East line of said Section 27 for a distance of 272.84 feet to the Point of Beginning; thence run North 71° 54' 00" East for a distance of 707.67 feet to a point; thence run South 00° 10' 10" East for a distance of 21.02 feet to an iron pin found on the Northwest Right-of-Way line of U.S. Highway 280; thence run South 71° 54' 00" West along said Right-of-Way line for a distance of 1221.51 feet to an iron pin found; thence run North 00° 09' 26" East for a distance of 21.06 feet to a point; thence run North 71° 54' 00" East for a distance of 513.71 feet to the Point of Beginning.



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EXHIBIT B

GRANTEE PROPERTY

A 20 foot easement situated in Section 26 & 27, Township 19 South, Range 1 East, Shelby County, Alabama being more particularly described as follows; Commence at a 1 ¼" pipe locally accepted as the Northwest corner of said Section 26 and the Northeast corner of said Section 27; thence run South 00° 12' 19" West along the West line of said Section 26 and the East line of said Section 27 for a distance of 272.84 feet to the Point of Beginning; thence run North 71° 54' 00" East for a distance of 707.67 feet to a point; thence run South 00° 10' 10" East for a distance of 21.02 feet to an iron pin found on the Northwest Right-of-Way line of U.S. Highway 280; thence run South 71° 54' 00" West along said Right-of-Way line for a distance of 1221.51 feet to an iron pin found; thence run North 00° 09' 26" East for a distance of 21.06 feet to a point; thence run North 71° 54' 00" East for a distance of 513.71 feet to the Point of Beginning.

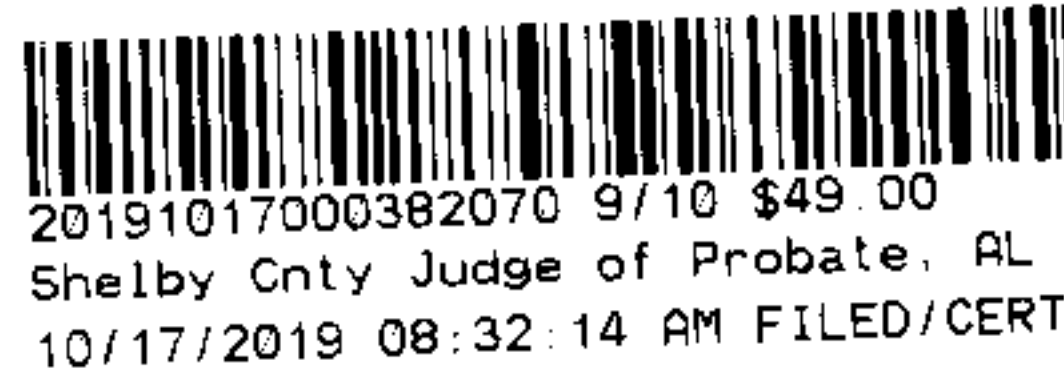
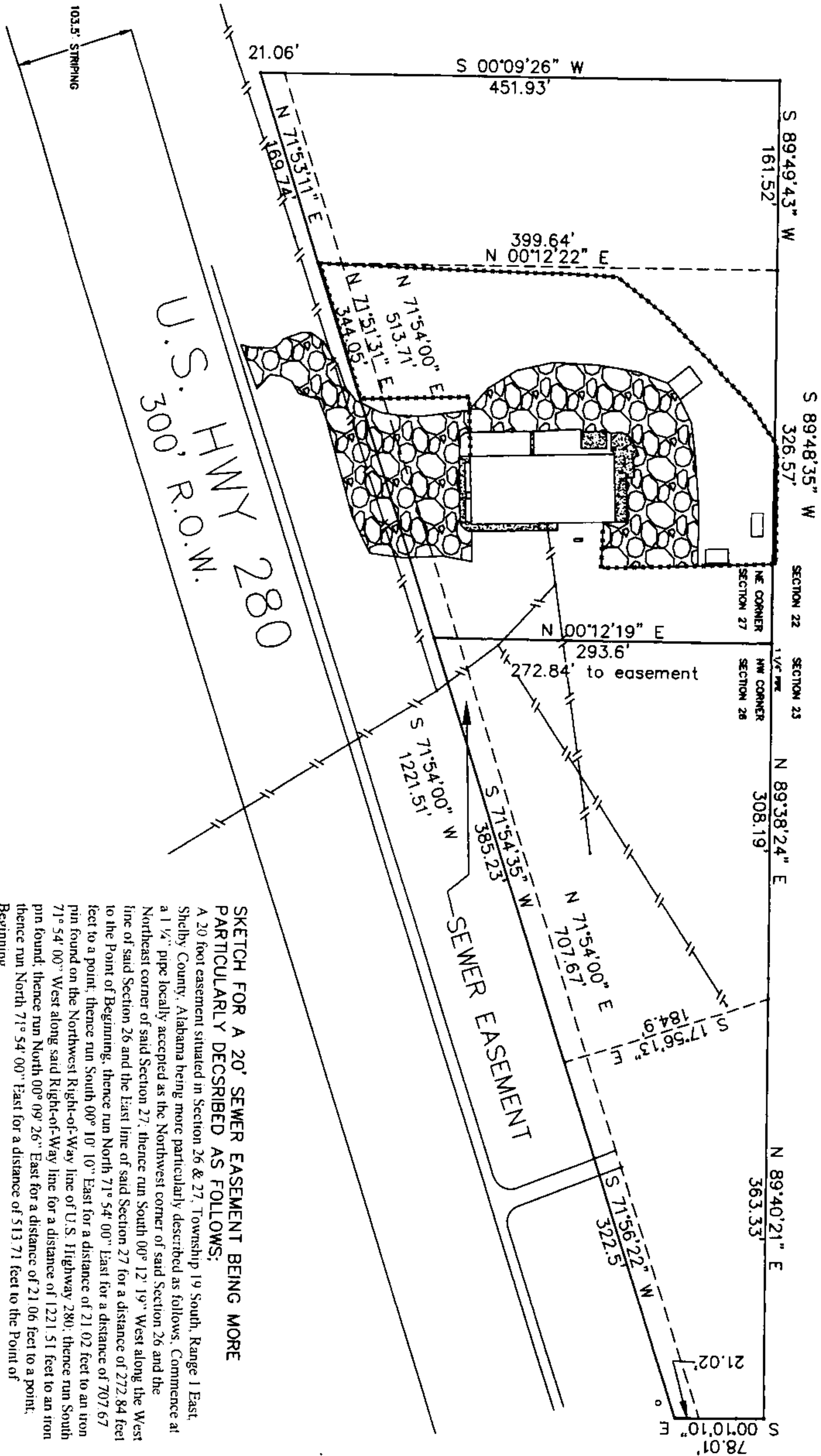


EXHIBIT C SEWER EASEMENT AREA



SKETCH FOR A 20' SEWER EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 20 foot easement situated in Section 26 & 27, Township 19 South, Range 1 East, Shelby County, Alabama being more particularly described as follows. Commence at a 1 1/4" pipe locally accepted as the Northwest corner of said Section 26 and the Northeast corner of said Section 27, thence run South 00° 12' 19" West along the West line of said Section 26 and the East line of said Section 27 for a distance of 272.84 feet to the Point of Beginning, thence run North 71° 54' 00" East for a distance of 707.67 feet to a point, thence run South 00° 10' 10" East for a distance of 21.02 feet to an iron pin found on the Northwest Right-of-Way line of U.S. Highway 280; thence run South 71° 54' 00" West along said Right-of-Way line for a distance of 1221.51 feet to an iron pin found, thence run North 00° 09' 26" East for a distance of 21.06 feet to a point, thence run North 71° 54' 00" East for a distance of 513.71 feet to the Point of Beginning.



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