

STATE OF ALABAMA)

SHELBY COUNTY)

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AMENDMENT TO EASEMENT AGREEMENT

THIS AMENDMENT TO EASEMENT AGREEMENT (this "Amendment"), made and entered into as of the 14 day of January, 2022, between **THE BARBER COMPANIES, INC.**, an Alabama corporation, together with its successors and assigns ("**Barber**"), **AUTOZONE DEVELOPMENT LLC**, a Nevada limited liability company, together with its successors and assigns ("**AutoZone**"), and **J&M PROPERTIES, LLC**, an Alabama limited liability company, together with its successors and assigns ("**J&M**").

WITNESSETH:

WHEREAS, reference is hereby made to that certain Easement Agreement dated as of February 24, 2021, and recorded in the Office of the Judge of Probate of Shelby County, Alabama, as Instrument No. 20210225000095700 (the "Easement Agreement"), which instrument granted to AutoZone (i) an Access Easement over, across and through certain land more particularly described as the "Easement Property" in the Easement Agreement, and (ii) a Utility Easement for the benefit of the AutoZone Property across and under the Easement Property as more particularly set forth below.

WHEREAS, J&M owns the land directly west of the AutoZone Property (as defined in the Easement Agreement), which tract is described on Exhibit C attached hereto (the "J&M Property");

WHEREAS, the J&M Property is currently precluded from use of the easements established under the Easement Agreement without the express written consent of the owner of the Barber Property;

WHEREAS, the parties have agreed to amend the Easement Agreement in order to add the J&M Property as a beneficiary to the Access Easement pursuant to the terms set forth below and to extend the Easement Property through the AutoZone Property to the eastern boundary of the J&M Property as indicated on the Site Plan attached hereto as Exhibit A.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby amend the Easement Agreement as follows:

1. Capitalized terms not otherwise defined herein shall have the meaning given in the Easement Agreement.
2. Upon the effective date of this Amendment, the Access Easement shall be extended through the AutoZone Property to the eastern boundary of the J&M Property as depicted on the Site Plan attached hereto as Exhibit A, for the benefit of and as an appurtenance to the J&M Property. The extended Access Easement is more particularly described on Exhibit B attached hereto. The Access Easement shall remain nonexclusive over, across and through the property encumbered by the Access Easement (both on the Barber Property and the AutoZone Property as extended pursuant to this Amendment), for the purposes of vehicular and pedestrian ingress and egress access to and from the U.S. Highway 280 right-of-way, limited, however, to those parts that are improved or otherwise made available for two-way vehicular traffic, as the same may be reduced, enlarged, relocated or altered from time to time

and that do not encroach within a public right of way. J&M's use of the Access Easement will be non-exclusive, subject to matters of record, any matters that would be revealed by an accurate survey and any leases encumbering the Barber Property and/or the AutoZone Property. J&M's right to use the Access Easement shall not be transferred, assigned or encumbered except as an appurtenance to the J&M Property.

3. As consideration for the extension of the Access Easement, J&M shall pay Barber the amount of Seventy-Nine Thousand Dollars (\$79,000.00) in certified funds concurrently with the execution of this Amendment. The parties agree that neither Barber nor J&M shall be obligated to compensate AutoZone for the extension of the Access Easement; provided, however, J&M hereby acknowledges and agrees that the J&M Property shall be restricted from use as an O'Reilly Auto Parts retail store.
4. Except (i) to the extent that such operation and maintenance is performed by public authorities or utilities, and (ii) to the extent caused by AutoZone in connection with its rights under the Utility Easement, Barber agrees to maintain and repair any part of the Easement Property located on Barber Property and AutoZone shall maintain and repair any part of the Easement Property located on AutoZone Property. As consideration for the expected increases in wear and tear in connection with vehicular use of the Access Easement by the J&M Property, the owner of the J&M Property agrees to pay (i) to Barber each year Two Thousand Dollars (\$2,000.00), and (ii) to AutoZone each year One Thousand Dollars (\$1,000.00) (collectively, the "J&M Annual Maintenance Fees"). The J&M Annual Maintenance Fees shall be due, without demand, respectively to Barber and to AutoZone on April 1st of each year. Beginning on the tenth (10th) anniversary of payment of the J&M Annual Maintenance Fees, the J&M Annual Maintenance Fees to Barber and to AutoZone shall each increase by One Thousand Dollars (\$1,000.00), and likewise will each increase by One Thousand Dollars (\$1,000.00) every ten (10) years thereafter. If any J&M Annual Maintenance Fee or other charge or lien provided for herein is not paid in full on the due date set forth herein, then such fee, charge or lien shall become delinquent on the tenth (10th) day thereafter, and shall bear interest at the rate equal to the lesser of (i) the maximum interest rate allowed by applicable law; or (ii) twenty percent (20%) per annum from the due date until paid (the "Default Rate"). Whenever, and as often as J&M shall not have paid any fee, charge or lien or other sum payable hereunder within ten (10) days of the due date, such amounts (including interest thereon at the Default Rate) shall constitute a lien on the J&M Property until paid in full upon proper recordation of a claim of lien in the Probate Office of Shelby County, Alabama. Such liens shall be prior and superior to all other liens except (a) any lien for real estate taxes and other governmental assessments on the J&M Property, (b) the lien of any first mortgage on J&M's Property recorded before the date on which the amount sought to be enforced hereunder became delinquent, and (c) any other lien recorded prior to the time of recording this Amendment.
5. J&M is hereby added as an "Owner" as defined in the Easement Agreement.
6. J&M hereby releases, discharges and waives all claims against the Indemnified Parties (as defined below) for any claims or costs which J&M may pay or become obligated to pay with respect to any damage or injury to persons or property sustained by J&M or any person claiming through J&M arising from use of the Access Easement. As a condition and covenant of the easement granted herein, J&M, by acceptance thereof, agrees, to the extent allowed by Alabama law, that neither Barber, AutoZone, nor any affiliated companies or any of tenants of Barber or AutoZone shall in any way be liable for any injury or damage that

may result from J&M's use of the Access Easement, and J&M agrees to assume all risks in connection with the Access Easement.

7. J&M shall indemnify, defend, protect and hold harmless Barber, together with its partners, affiliates, officers, directors, stockholders, employees, servants, and agents (collectively, the "Barber Indemnified Parties"), and AutoZone, together with its partners, affiliates, officers, directors, stockholders, employees, servants, and agents (collectively, the "AutoZone Indemnified Parties", and together with the Barber Indemnified Parties, the "Indemnified Parties") from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising as a result of the use of the Access Easement by J&M or its employees, contractors, agents or permittees.
8. J&M shall maintain commercial general liability insurance written on an "occurrence" basis (as opposed to "claims made") at least equivalent to the most current Insurance Service Offices standard CGL form with a per accident limit of at least One Million Dollars (\$1,000,000) and a general aggregate limit of at least Minimum Amount (defined below) insuring against claims on account of loss of life, bodily injury or property damage, and contractual liability (i.e. exclusions for liability assumed under contract must be deleted) that may arise from, or be occasioned by (i) the use of the Access Easement; or (ii) the conduct of J&M. Such insurance shall be procured from a company licensed in the state of Alabama and will be rated by Best's Insurance Reports not less than A-/VIII. Such coverage shall include coverage for liability assumed under this Amendment as an "insured contract" for the performance of J&M's indemnity obligations under this Agreement. The term "**Minimum Amount**" means \$2,000,000.00 per occurrence as of the Effective Date, as adjusted on the tenth (10th) anniversary of the Effective Date and every ten (10) years thereafter to reflect increases in the Consumer Price Index as published by the Bureau of Labor Statistics of the Department of Labor for All Urban Consumers (1982-84 = 100) all items (CPI-U), or if such index is no longer published, then a successor index selected by the Owners. In no event will the Minimum Amount ever be reduced as a result of any such Consumer Price Index adjustment.
9. Notices. If at any time, it is necessary or convenient for one of the Owners to serve any notice, demand or communication upon the other Owner, such notice, demand or communication must be in writing, signed by the Owner serving notice, sent by electronic mail (provided that if sent by electronic mail, a copy of such notice is also sent by one of the other methods listed herein), nationally recognized overnight carrier, or certified United States mail, return receipt requested and postage or other charges prepaid.

If intended for Barber, the notice must be addressed to:

The Barber Companies, Inc.
Attention: President
27 Inverness Center Parkway
Birmingham, AL 35242

If intended for AutoZone, the notice must be addressed to:

AutoZone Development LLC
123 S. Front St.
Memphis, TN 38103
Attention: Property Management, Dept. 8700

If intended for J&M, the notice must be addressed to:

J&M Properties, LLC
347 Highland View Drive
Birmingham, AL 35242
Attn: Jeff Honea

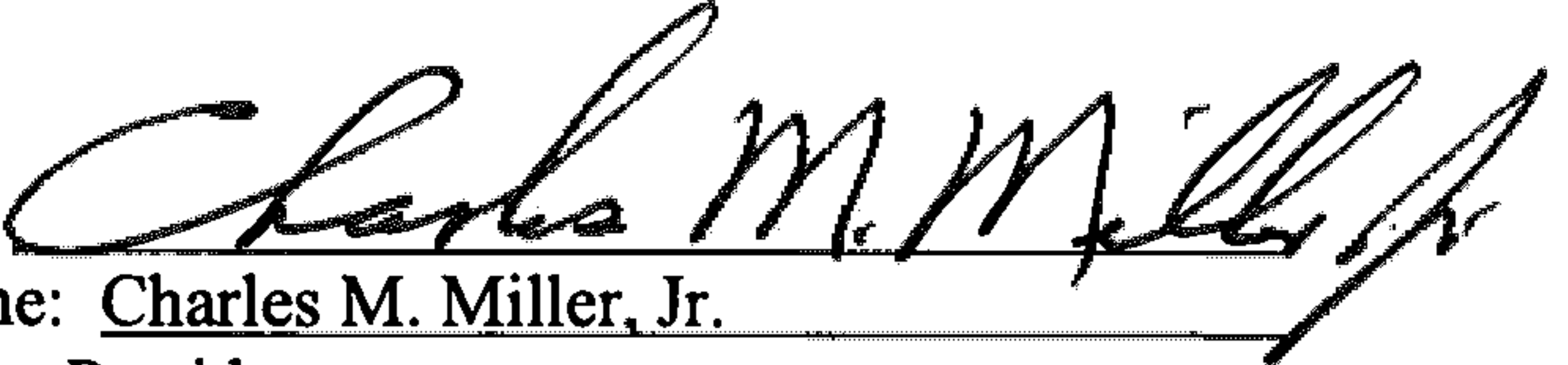
or such other address as either party furnishes to the other, in writing, as a place for the service of notice. Any notice so sent will be deemed given upon receipt or when delivery is refused. The Owners hereby acknowledge and agree that upon the conveyance of either Property subject to this Agreement, the applicable notice address for the subsequent Owner of such Property shall be the address indicated for tax notices with the Shelby County tax assessor.

10. In the event an Owner shall institute any proceedings against another Owner for a breach hereunder, the unsuccessful litigant in such action or proceeding shall reimburse the successful litigant in connection with such action or proceeding and any appeals therefrom, including reasonable attorneys' fees. Additionally, in the event an Owner is in breach of the terms of the Easement Agreement (as amended), and the non-breaching Owner incurs legal fees in order to secure the performance of any obligation or covenant contained in the Easement Agreement (as amended), the non-breaching Owner shall be entitled to recover reasonable third-party attorneys' fees and costs in connection with such dispute should the breach be cured prior to adjudication.
11. Each of the rights and obligations created by this Amendment (i) shall run with the land and shall be appurtenant to the property to which it relates, (ii) constitute a covenant running with the land, and (iii) shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors, assigns and mortgagees.
12. Except as herein set forth, the parties hereto do mutually agree that all other terms and conditions of the Easement Agreement shall remain in full force and effect.

[REMAINDER OF PAGE INTENTIONALLY DELETED]


IN WITNESS WHEREOF, the parties have caused this instrument to be properly executed and delivered under seal as of the day and year first above written.

THE BARBER COMPANIES, INC., an Alabama corporation

By: 
Name: Charles M. Miller, Jr.
Title: President

STATE OF ALABAMA)
)
SHELBY COUNTY)

I, Charles W. Callans, II, a Notary Public in and for said County in said State, hereby certify that **Charles M. Miller, Jr.**, whose name as **President**, of **THE BARBER COMPANIES, INC.**, an Alabama corporation, is signed to the foregoing agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the agreement, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as of the day the same bears date. Given under my hand this 14 day of January, 2022.


Notary Public
Charles W. Callans, II
Printed Name
My Commission Expires: 10/15/2025

AUTOZONE DEVELOPMENT LLC, a Nevada limited liability company

By: AutoZone Investment Corporation, a Nevada corporation, Its Sole Member

By: [Signature]
Name: Timothy Goddard
Title: Vice President

By: B-2-84
Name: Brian Campbell
Title: Vice President

**APPROVED, VERIFIED AND
PASSED FOR SIGNING**

[Signature]

STATE OF TENNESSEE)
SHELBY COUNTY)

I, James Anderson, a Notary Public in and for said County in said State, hereby certify that Timothy Goddard and Brian Campbell, whose name as Vice President and Vice President, respectively, of AutoZone Investment Corporation, a Nevada corporation, as sole member of **AUTOZONE DEVELOPMENT LLC**, a Nevada limited liability company, are signed to the foregoing agreement and who are known to me, acknowledged before me on this day that, being informed of the contents of the agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said company as of the day the same bears date. Given under my hand this 4th day of January, 2021
2022

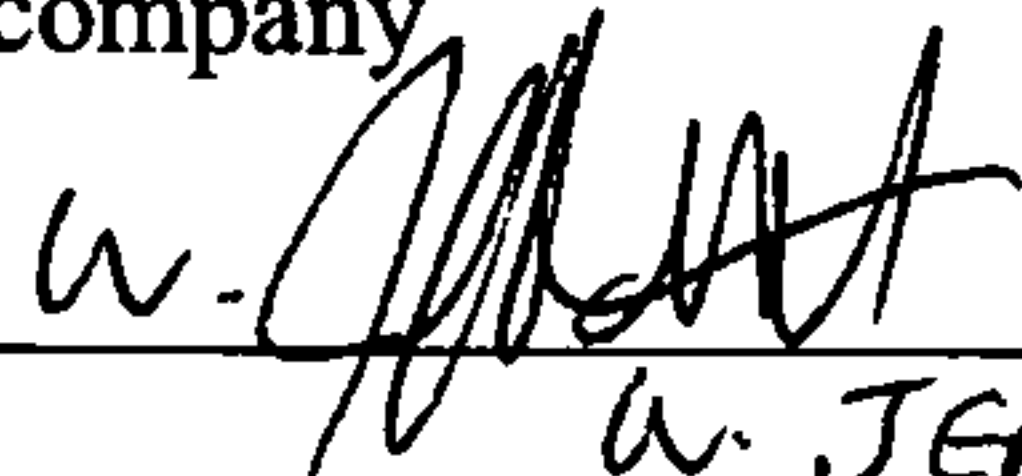
[Signature]
Notary Public
James D. Anderson

Printed Name

My Commission Expires: 12/15/2034



J&M PROPERTIES, LLC, an Alabama limited liability company

By: 
Name: W. JEFF HONEA
Title: Sole member

STATE OF ALABAMA)

SHELBY COUNTY)

I, Mary Norwood, a Notary Public in and for said County in said State, hereby certify that W. Jeff Honea Sr., whose name as Member, of **J&M PROPERTIES, LLC**, an Alabama limited liability company, is signed to the foregoing agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the agreement, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said company as of the day the same bears date. Given under my hand this 13 day of January, 2021. 2022.

Notary Public
MARY Norwood
Printed Name
My Commission Expires: 1-23-2024

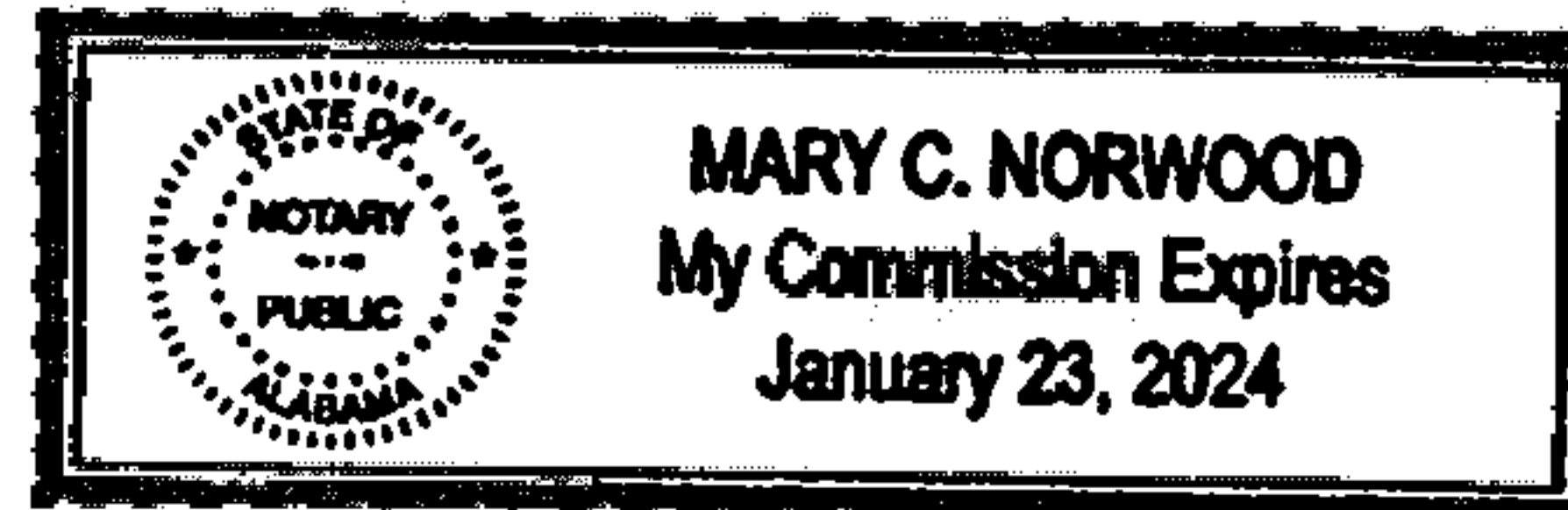


Exhibit A

Site Plan



= Easement Property

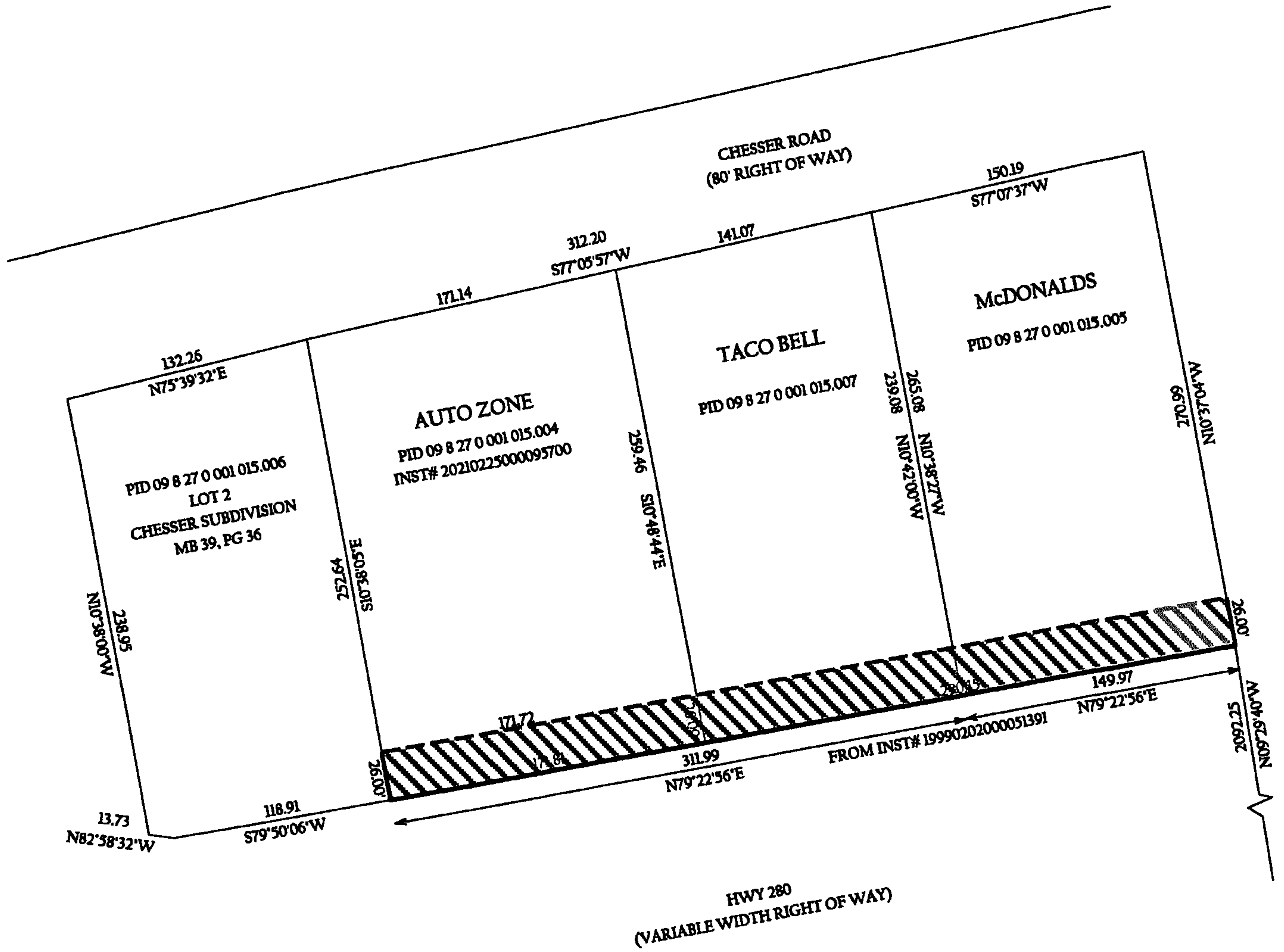


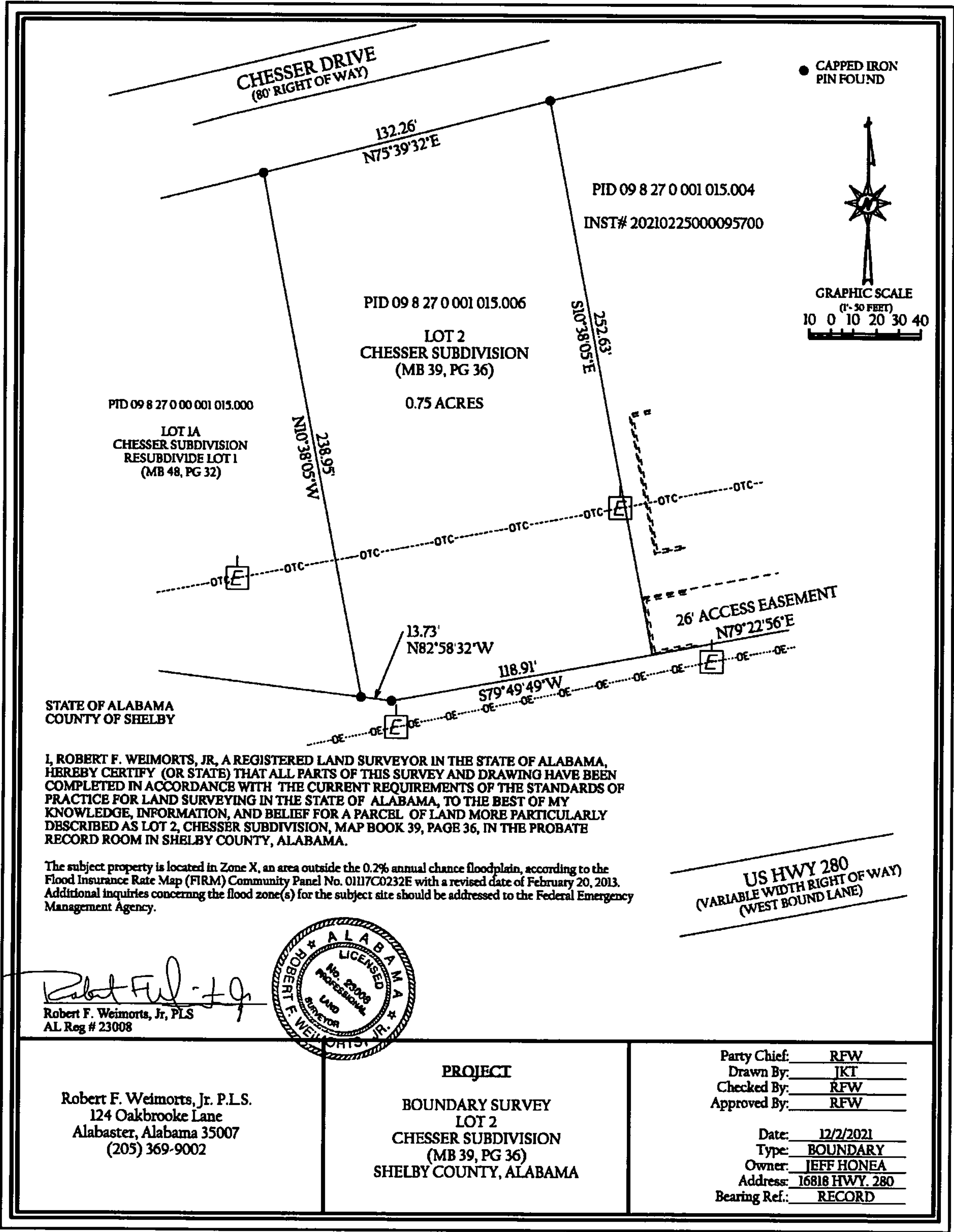
Exhibit B

Legal Description – Access Easement

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 1 WEST, SHELBY COUNTY, ALABAMA; THENCE N 09°29'40" W FOR 2092.25 FEET TO THE NORTH RIGHT OF WAY LINE OF U.S. HIGHWAY 280 AND THE POINT OF BEGINNING; THENCE ALONG SAID RIGHT OF WAY S 79°22'56" W FOR 461.96 FEET TO THE SOUTHEAST CORNER OF LOT 2, CHESSER SUBDIVISION, AS RECORDED IN MAP BOOK 39, PAGE 36, IN THE OFFICE OF THE PROBATE OF SHELBY COUNTY, ALABAMA; THENCE ALONG THE EAST LINE OF SAID LOT 2 N 10°38'05" W FOR 26.00 FEET; THENCE N 79°22'56" E FOR 461.96 FEET; THENCE S 10°38'11" E FOR 26.00 FEET TO THE POINT OF BEGINNING, SAID INGRESS/EGRESS EASEMENT CONTAINING 0.28 ACRES, MORE OR LESS.

Exhibit C

J&M Property



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
01/21/2022 02:45:14 PM
\$49.00 BRITTANI
20220121000030810

Allen S. Bayl