

## RESOLUTION 2021-R-29

### *Authorization to Amend Right of Way Easements and the Through Roads Agreement with Jefferson County, Alabama*

**WHEREAS**, the City of Irondale, Alabama acquired Right of Ways, as recorded in Instrument No. 200113/4749, on that certain portion of Lot 13, Olshan Realty Company's Residential Baby Farms as recorded in Plat Book 51, page 55 on or about August 8, 1996 and Instrument No. 200113/4750 and on that certain portion of Lots 11 and 12, Olshan Realty Company's Residential Baby Farms as recorded in Plat Book 51, page 55 on that same date, as found in the record of the Probate Court of Jefferson County, Alabama (such portions of Lots 11, 12 and 13 collectively referred to herein as the "Property");

**WHEREAS**, the City of Irondale later entered into a Through Roads Agreement on or about April 18, 2018 for Old Leeds Road with Jefferson County transferring the City's right to "control, management, supervision, regulation, repair, maintenance, or improvement of . . . [Old Leeds Road]. . ." as positioned within its city limits;

**WHEREAS**, HEPLEEDS, LLC, ("Developer") has approached the City and Jefferson County regarding (i) the development of a portion of Lots 11, 12 and 13 that will require access to Old Leeds Road and (ii) certain construction over a portion of Lots 11, 12 and 13 as described and provided in **Exhibit A** and which is based on their preliminary renderings of development as provided in **Exhibit B**;

**WHEREAS**, the Right of Way Easements received by the City described in Instrument Nos. 200113/4749 and 200113/4750 allow the City "the right and privilege of a perpetual use of the lands for such public purpose, together with all rights and privileges necessary or convenient for the full use and enjoyment thereof, including the right of ingress to and egress from said strip and the right to cut and keep clear all trees, undergrowth and other obstructions on the lands of the undersigned adjacent to said strip when deemed reasonably necessary for the avoidance of danger in and about said public use of said strip, and the right to prohibit the construction or maintenance of any improvement or obstruction (except fencing) on, over or upon said area herein conveyed";

**WHEREAS**, Developer has requested that the City allow the construction or maintenance of certain improvements on the Property as requested by the Developer and as described and shown in Exhibits A and B;

**WHEREAS**, to formalize the City's approval of the construction or maintenance of certain improvements, Developer has requested that the City amend the Right of Way Easements by executing two Amendment(s) to Easement in substantially the forms attached hereto as **Exhibit C** in order to limit the City's right established in the Right of Way Easements "to prohibit the construction or maintenance of any improvement or obstruction (except fencing, code required landscaping, and improvements expressly approved by the governmental entity with authority over the adjacent roadway) on, over or upon said area herein conveyed;"

**WHEREAS**, as the Through Roads Agreement covers the Property and transfers the City's right to prohibit construction or maintenance within the right of way to Jefferson County, the City

has determined that it is in the best interest of the City to amend the Through Roads Agreement to obtain the County's consent for the City's modification of its right established in the Right of Way Easements so as not to cause a breach in the terms of the Through Roads Agreement by the City through the approval of Developer's requests.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Irondale in a duly called meeting with a quorum present that the City hereby resolves as follows:

1. That Mayor James D. Stewart, Jr. is authorized to enter into and execute an agreement with Jefferson County, Alabama amending the "Through Roads Agreement" (as previously entered into on or about April of 2018) to allow the City to approve the construction or maintenance of certain improvements on the Property related to the attached Exhibits A and B subject to any additional requirements, permits and access points as required by Jefferson County.
2. That said amendment to the Through Roads Agreement shall be in similar form attached hereto as **Exhibit D** by way of a Memorandum of Understanding between the County and Developer and the City or such other form as determined by Mayor.
3. That the Mayor shall be authorized to sign any additional documentation necessary to ensure the allowance of certain improvements in the right of way as shown in Exhibits A and B, related to: "**Lots 11, 12 & 13, Olshan Realty Company's Residential Baby Farms as recorded in Plat Book 51, page 55 of the Probate Court of Jefferson County**", including but not limited to, two Amendment to Easements, with such approval conditioned upon the final approval of Jefferson County,.
4. That this resolution shall be effective upon adoption.

**ADOPTED & APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

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David Spivey, City Council President

**APPROVED:**

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James D. Stewart, Jr., Mayor

**ATTESTED:**

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Frank Pennington, Acting City Clerk

## **CERTIFICATION**

I, Frank Pennington, Acting City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of a resolution adopted by the City Council of the City of Irondale at its regular meeting held on April 1, 2021, as same appears in the minutes of record of said meeting.

---

Frank Pennington, Acting City Clerk

**EXHIBIT A**

**Map depicting entire and area of requested grant of use with legal descriptions**



**CARR & ASSOCIATES ENGINEERS, INC.**  
 153 CAHABA VALLEY PARKWAY  
 FLOHAM, ALABAMA 35124  
 PHONE (205) 664-8484 FAX (205) 664-8483  
 CIVIL, STRUCTURAL & ENVIRONMENTAL ENGINEERS  
 LAND SURVEYORS  
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 ALL RIGHTS RESERVED. NO PART OF THIS DRAWING MAY BE REPRODUCED, COPIED, EITHER WHOLLY OR IN PART, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN CONSENT OF CARR & ASSOCIATES ENGINEERS, INC.

NO.	DESCRIPTION	BY	CHECKED	DATE
1	City change to grant of title			3/26/21

REVISION	REVIEW	PRODUCTION
1	SUPERVISOR	
2	DESIGN ENGINEER	
3	DESIGN ENG.	
4	PRINCIPAL	

**CLIENT:** HEPLEEBS, LLC

**PROJECT NAME:** LOTS 11-13 OLSHAN REALTY CO.'S RESIDENTIAL BABY FARMS CITY OF IRONDALE JEFFERSON COUNTY, ALABAMA

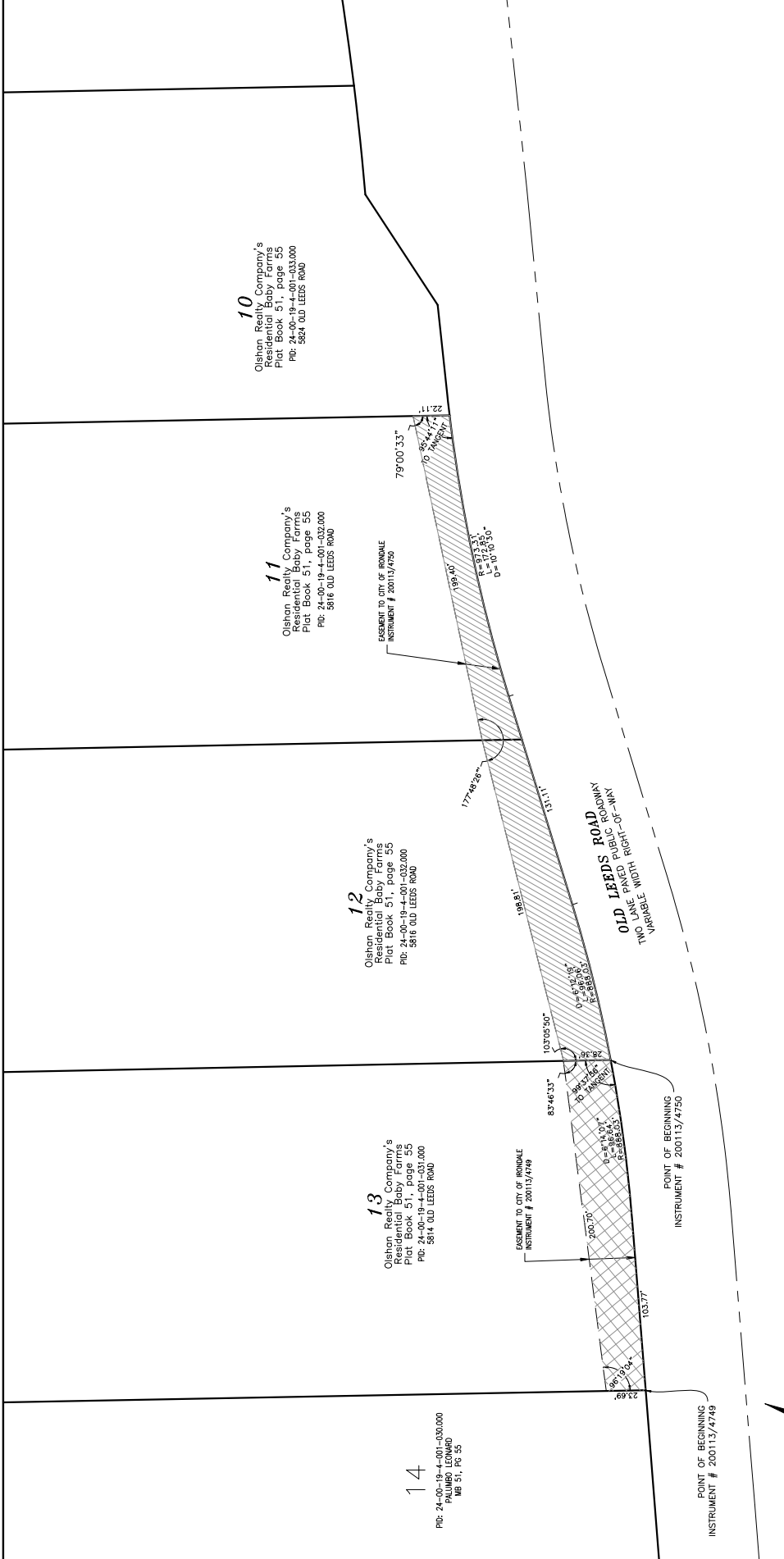
**DRAWING TITLE:** EXHIBIT A TO CITY OF IRONDALE RESOLUTION AUTHORIZING GRANT OF USE

**PROJECT NO.:** 19-0703

**SHEET NO.:** 1 OF 2

**DATE:** 1/18/21

**SCALE:** 1" = 20'



**FIGURE 1**  
 Instrument 200113/4749

A portion of Lot 13, Olschan Realty Company's Residential Baby Farms as recorded in Plat Book 51, page 55 in the Probate Office of Jefferson County, Alabama, and lying in Section 19, Township 17 South, Range 1 West, Jefferson County, Alabama, being more particularly described as follows:

**BEGIN** at the Southwest corner of said Lot 13 and run in a Northwesterly direction along the southwest line of said Lot 13 a distance of **23.69 feet** to a point; thence turn an interior angle of **96°19'04"** and run to the right in a Northwesterly direction a distance of **200.70 feet** to a point on the Northeast line of said Lot 13; thence turn an interior angle of **83°46'33"** and run to the right in a Southwesterly direction along the Northeast line of said Lot 13 a distance of **28.36 feet** to a point; thence turn an interior angle of **61°14'07"** and a radius of **888.03 feet**; thence turn right along the arc of said curve and along the Northwesterly right-of-way line of Old Leeds Road a distance of **96.64 feet** to the P.T. of said curve; thence continue along the tangent of said curve in a Southwesterly direction a distance of **103.77 feet**, more or less, to the **POINT OF BEGINNING**, containing 5,550 sq. ft. (0.128 acres).

**FIGURE 2**  
 Instrument 200113/4750

A portion of Lots 11 and 12, Olschan Realty Company's Residential Baby Farms as recorded in Plat Book 51, page 55 in the Probate Office of Jefferson County, Alabama, lying in Section 19, Township 17 South, Range 1 West, Jefferson County, Alabama, being more particularly described as follows:

**BEGIN** at the Southwest corner of said Lot 12 and run in a Northwesterly direction along the Southwest line of said Lot 12 a distance of **29.36 feet** to a point; thence turn an interior angle of **103°05'50"** and run to the right in a Northwesterly direction a distance of **196.81 feet** to a point; thence turn an interior angle of **177°48'26"** and run to the right in a Northwesterly direction a distance of **199.40 feet** to a point on the Northwesterly line of said Lot 11; thence turn an interior angle of **79°00'33"** and run to the right in a Northwesterly direction along the Northwesterly right-of-way line of Old Leeds Road, said point also lying on a curve to the left having a central angle of **10°10'30"** and a radius of **973.31 feet**; thence turn an interior angle of **95°44'11"** to the tangent of said curve and run to the right in a Southwesterly direction along the arc of said curve a distance of **172.85 feet** to the P.T. of said curve; thence continue along the tangent of said curve and along the said right-of-way of Old Leeds Road in a Southwesterly direction a distance of **611.52 feet** to a point; thence turn right along the arc of said curve in a Southwesterly direction a distance of **86.06 feet**, more or less, to the **POINT OF BEGINNING**, containing 9,266 sq. ft. (0.213 acres).

14  
 PID: 24-00-19-4-001-030.000  
 PALMISO LEONARD  
 489 51, PG 25

12  
 Olschan Realty Company's Residential Baby Farms Plat Book 51, page 55  
 PID: 24-00-19-4-001-030.000  
 5816 OLD LEEDS ROAD

11  
 Olschan Realty Company's Residential Baby Farms Plat Book 51, page 55  
 PID: 24-00-19-4-001-030.000  
 5816 OLD LEEDS ROAD

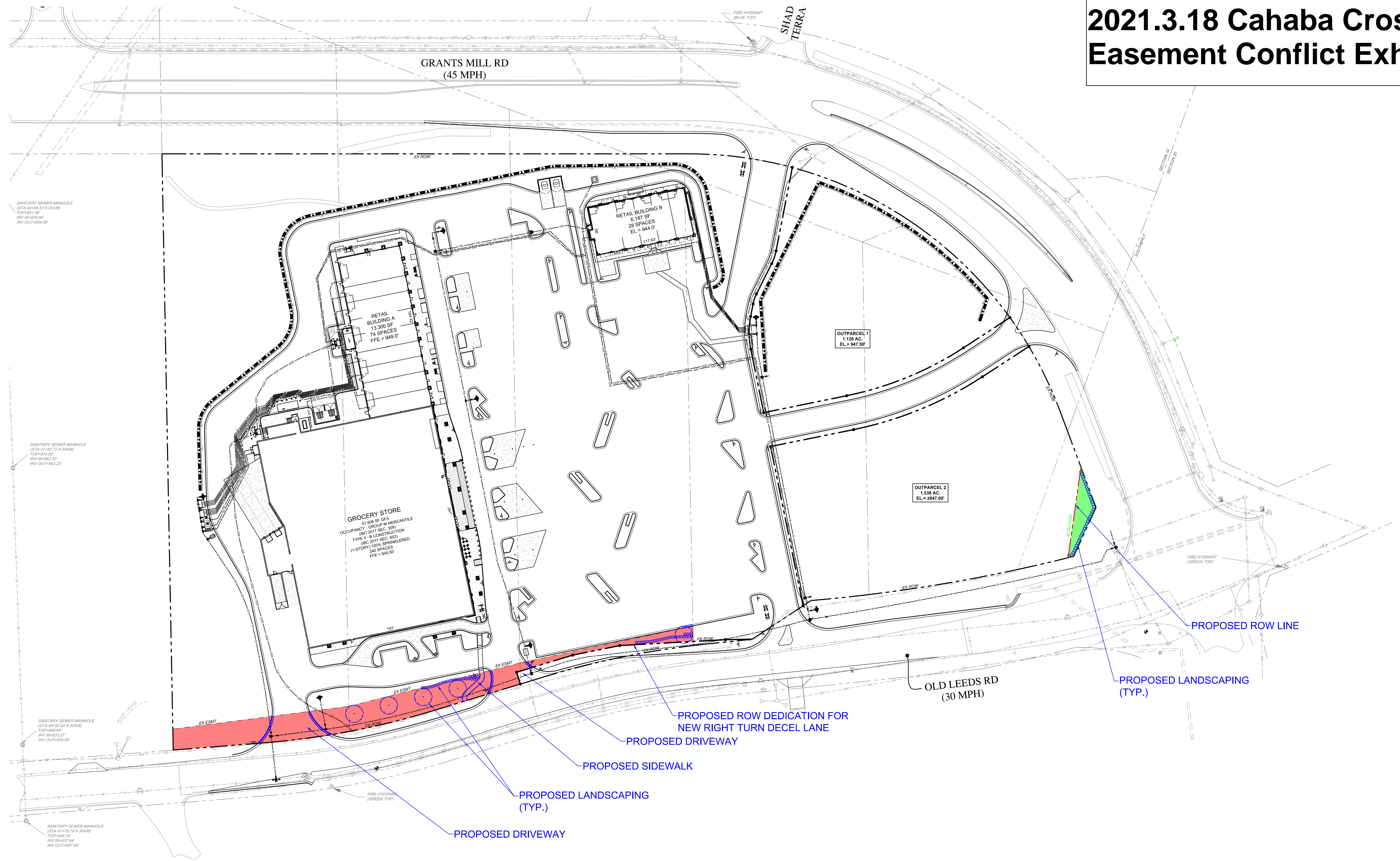
10  
 Olschan Realty Company's Residential Baby Farms Plat Book 51, page 55  
 PID: 24-00-19-4-001-030.000  
 5824 OLD LEEDS ROAD

**EXHIBIT B**

**Map Depicting Preliminary Site Development with Relevant Portions Highlighted**

# EXHIBIT B

## 2021.3.18 Cahaba Crossing Easement Conflict Exhibit



**EXHIBIT C**

**Amendment to Easement Agreements**

**Amendment to Easements (Instrument No. 200113/4749)**

**Amendment to Easements (Instrument No. 200113/4750)**

AMENDMENT TO EASEMENT

Know all men by these presents, the undersigned amend that certain Instrument recorded at BK 200113, PG: 4749 in the Office of the Judge of Probate of Jefferson County, Alabama, as follows:

The parenthetical in the last line of first paragraph that follows the legal description is amended to now state (except fencing, code required landscaping, and improvements expressly approved by the governmental entity with authority over the adjacent roadway).

Except as for the above-described amendment, all terms and conditions of that certain Instrument recorded at BK 200113, PG: 4749 in the Office of the Judge of Probate of Jefferson County, Alabama, remain in full force and effect.

In witness whereof, I have hereunto set my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
James D. Stewart Jr., Mayor  
City of Irondale, Alabama

STATE OF ALABAMA            )  
COUNTY OF JEFFERSON    )

I \_\_\_\_\_, the undersigned, a Notary Public in and for said County in said State, hereby certify that James D. Stewart Jr., whose name as Mayor of the City of Irondale, 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 the foregoing, he, in his capacity as Mayor of the City of Irondale, Alabama, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

In witness whereof, I have hereunto set my hand and seal this the \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

\_\_\_\_\_  
James A. Stephens, as President of the  
Commission of Jefferson County, Alabama

STATE OF ALABAMA            )  
COUNTY OF JEFFERSON    )

I \_\_\_\_\_, the undersigned, a Notary Public in and for said  
County in said State, hereby certify that James A. Stephens, whose name as President of  
the Commission of Jefferson County, 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 the foregoing, he, in his capacity as President of the Commission of Jefferson  
County, Alabama, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

AMENDMENT TO EASEMENT

Know all men by these presents, the undersigned amend that certain Instrument recorded at BK 200113, PG: 4750 in the Office of the Judge of Probate of Jefferson County, Alabama, as follows:

The parenthetical in the last line of first paragraph that follows the legal description is amended to now state (except fencing, code required landscaping, and improvements expressly approved by the governmental entity with authority over the adjacent roadway)

Except as for the above-described amendment, all terms and conditions of that certain Instrument recorded at BK 200113, PG: 4750 in the Office of the Judge of Probate of Jefferson County, Alabama, remain in full force and effect.

In witness whereof, I have hereunto set my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
James D. Stewart Jr., Mayor  
City of Irondale, Alabama

STATE OF ALABAMA            )  
COUNTY OF JEFFERSON    )

I \_\_\_\_\_, the undersigned, a Notary Public in and for said County in said State, hereby certify that James D. Stewart Jr., whose name as Mayor of the City of Irondale, 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 the foregoing, he, in his capacity as Mayor of the City of Irondale, Alabama, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

In witness whereof, I have hereunto set my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
James A. Stephens, as President of the  
Commission of Jefferson County, Alabama

STATE OF ALABAMA            )  
COUNTY OF JEFFERSON    )

I \_\_\_\_\_, the undersigned, a Notary Public in and for said County in said State, hereby certify that James A. Stephens, whose name as President of the Commission of Jefferson County, 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 the foregoing, he, in his capacity as President of the Commission of Jefferson County, Alabama, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**EXHIBIT D**

**Amendment to Through Roads Agreement**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE JEFFERSON COUNTY  
COMMISSION, THE CITY OF IRONDALE, HEPLEEDS, LLC, AND HALVORSEN  
DEVELOPMENT CORPORATION**

This Memorandum of Understanding (“MOU”) is entered into by and between the Jefferson County Commission (“the County”), the City of Irondale (“the City”), and HEPLEEDS, LLC, and Halvorsen Development Corporation (“the Developer”).

WHEREAS, the City acquired parcels of right-of-way along Old Leeds Road for public roadway and utility purposes, said parcels at issue being identified as Lots 10, 11, 12, and 13 in the attached Exhibit A; and

WHEREAS, the right-of-way deeds received by the City, as referenced in Exhibit A, allow the City “the right and privilege of a perpetual use of the lands for such public purpose, together with all rights and privileges necessary or convenient for the full use and enjoyment thereof, including the right of ingress to and egress from said strip and the right to cut and keep clear all trees, undergrowth and other obstructions on the lands of the undersigned adjacent to said strip when deemed reasonably necessary for the avoidance of danger in and about said public use of said strip, and the right to prohibit the construction or maintenance of any improvement or obstruction (except fencing) on, over or upon said area herein conveyed”; and

WHEREAS, the City and the County entered into an agreement in 2018 (“the Through Road Agreement”) whereby the City granted and the County accepted and assumed responsibility for control, management, supervision, regulation, repair, maintenance, and improvement of certain roadways within the corporate limits of the City, including Old Leeds Road and Lots 10, 11, 12, and 13; and

WHEREAS, in addition to responsibility for control, management, supervision, regulation, repair, maintenance, and improvement of the roadways identified in the Through Road Agreement,

the City granted and the County accepted and assumed control for access along the identified roadways and it was understood and agreed that all future access points shall be located and approved by the County; and

WHEREAS, the Developer seeks to acquire title to Lots 10, 11, 12, and 13 for an upcoming development (“the Development”); and

WHEREAS, the Developer has requested that the County allow the construction or maintenance of certain improvements on the Property; and

WHEREAS, the Developer has requested that the right-of-way deeds referenced in Exhibit A be amended to allow for certain improvements and Developer has requested that the City and the County amend the right-of-way deeds by executing two Amendments to Easements in substantially the same forms attached hereto as Exhibit B, which amends the parenthetical to provide as follows: “(except fencing, code required landscaping, and improvements expressly approved by the governmental entity with authority over the adjacent roadway)”; and

WHEREAS, the City agrees to amend the dedicated rights-of-way encumbering Lots 10, 11, 12 and 13 on Old Leeds Road to assist the Developer in acquiring Lots 10, 11, 12, and 13 for the Development; and

WHEREAS, the City acknowledges that it cannot amend rights-of-way controlled by the County pursuant to the Through Road Agreement without the County’s express consent and approval as such would be a breach of the Through Road Agreement; and

WHEREAS, the County desires to assist the City in its economic development efforts; and

WHEREAS, the County agrees to allow the City to amend the rights-of-way on Lots 10, 11, 12, and 13, provided, however, that the express terms, contingencies, and conditions set forth herein are met; and

WHEREAS, the City and the County agree that except as stated herein, this Memorandum of Understanding shall not and does not alter, amend, or otherwise affect the Through Road Agreement and the City's and the County's respective rights, responsibilities, and obligations thereunder; and

WHEREAS, the City's amendment of the rights-of-way on Lots 10, 11, 12, and 13 on Old Leeds Road is expressly contingent upon the Developer closing and acquiring title to the Lots; and

WHEREAS, the Developer agrees to dedicate and convey to the County the public road rights-of-way depicted in green in Exhibit C and as described in Exhibit D attached hereto, such rights-of-way being necessary for the County's Grants Mill Road Corridor Improvements Project, to the extent Developer acquires title to the underlying real property that would be subject to said right-of-way; and

WHEREAS, the City, the County, and the Developer desire to memorialize their agreement and understanding pertaining to their respective rights, responsibilities, and obligations associated herewith.

NOW THEREFORE, in consideration of the recitals contained herein, the City, the County, and the Developer agree as follows:

1. That the City shall amend the rights-of-way on Lots 10, 11, 12, and 13 along and adjacent to Old Leeds Road to enable the Developer to acquire Lots 10, 11, 12, and 13 for the Development, provided, however, that all conditions and contingencies set forth herein have been fulfilled.

2. That the Developer shall dedicate and convey to the County at no cost the rights-of-way depicted in green in Exhibit C and as described in Exhibit D to the extent Developer acquires title to the subject real property.

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Date

---

James A. Stephens, President  
Jefferson County Commission

---

Date

---

James Douglas Stewart Jr., Mayor  
City of Irondale, Alabama

---

Date

**EXHIBITS A and B were not attached due to redundancy.**

**Exhibit A**

**Copies of the conveyances of ROW to City of Irondale**

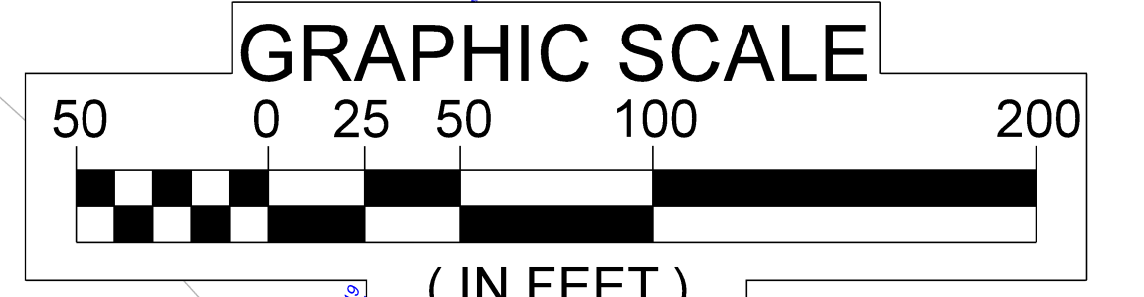
**Exhibit B**

**Amendment to Easements**

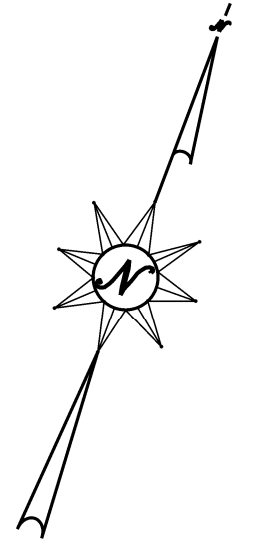
**Exhibit C**

**Map Depiction of Related Improvement to Grants Mill Road/Old Leeds Road**

# GRANTS MILL ROAD CORRIDOR IMPROVEMENTS



( IN FEET )  
1 inch = 50 ft.



## Exhibit D

### Legal Description to Improvements – Tract 11

#### TRACT 11

Two parcels of Right of Way (ROW) being more particularly described as follows:

#### ROW #1

Commence at the Southwest corner of Section 20, Township 17 South, Range 1 West, a found X cut; thence run easterly along the south line of said Section for a distance of 267.93 feet; thence turn and angle left  $115^{\circ}26'19''$  and run northwesterly for a distance of 346.12 feet; thence turn and angle right  $40^{\circ}42'51''$  and run northeasterly for a distance of 659.88 feet; thence turn and angle left  $54^{\circ}57'37''$  and run northwesterly for a distance of 197.81 feet; thence turn and angle right  $94^{\circ}20'55''$  and run northeasterly for a distance of 188.90 feet thence turn  $180^{\circ}00'00''$  and run southwesterly 100 feet; thence turn left  $8^{\circ}22'36''$  to the point of beginning of a curve to the right having a radius of 1470 feet, a central angle of  $16^{\circ}45'13''$  and an arc length of 429.83 feet; thence run southwesterly along the arc of said curve for a distance of 63.69 feet to a point being the intersection with the center line of Kilgore Memorial Drive; thence turn right an angle  $90^{\circ}47'59''$  tangent to said curve and run northwesterly along the centerline of Kilgore Memorial Drive for a distance of 61.42 feet, being Point "A" for future reference, and for the **Point of Beginning** of a variable width right of way being bound on the southwesterly side by the currently existing northeasterly right of way line of Kilgore Memorial Drive and being bound on the northeasterly side by a line being 149.53 feet northeasterly of and perpendicular to, at this point and decreasing to a point, 70.14 feet northeasterly of and perpendicular to a point 183.58 feet ahead along the following described line; thence continue northwesterly for a distance of 146.61 feet to the point of beginning of a curve to the left having a radius of 538 feet, a central angle of  $69^{\circ}24'47''$  and an arc length of 651.78 feet; thence run northwesterly along the arc of said curve for a distance of 36.97 feet to said point and the end of said right of way.

#### ROW #2

Commence at Point "A" as described in the ROW #1 above, thence run northwesterly for a distance of 2.23 feet to the **Point of Beginning** of a variable width right of way being bound on the northeasterly side by the currently existing southwesterly right of way of Kilgore Memorial Drive and being bound on the southwesterly side by a line being 130.25 feet southwesterly of and perpendicular to, at this point, and decreasing to a point, 80.71 feet southwesterly of and perpendicular to a point, 90.35 feet ahead along the following described line; thence run northwesterly for a distance of 90.35 feet to said point the end of said right of way.

The outer boundaries of said ROW being extended or trimmed to terminate at the property lines of the Grantor.

All of said Right of Way is located in the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 20, Township 17 South, Range 1 West; and the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 20, Township 17 South, Range 1 West, Jefferson County, Alabama. The Right of Way contains 0.18 acres, more or less.