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Upon Recordation return to:

Michael D. Treacy, Esq.  
Shumacker Witt Gaither & Whitaker, P.C.  
Suite 210, CBL Center  
2030 Hamilton Place Boulevard  
Chattanooga, Tennessee 37421  
423-425-7000

**TEMPORARY AND PERMANENT  
ACCESS DRIVE CONSTRUCTION,  
AND  
MAINTENANCE AGREEMENT**

**THIS TEMPORARY AND PERMANENT ACCESS DRIVE CONSTRUCTION AND MAINTENANCE AGREEMENT ("Agreement")** has been made and entered into this 8<sup>th</sup> day of March, 2005, by and between **CBL & ASSOCIATES MANAGEMENT, INC.**, a Delaware corporation, its successors and/or assigns (hereinafter "CBL"), and **LOGAN'S ROADHOUSE, INC.**, a Tennessee corporation, its successors and/or assigns (hereinafter "Logan's").

**WITNESSETH:**

**WHEREAS**, Logan's is the owner and holder of fee simple title to that certain 1.89 acre tract, more or less, situate, lying and located along Marathon Way in the City of Southaven, Mississippi, more particularly described as Lot 7 as shown on the plat entitled "Revision One, Lots 1 thru 14 and 16 thru 17, Southaven Towne Center, Zoned C4", prepared by Southern States Survey, Inc., dated February 11, 2005, which Plat is duly recorded in the Chancery Clerk's Office for the County of DeSoto, Mississippi in Plat Book 91, pages 6-7 (the "Plat"), said tract being conveyed to Logan's by Special Warranty Deed of even date from CBL and being recorded in said Clerk's Office on or about the date hereof, hereinafter referred to as the "Logan's Parcel"; and *Section 36, Township 1 South, Range 8 West*

**WHEREAS**, CBL is the owner and holder of fee simple title to that certain 5.03 acre tract, more or less, in the City of Southaven, Mississippi, more particularly described as Lot 8 as shown on the Plat, hereinafter referred to as "Lot 8." CBL intends to sell Lot 8 to Hawkins Companies LLC, an Idaho limited liability company, its successors, assigns, agents, or contractors ("HCO") and it is CBL's intent that HCO construct improvements to Lot 8 as hereafter set forth; and

**WHEREAS**, the parties hereto wish (a) to declare, create and establish (i) a temporary road easement and (ii) a permanent access drive easement, and (b) to provide for the construction and maintenance of (i) a temporary road and (ii) a permanent access drive, all as hereinafter set forth on, over and across their

respective properties.

**NOW, THEREFORE**, in consideration of Ten Dollars (\$10.00), cash in hand paid and the mutual covenants and agreements established herein, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto agree and declare as follows:

1. **ACCESS EASEMENT:** CBL does hereby grant and convey for the use and benefit of Logan's, its successors, assigns, mortgagees, tenants, customers, employees, agents, invitees and any other persons whomsoever claiming under or through Logan's, and appurtenant to and running with the title to the Logan's Parcel and Lot 8, a perpetual non-exclusive easement for vehicular and pedestrian passage, ingress and egress over, across and upon the area located adjacent to the Logan's Parcel and situated on Lot 8, as constructed upon the portion of said ingress/egress easement owned by CBL (sometimes hereinafter referred to as the "Easement Area"), such Easement Area being shown and cross hatched on Exhibit "B", attached hereto and incorporated herein by reference. The grant of this easement does not include and in no event will Logan's, its successors, assigns, mortgages, tenants, customers, employees, agents, invitees and any other persons whomsoever claiming under or through Logan's, use the Easement Area for the stacking of cars in connection with a drive-through facility on the Logan's Parcel.

2. **ACCESS DRIVE AND TEMPORARY ROAD CONSTRUCTION:** Notwithstanding anything in this Agreement to the contrary, it is not CBL's intention that CBL construct and/or pay the cost of construction of any Access Drive described in this Agreement. Rather, this Agreement contemplates that HCO will acquire Lot 8 and assume the construction obligations set forth in this Section 2. Accordingly, in the event CBL has not sold Lot 8 to HCO by May 1, 2005, Logan's, at Logan's cost, will be responsible for the construction of the permanent Access Drive (as hereafter defined) as set forth in this Agreement. In that event, Logan's is not required to construct the Temporary Road described in Section 2(a) of this Agreement.

(a) **Temporary Road.** Logan's hereby agrees to construct, at Logan's cost, a temporary road ("Temporary Road") in the location shown on Exhibit "A" for ingress and egress of Logan's contractor's, assigns, mortgagees, tenants, customers, employees, agents, and invitees for Logan's construction and business operation purposes during that period of time until the earlier of (i) HCO's construction of the Access Drive pursuant to Section 2(b) of this Agreement, or (ii) Logan's construction of the Access Drive by reason of HCO's default in the construction of the Access Drive pursuant to Section 2(c) of this Agreement. Logan's hereby agrees to maintain the Temporary Road, at Logan's sole cost and expense, during the duration of the Temporary Road, in a manner satisfactory to Logan's for its use of the Temporary Road.

(b) Access Drive and Modification of Temporary Road. At such time as HCO commences construction of all roadways and parking areas on Lot 8 ("Surface Construction Commencement"), CBL hereby agrees to (i) construct a permanent driveway within the Easement Area for use as an access drive serving the Logan's Parcel and Lot 8 (the "Access Drive") and (ii) complete the permanent improvements to the Logan's Parcel in the area of the Temporary Road ("Temporary Road Modifications") as such improvements are depicted on Exhibit "B" (collectively, the "Permanent Construction"). Notwithstanding the date of the Surface Construction Commencement, CBL agrees to complete the Permanent Construction in a diligent, workmanlike manner not later than September 1, 2005, subject to extension for force majeure events, including, without limitation, inclement weather, casualty and other acts of God, strikes or labor difficulties, unavailability of materials or other circumstances beyond the reasonable control of CBL, provided, however, that issues with weather and materials shall not be an allowable cause for delaying completion by more than 15 days (collectively, "Force Majeure Matters"). The Access Drive shall be constructed in accordance with those certain Plans and Specifications dated January 28, 2005, prepared for HCO by Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205; Phone: 412-429-2324; Attn: Roy Price, Project Consultant, as Project Number 042-036, and approved by CBL. The Temporary Road shall be constructed in accordance with those certain Plans and Specifications dated September 17, 2004, Revision #6, dated February 9, 2005, prepared for Logan's by Design and Engineering, PC, 5105 Maryland Way, Suite 200, Brentwood, TN 37027; Phone: 615-370-1779, as Project Number 40-03111/WFH, and approved by CBL.

(c) In the event that CBL fails to complete the Permanent Construction by September 1, 2005, subject to Force Majeure Matters, and such failure continues for a period of fifteen (15) days following CBL's receipt of written notice of such default, Logan's may, but is not obligated to cure said failure. In that event, (i) Logan's will complete the Permanent Construction pursuant to the requirements of Section 2(b) of this Agreement, and (ii) CBL will reimburse Logan's for the cost of Permanent Construction pursuant to Section 2(d) of this Agreement. Notwithstanding anything to the contrary in this Agreement, if (1) CBL fails to complete the Permanent Construction by September 1, 2005, subject to Force Majeure Matters, and (2) Logan's does not complete the Permanent Construction pursuant to this Section 2(c), then and in that event, CBL may complete the Permanent Construction, until such time that Logan's notifies CBL of its intent to take over and complete the Project.

(d) In the sole event that Logan's completes the Permanent Construction in accordance with Section 2(c), Logan's will provide to CBL written invoices in reasonable detail evidencing payment of the costs associated with the Permanent Construction upon the sale or beginning of construction upon Lot 8, whichever is earlier, CBL shall reimburse Logan's one-half (1/2) of the reasonable and

documented out-of-pocket expenses incurred by Logan's in the Permanent Construction, and all related expenses, including but not limited to, the cost of preparing plans and specifications for the construction, architectural fees and permitting costs associated with the Access Drive.

(e) Each party hereby grants to the other a temporary construction easement across the Logan's Parcel and Lot 8, solely for the purposes of the construction of the Temporary Road and the Permanent Construction, which temporary construction easement will continue until such time as the Temporary Road and the Permanent Construction, respectively, are complete.

(f) CBL, using its best efforts, shall be solely responsible for obtaining all necessary approvals, permits, or variances from all applicable governmental authorities required for the construction of the Access Drive. Logan's, using its best efforts, shall be solely responsible for obtaining all necessary approvals, permits, or variances from all applicable governmental authorities required for the construction of the Temporary Road and for construction of the permanent improvements to the Temporary Road. The parties shall each coordinate their efforts with the other, and any material variance or revisions to either parties' plans will be subject to the prior approval of the other party, which approval will not be unreasonably withheld, delayed or conditioned. The parties shall each cooperate with the other in obtaining the approvals and permits in a reasonable manner, but in no way shall either party incur any expense other than as provided herein nor shall this Agreement be construed as creating a partnership or joint venture between the parties. This Agreement is contingent upon the parties each receiving their appropriate approvals and permits.

(g) While completing the Permanent Construction, CBL agrees that in no event shall the Temporary Road be blocked. CBL will construct barriers and take other such reasonable measures to prevent the Permanent Construction from unreasonably interfering with public access to the Logan's Parcel.

### 3. ACCESS DRIVE MAINTENANCE:

(a) Upon completion of the Access Drive, CBL shall be responsible for normal and reasonable maintenance, reconstruction and replacement of the Access Drive. The repair, upkeep and maintenance shall be performed in a workmanlike, diligent and efficient manner and shall include repair and replacement of the Access Drive. Should CBL breach its repair, upkeep and maintenance obligations hereunder and such breach continues for a period of thirty (30) days following receipt of written notice (except in the case of emergency), Logan's, or its successors and assigns, in its capacity as the owner of the Logan's Parcel, shall be entitled, but not obligated, to cure said breach and be reimbursed by CBL for its share of said costs of curing the breach as provided below, in addition to all remedies

at law or in equity; provided that no notice is required should the breach create an emergency so as to adversely and materially interfere with the use of the Logan's Parcel.

(b) Beginning upon the date that the Access Drive is complete, Logan's, for purposes of construction or operation of a business upon the Logan's Parcel, shall pay to CBL as its share of the costs of maintaining, repairing and replacing the Access Drive an annual amount equal to one-half (1/2) of the reasonable and documented out-of-pocket expenses incurred by CBL during the calendar year in maintaining, repairing and replacing the Access Drive. Such annual payment shall be due for the preceding calendar year within thirty (30) days after receipt of such documentation by the owner of the Logan's Parcel during the current calendar year (the payment for any partial year to be prorated based upon the number of days of use during such partial year).

(c) Maintenance of the Access Drive, as set forth herein, shall include the following: (i) maintenance and repair of all paved surfaces and curbs in a good, clean and smooth condition; (ii) periodic removal of all paper, debris, refuse, ice and snow, including vacuuming and broom sweeping to the extent necessary to keep the Access Drive in a clean and orderly condition; (iii) maintain, clean and replace any appropriate directional or stop signs, and restripe drive lanes as necessary to maintain traffic direction; and (iv) interruption of ingress and egress from time to time for construction, maintenance and repair of any drainage and sewer facilities which may be located on a portion of or adjacent to the Easement Area. In the event that Logan's defaults in its obligation to reimburse amounts payable under this paragraph, then, if said default continues following thirty (30) days written notice to Logan's, then the outstanding balance thereof shall bear interest at the rate of twelve percent (12%) per annum compounded monthly, or the then highest rate allowable under applicable law, whichever is lower, and such unpaid amount shall be a lien upon Logan's Parcel. Any such lien(s) shall be subordinate and inferior to the encumbrance of the first position deed of trust encumbering said Property.

4. **COVENANTS**: The parties hereto agree that no improvements, fences, barricades, medians, or other obstructions inhibiting access to the Access Drive shall be constructed, except for the minimum period required under the laws of the State of Mississippi to avoid the dedication of the Access Drive, or portions thereof, for public use or the creation of prescriptive rights therein. Both parties agree that following completion of the Access Drive, if said Access Drive is used for construction traffic and is damaged as a result of said use, the owner of the Parcel responsible for such use will repair the Access Drive to its condition prior to the use for construction traffic, and in no event shall any party responsible under this Agreement for maintenance of the Access Drive be responsible for said repair. If the owner of the Parcel responsible for such damage due to construction traffic fails to correct said damage and said default continues following thirty (30) days written

notice to said owner, then the owner of the other Parcel shall be entitled, but not obligated, to cure said breach and be reimbursed by the defaulting owner for its share of said reasonable and documented out-of-pocket costs of curing the breach. Any outstanding balance thereof shall bear interest at the rate of twelve percent (12%) per annum compounded monthly, or the then highest rate allowable under applicable law, whichever is lower, and such unpaid amount shall be a lien upon such defaulting party's Parcel. Any such lien(s) shall be subordinate and inferior to the encumbrance of the first position deed of trust encumbering said Property.

5. **RELEASE FROM LIABILITY:** Any person or entity acquiring fee or leasehold title (including the parties hereto but excluding tenants occupying space under building leases, unless such leases specifically bind such tenant to these terms) to either the Logan's Parcel or Lot 8, or any portion thereof (or any interest therein) (collectively a "Property Interest") shall be bound by this Agreement. Once a person or entity ceases to own a Property Interest, such person or entity shall have no further obligations hereunder except as to obligations, liabilities or responsibilities that accrued during the time that such person or entity owned a Property Interest. Although persons or entities may be released under this section, the easements, covenants and restrictions in this Agreement shall continue to be benefits and servitudes upon the Logan's Parcel and Lot 8 and to run with the title thereto.

6. **EASEMENTS PERPETUAL:** The easements and rights-of-way granted hereunder shall run as easements appurtenant to the respective properties and all terms of this Agreement shall be perpetual, and shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns to the land underlying the Easement Area, to warrant and forever defend the above-described easements and rights-of-way unto each other.

7. **NONFORFEITURE OF REVERSION:** Any obligations contained herein with regard to the easements granted hereby shall be construed as covenants and not as conditions and any violation of any said covenant shall not result in a forfeiture or reversion of any easements granted herein. Failure to comply with any of the foregoing restrictions shall be grounds for relief which may include, without limitation, an action to recover damages, injunctive relief or any combination thereof.

8. **AMENDMENT:** This Agreement represents the entire understanding between the parties with respect to the subject matter hereof and may not be abrogated, modified, rescinded or amended in whole or in part without the express written consent of Logan's and the owner of Lot 8, or their respective successors or assigns to the underlying Easement Area. This Agreement and all amendments hereto shall be recorded in the Office of the Chancery Court Clerk of DeSoto County, Mississippi.

9. **INDEMNIFICATION BY LOGAN'S:** Logan's, its successors and assigns,

shall indemnify and hereby agree to hold harmless the owner of Lot 8, its successors and assigns, from and against any and all liability or damages (including reasonable attorneys' fees and legal expenses) which either party may suffer as a result of claims, demands, costs, liens, actions, or awards against them, arising out of or in connection with the use of the easements granted herein or the exercise of any rights granted herein, by Logan's, its successors, assigns, agents, tenants, employees, guests, invitees, and the like, other than any liability, damage or loss caused by or arising out of or in connection with the negligence or willful misconduct of the indemnified party, its successors, assigns, agents, tenants, customers, licensees, agents, employees, guests, invitees, and the like.

10. **INDEMNIFICATION BY LOT 8 OWNER:** CBL, as the owner of Lot 8, its successors and assigns, shall indemnify and hereby agree to hold harmless Logan's, its successors and assigns, from and against any and all liability or damages (including reasonable attorney's fees and legal expenses) which either party may suffer as a result of claims, demands, costs, liens, actions, or awards against them, arising out of or in connection with the use of the easements granted herein or the exercise of any rights granted herein, by CBL as the owner of Lot 8, its successors, assigns, agents, tenants, employees, guests, invitees, and the like, other than any liability, damage or loss caused by or arising out of or in connection with the negligence or willful misconduct of the indemnified party, its successors, assigns, agents, tenants, customers, licensees, agents, employees, guests, invitees, and the like.

11. **INSURANCE:** During the term of this Agreement, the owner of the Logan's Parcel and Lot 8 shall each maintain comprehensive general liability insurance policies covering the use of the Easement Area by such owner as the insured, their tenants, employees, agents, licensees and contractors, and insuring against claims for bodily injury (including death) and/or property damage occurring within the Easement Area as a result thereof, and specifically endorsed to include coverage for contractual liability, independent contractors and broad form property damage having a minimum limit of One Million Dollars (\$1,000,000.00) per occurrence, combined single limit. Such insurance may be carried as part of a blanket liability policy by any party at its option. All insurance required by this Agreement will name CBL, its successors and assigns, or Logan's, its successors and assigns, as the case may be, as additional insureds and loss payee and will provide for thirty (30) days written notice to either party prior to cancellation, non-renewal, or material modification.

12. **NON-EXCLUSIVE BENEFIT:** CBL hereby reserves the right, for itself, and its successors and assigns, to grant such other or similar easements, rights and privileges over, across and under the Easement Area; provided, however, any such easements, rights or privileges hereinafter granted shall not interfere with the use of any of the easements, rights and servitudes herein granted.

13. **NOTICES:** All notices required or allowed in this Agreement shall be in writing and shall be sent to the addresses shown below. A party may change its address for notice by giving notice to the other party. Notice may be delivered by personal delivery, an overnight delivery service, or U.S. Mail sent certified with return receipt requested. Notices are effective on the earlier of the date received, the date of the delivery receipt, or the third day after postmark, as applicable.

The following is the address for notice purposes of CBL:

CBL & Associates Management, Inc.  
 Attn: President  
 CBL Center, Suite 500  
 2030 Hamilton Place Boulevard  
 Chattanooga, Tennessee 37421

The following is the address for notice purposes of Logan's:

Logan's Roadhouse  
 3011 Armory Drive, Suite 300  
 Nashville, Tennessee 37204  
 Attention: Carrie LeNeave

With a copy to:

J. Steven Kirkham, Esq.  
 Waller Lansden Dortch & Davis  
 511 Union Street, Suite 2700  
 Nashville City Center  
 Nashville, TN 37219

14. **GOVERNING LAW:** This Agreement shall be governed by and enforced in accordance with the laws of the State of Mississippi.

15. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts together shall be deemed to constitute one original instrument.

16. **MISCELLANEOUS:**

a. Whenever required by the context of this Agreement, the singular shall include the plural and vice versa, and the masculine shall include the feminine and neutral.

b. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

c. The captions preceding the text of each paragraph are included only for convenience of reference and should be disregarded in the construction and interpretation of this Agreement. Capitalized terms are also selected only for convenience of reference.

d. The fact that one party hereto was the drafter of this Agreement shall not be taken into consideration as a factor in interpretation or enforcement of the terms of this Agreement. In the event an ambiguity is found herein, said ambiguity will not be construed more strictly against the drafter of this document.

*(The remainder of this page left intentionally blank.)*

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

CBL & ASSOCIATES MANAGEMENT, INC.

By [Signature]

Name: RONALD S. Gimple

Title: Senior Vice President

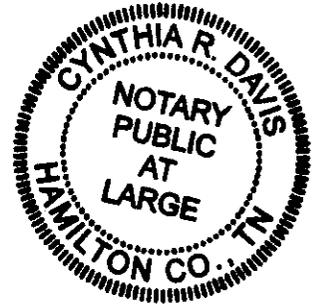
STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, the undersigned, a notary public in and for the County and State aforesaid, personally appeared Ronald S. Gimple with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself to be the Sr. Vice President of CBL & ASSOCIATES MANAGEMENT, INC., a Delaware corporation, and that he as such Sr. Vice President being authorized so to do, executed the foregoing instrument for the purposes herein contained, by signing the foregoing instrument as Sr. Vice President of said CBL & ASSOCIATES MANAGEMENT, INC., a Delaware corporation, on the day and year therein mentioned.

Witness my hand and seal this the 8th day of March, 2005.

Cynthia R. Davis  
Notary Public

My commission expires: 10-06-07



LOGAN'S ROADHOUSE, INC.

By: [Signature]

Title: Vice President

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

Before me, the undersigned, a notary public in and for the County and State aforesaid, personally appeared Rob Effner, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself to be the Vice President of LOGAN'S ROADHOUSE, INC., a Tennessee corporation, and that he as such Vice President being authorized so to do, executed the foregoing instrument for the purposes herein contained, by signing the foregoing instrument as Vice President of said corporation, on the day and year therein mentioned.

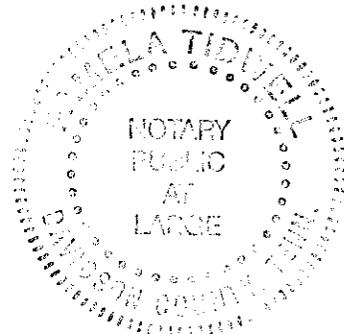
Witness my hand and seal this the 9<sup>th</sup> day of March, 2005.

[Signature: Pamela Tidwell]

Notary Public

My commission expires:

11-26-05



My Commission Expires 11/26/2005

INDEXING:  
 Lot 7 & 8 Southaven Towne Center Subdivision  
 Section 36, Township 1 South, Range 8 West  
 City of Southaven  
 DeSoto County, Mississippi

Preparer: Hawkins Companies  
 8645 W. Franklin Rd  
 Boise, ID 83709  
 Ph. 208-376-8522

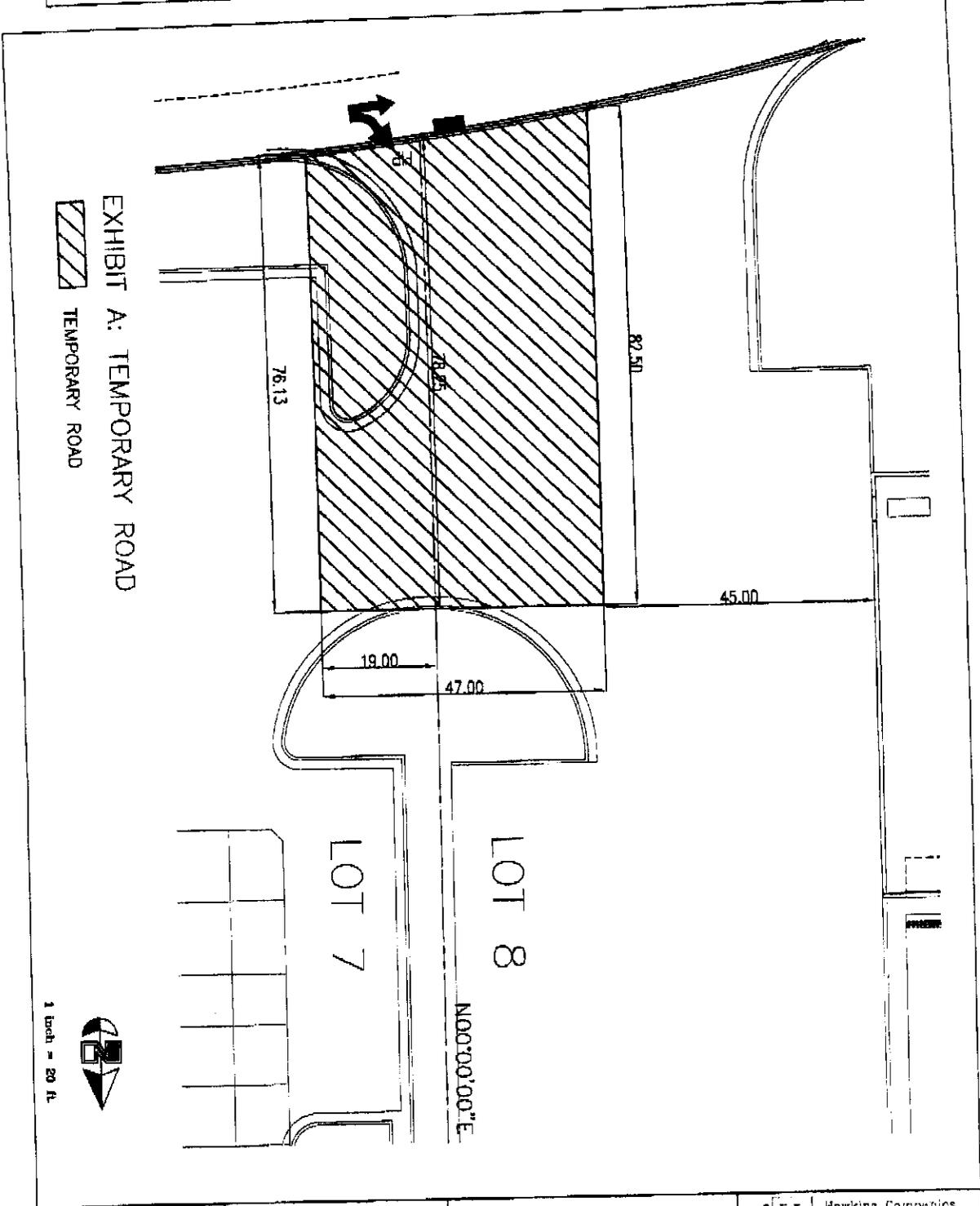
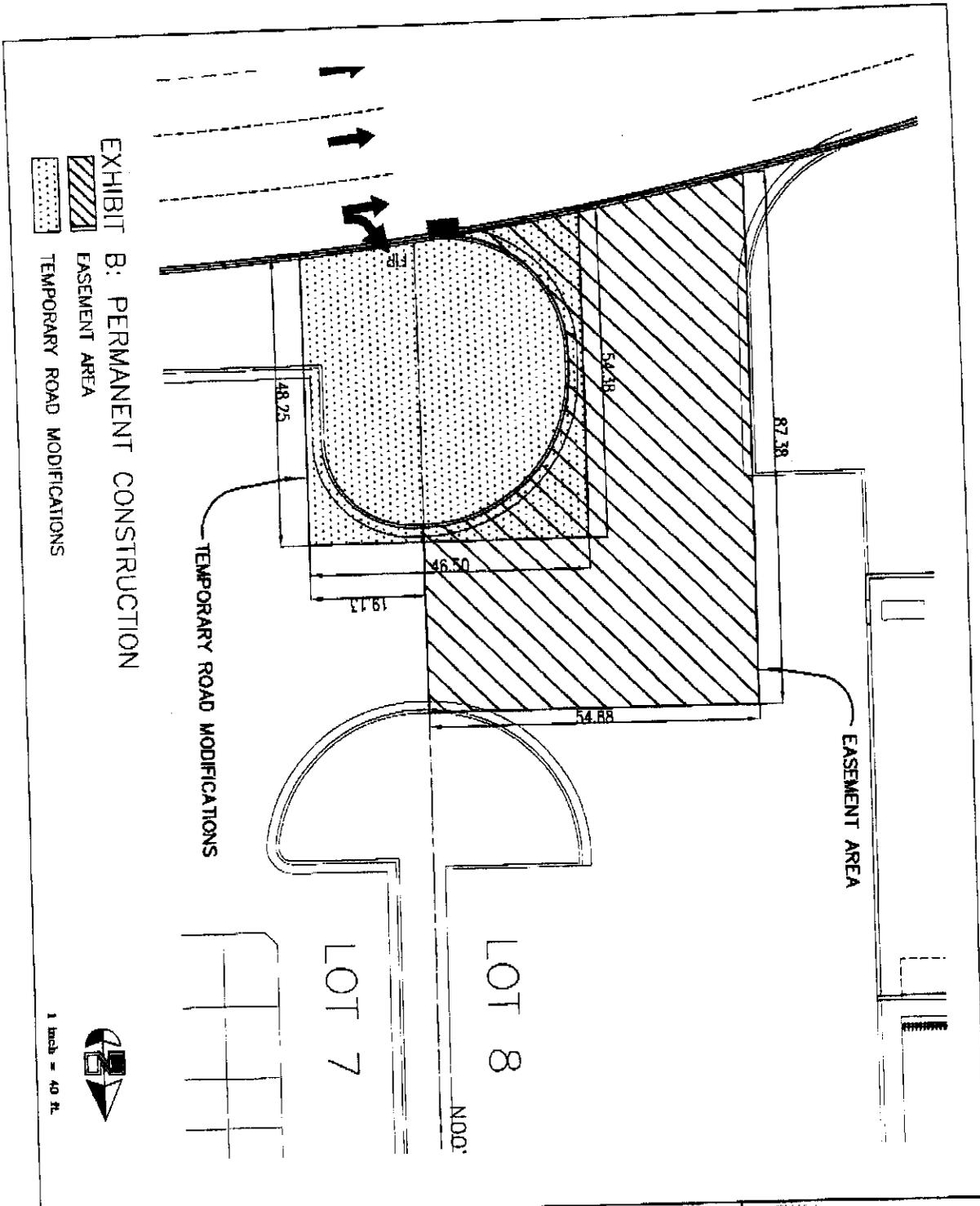


EXHIBIT A	EXHIBIT A TEMPORARY ROAD	AIRWAY BLVD. & TOWN CENTER DR. SOUTHAVEN, MISSISSIPPI	 Hawkins Companies 8645 W. Franklin Rd Boise, ID 83709 208-376-8522 Fax: 208-376-8522
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INDEXING:  
 Lot 7 & 8 Southaven Towne Center Subdivision  
 Section 36, Township 1 South, Range 8 West  
 City of Southaven  
 Desoto County, Mississippi

Prepared: Hawkins Companies  
 8645 W. Franklin Rd  
 Boise, ID 83709  
 Ph. 208-376-8522



<p>EXHIBIT B</p>	<p>EXHIBIT B        PERMANENT        CONSTRUCTION</p>	<p><b>AIRWAY BLVD. &amp; TOWN CENTER DR.        SOUTHAVEN, MISSISSIPPI</b></p>	<p><b>H</b>        Hawkins Companies        8645 W. Franklin Rd        Boise, ID 83709        208-376-8522        Fax: 208-376-8523</p>
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