

Sponsor: Musgrove

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA, that the attached Temporary Construction Easement between Sam's Real Estate Business Trust and the City of Florence is hereby approved, ratified and confirmed.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA, that the Mayor and City Clerk are hereby authorized, respectively, to execute and attest such Agreement on behalf of the City of Florence.

ADOPTED this _____ day of _____, 2018.

CITY COUNCIL

APPROVED this _____ day of _____, 2018.

MAYOR

ADOPTED & APPROVED this _____ day of _____, 2018.

CITY CLERK

TEMPORARY CONSTRUCTION EASEMENT

THIS **TEMPORARY CONSTRUCTION EASEMENT** ("Agreement"), dated September _____, 2018, is made by and between **SAM'S REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, whose address is 2101 SE Simple Savings Dr., Bentonville, AR 72716-0745, Attn: Real Estate ("Grantor") and the City of Florence, Alabama, an Alabama municipal corporation, whose address is P.O. Box 98, Florence, Alabama 35631 ("Grantee"). The following statements are a material part of this Agreement:

WHEREAS, Grantor is the owner of a tract of land ("Tract 1") described on **Exhibit A**, attached; and

WHEREAS, Grantor wishes to quitclaim, and Grantee wishes to receive, a temporary easement over, under and across Tract 1 solely for the purposes set forth herein.

THEREFORE, in consideration of the covenants contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

1. Grantor quitclaims to Grantee a temporary, non-exclusive easement on, over, and across Tract 1 (the "Easement") for the benefit of Grantee to connect Tract 1 to the adjacent Target tract via a drive depicted on **Exhibit B**. Grantee, through its officers, employees and agents, at Grantee's sole cost and expense, shall have the right to enter upon the Easement in such a manner as may be reasonably necessary for the sole purpose as above written. This Easement shall expire upon the completion of Grantee's stated purpose, but, in no event, shall the Easement survive beyond November 1, 2018 ("Easement Term"); provided, all Grantee's warranties and representations shall survive the termination of the Easement and continue for the benefit and protection of Grantor for as long as possible under applicable law. In no event shall Grantee use this Easement in a manner which, in Grantor's sole discretion, interferes with Grantor's use of Tract 1. Grantee also covenants and agrees that the Easement will not be used for the erection of any temporary structures. Grantor shall have the right, in Grantor's sole discretion, to relocate the Easement upon Grantor's property. Following termination of the Easement, Grantee shall provide Grantor written release and extinguishment, in recordable form, of all Grantee's rights in and to the Easement.
2. Grantee agrees to use due care in any use of the Easement, and in the construction, installation, repair, replacement and maintenance of Grantee's improvements, so as not to unreasonably disturb Grantor's use of Grantor's property. Grantee further agrees Grantee shall not interfere with Grantor's business operations while utilizing the Easement. Grantee covenants and agrees to properly maintain the Easement and keep same in good order, free and clear from rubbish. Grantee further covenants and

agrees that all construction activities will be timed so as to not interfere with trucking schedules of Grantor, and that driveways damaged by Grantee's use of the Easement will be promptly replaced in accordance with Grantor's specifications at Grantee's sole cost and expense, and to Grantor's satisfaction. Notwithstanding the foregoing, routine maintenance, construction and use of the Easement shall be prohibited during the months of November and December and all work shall be completed by October 31st of the then-current year. Grantee covenants and agrees that Grantor's tract will not be used as a staging area and will not be used to store equipment, trucks, dirt, supplies, materials, rubble, spoil or any other materials of Grantee. Grantee shall not dig any open pits, trenches, borings or holes on or under the Easement. Grantee also covenants and agrees that no heavy trucks or equipment associated with the use of the Easement by Grantee shall utilize the entranceways, streets or roadways located on Grantor's property or the Easement without Grantor's prior written consent.

3. Following completion of work, if Grantee has removed or damaged any of Grantor's improvements, including but not limited to paving, sod, herbage, lighting standards, signage or landscaping within the Easement or otherwise on Grantor's property, Grantee shall at Grantee's sole cost and expense immediately restore the property injured by Grantee's activities to the same condition as existed previous to Grantee's entry upon the particular property.
4. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor and Sam's (as defined herein) from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, liens (including mechanic's liens and materialman's liens), expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered, in connection with any damage or liability to persons or property caused directly or indirectly by the construction of Grantee's improvements, caused by the use of Grantee's improvements by Grantee, its customers, suppliers, employees, and tenants or anyone else using the such improvements or Easement during the Easement Term. Grantee further agrees that Grantee shall, at all times during the duration of this Agreement, maintain sufficient funds in its liability self-insurance fund affording protection to Grantor and Grantee. Grantee further agrees, upon request, to deliver to Grantor a certificate of self-insurance satisfactory to Grantor evidencing the existence of such self-insurance fund.
5. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor and Sam's from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor and/or Sam's, and their respective successors and assigns, by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of, the construction of Grantee's improvements, use of Grantee's improvements

by Grantee, its customers, suppliers, employees, and tenants during the Easement Term or anyone else using the such improvements during the Easement Term, including claims arising from the escape, seepage, leakage, spillage, emission, discharge or release of any hazardous substance resulting from the operations of Grantee during the Easement Term upon or under any tract of land owned by Grantor including without limitation, any losses, liabilities (including strict liability), damage, injuries, expenses and costs, including, without limitation, reasonable attorney's fees, of any settlement or judgment or claims asserted or arising under, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any hazardous substance.

6. In exercising any rights and privileges under this Agreement, Grantee shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements").
7. Grantee shall (i) comply in all respects with all immigration laws, statutes, rules, codes and regulations, (ii) properly maintain all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Grantee's employees, and (iii) respond in a timely fashion to any inspection requests related to such I-9 Forms. Grantee shall fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Grantee or any of its employees. Grantee shall, on a bi-annual basis during the term of this Agreement, conduct an audit of the I-9 Forms for its employees and shall promptly correct any defects or deficiencies which are identified as a result of such audit. Grantor may, in its sole discretion, terminate this Agreement immediately if, at any time during the term, (x) Grantee violates or is in breach of any provision of this paragraph or (y) the USCIS determines that Grantee has not complied with any of the immigration laws, statutes, rules, codes and regulations of the United States. Grantee shall require all subcontractors performing any work on the Utility System to comply with the covenants set forth in this paragraph.
8. Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee's improvements.

Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers.

9. If Grantee defaults in the performance of any provision contained in this Agreement, Grantor may terminate this Agreement following written notice and a fifteen-(15) day period during which Grantee shall have the opportunity to cure such default to Grantor's satisfaction. If Grantor terminates this Agreement under this provision, Grantee may exercise any and all remedies available at law or in equity.
10. Grantee acknowledges that it is Grantee's sole responsibility to obtain any governmental permits to perform any required maintenance checks, and to abide by any governmental regulations associated with the use, construction, patrolling, replacement and maintenance of Grantee's improvements, as applicable.
11. This Agreement may be executed in one or more counterparts (including by facsimile), all parties need not be signatories to the same documents, and all counterpart signed documents shall be deemed to be an original and one (1) instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first written above.

SAM'S REAL ESTATE BUSINESS TRUST

ATTEST:

By: _____
Thomas H. Wait

By: _____

Its: Senior Vice President, Strategy &
Real Estate Operations

Its: Assistant Secretary

CITY OF FLORENCE, ALABAMA
("Grantee")

ATTEST:

By: _____

By: _____
Steve Holt

Its: Mayor

Its: City Clerk

ACKNOWLEDGEMENT

STATE OF ARKANSAS

)

) §§

COUNTY OF BENTON

)

On this _____ day of September, 2018, before me, the undersigned notary public in and for said County and State, personally appeared before me _____, to me personally known, who, being by me duly sworn, did say that he/she is _____ of **SAM'S REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, and that the seal affixed to the foregoing instrument is the seal of said entity, and said _____ acknowledged said instrument to be the free act and deed of said entity.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the _____ day of September, 2018.

NOTARY PUBLIC

My Commission Expires:

ACKNOWLEDGEMENT

STATE OF ALABAMA)
) §§
COUNTY OF LAUDERDALE)

On this _____ day of September, 2018, before me, the undersigned notary public in and for said County and State, personally appeared before me Steve Holt, to me personally known, who, being by me duly sworn, did say that he is Mayor of the City of Florence, Alabama, a municipal corporation, and that said instrument was signed in behalf of said entity, and said Mayor acknowledged said instrument to be the free act and deed of said entity.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the _____ day of September, 2018.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT A

[Description of Tract 1]

Club #8196, Florence, AL

364 Cox Creek Parkway

A 15.157 acre parcel of land lying in the subdivision designated as Sam's Wholesale Club as recorded in Plat Book 6, Page 104, in the Office of the Judge of Probate in Lauderdale County, Alabama, being situated in the Northwest Quarter of Section 31, Township 2 South, Range 10 West, Lauderdale County, Alabama, more particularly described as follows:

Commence at the northeast corner of the Southeast Quarter of the Northwest Quarter, Section 31, Township 2 South, Range 10 West, Lauderdale County, Alabama; thence run South 01°34'16" East along the east line of said quarter-quarter section for a distance of 20.00 feet; thence run South 87°07'05" West for a distance of 593.69 feet to the POINT OF BEGINNING; thence run South 29°02'24" West for a distance of 473.94 feet to a point on the north right-of-way of a proposed frontage road right-of-way; thence along the northerly line of said frontage road right-of-way being a curve to the left having a radius of 131.00 feet, a central angle of 30°06'49", a chord which bears South 87°50'59" West and a chord distance of 68.06 feet; thence along a curve to the right having a radius of 95.00 feet, a central angle of 48°58'25", a chord which bears North 82°43'12" West and a chord distance of 78.75 feet; thence run North 58°14'00" West for a distance of 139.25 feet; thence leaving said right-of-way run North 75°24'12" East for a distance of 28.95 feet; thence run North 29°02'24" East for a distance of 168.44 feet; thence run North 15°57'36" West for a distance of 28.28 feet; thence run North 60°57'36" West for a distance of 353.00 feet; thence run South 74°02'24" West for a distance of 9.90 feet; thence run South 29°02'24" West for a distance of 166.65 feet to a point in the northerly right-of-way of a proposed frontage road right-of-way; thence along said right-of-way run North 15°26'25" West for a distance of 100.62 feet; thence leaving said right-of-way run North 29°02'24" East for a distance of 977.86 feet; thence run South 57°56'59" East for a distance of 700.97 feet; thence run South 29°02'24" West for a distance of 515.85 feet to the POINT OF BEGINNING.

Said tract or parcel containing 660,250 square feet or 15.157 Acres, more or less.

EXHIBIT B

[Construction Drawings]

THE CITY OF FLORENCE, ALABAMA

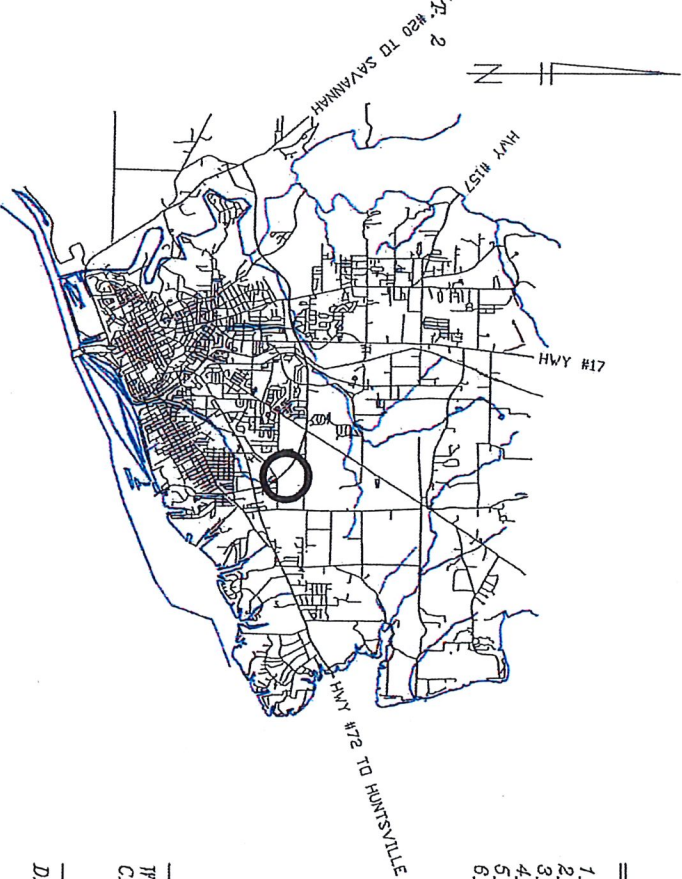
OTARGET & Sam's

PROPOSED PARKING LOT CONNECTION

MAYOR, STEVE HOLT

CITY COUNCIL

KAYTRINA SIMMONS, DIST. 1
DICK JORDAN, PRESIDENT/DIST. 2
DAVID BRADLEY, DIST. 3
MICHELLE EUBANKS, DIST. 4
BLAKE EDWARDS, DIST. 5
ANDY BETTERTON, DIST. 6

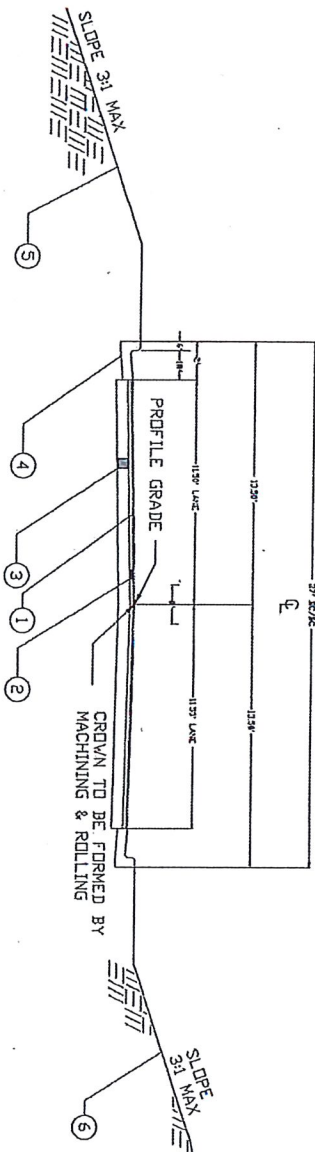


INDEX TO SHEETS

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- 2 PLAN & PROFILE
- 3 TYPICAL SECTION
- 4 TRAFFIC CONTROL PLAN
- 5 LIMITS OF CONSTRUCTION
- 6 NOTES

WILLIAM B. BATSON, III, P.E.
CITY ENGINEER

DATE



TYPICAL SECTION

- ① Required Item 7-A, Bituminous concrete wearing surface (23' wide)
(110 lb/sy) sq. yd. complete in place
- ② Required Item 7-B, Bituminous concrete binder layer (23' wide)
(220 lb/sy) sq. yd. complete in place
- ③ Required Item 5-A, Crushed aggregate base course (section), plant mixed, (7' compacted thickness)
- ④ Required Item 3-A, Curb and gutter (L.F.)
- ⑤ Required Item 1-C, Topsoil (cu. yd.) (Approx. 4" thick loose)
- ⑥ Required Item 1-A, Unclassified excavation (cu. yd.)

CITY OF FLORENCE, AL.		Sheet
ENGINEERING DEPARTMENT		3
OTARGET & SAMS		4
PROP. PAVING LOT CONNECTION		6
TYPICAL SECTION		
DESIGNED BY	SCALE: 1/2" = 1'-0"	
DRAWN BY	DATE: 2017-08-18	
CHECKED BY		

TARGETO

SAM'S CLUB
Loading Dock

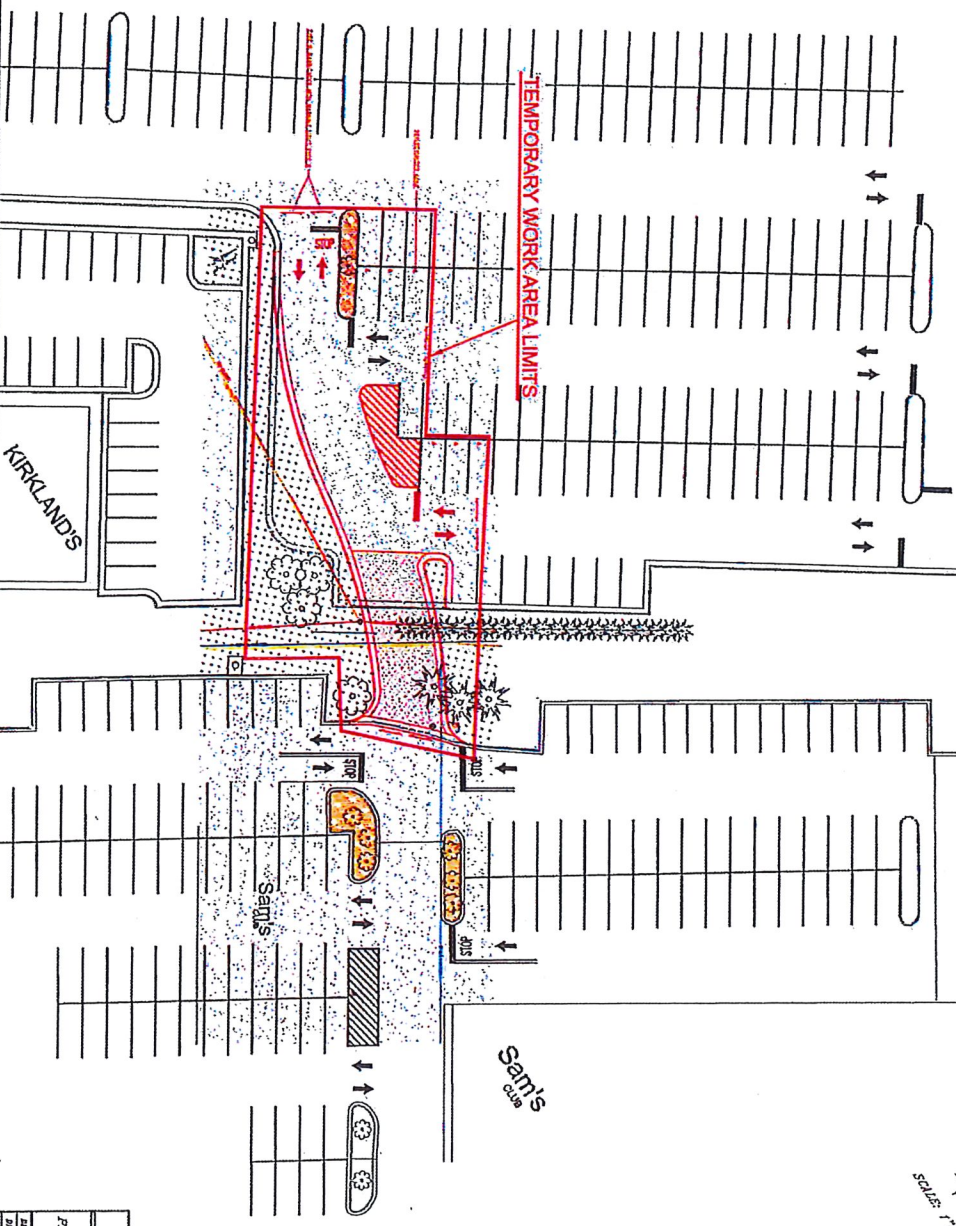
Sam's
club



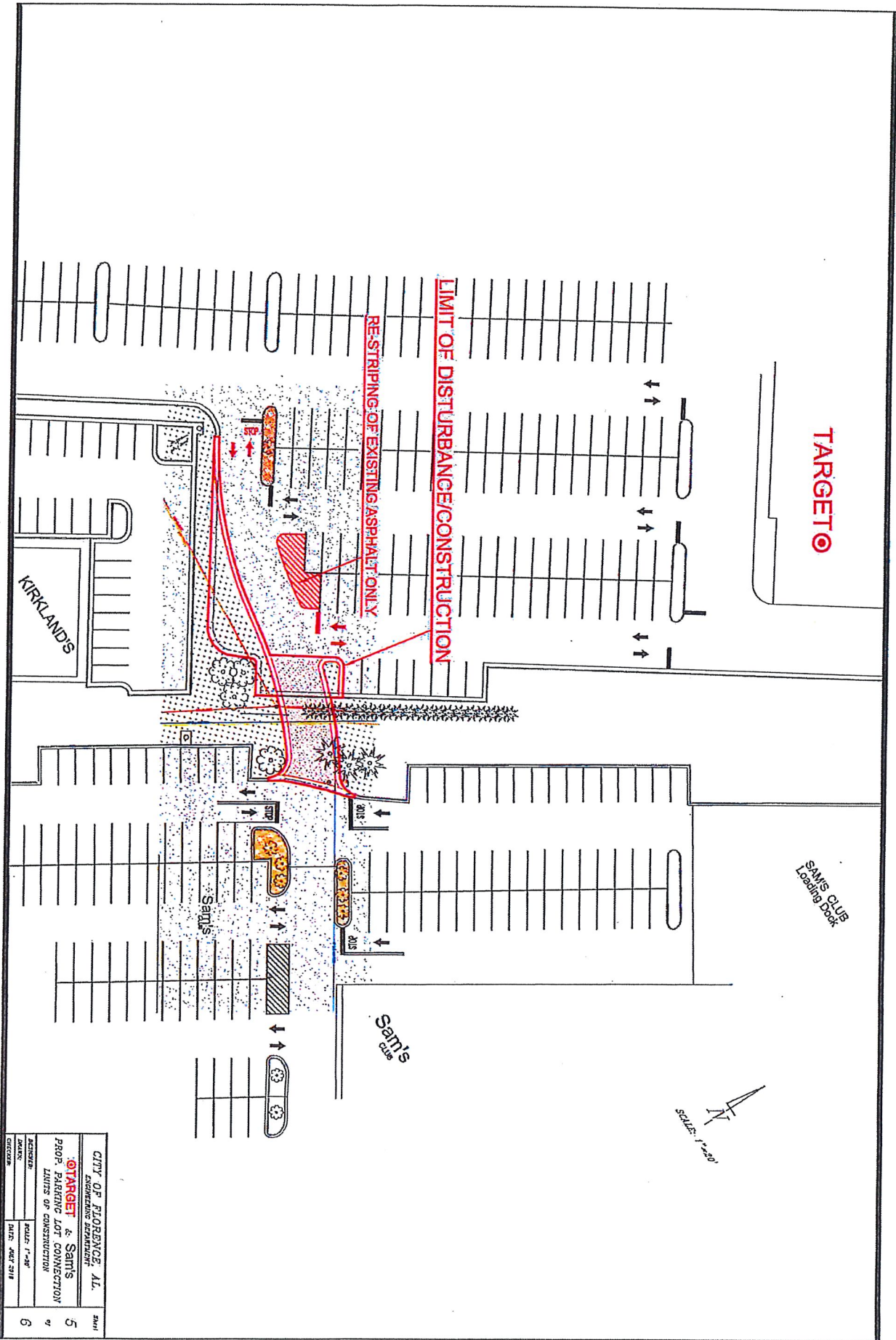
TEMPORARY WORK AREA LIMITS

RED LINE ON CONCRETE SURFACE

REWORK AREA



CITY OF FLORENCE, AL.		Sheet
ENGINEERING DEPARTMENT		
TARGETO & Sam's		4
PROP. PARKING LOT CONNECTION		5
TRAFFIC CONTROL PLAN		6
REVISION	DATE	
1	10/11/14	
2	10/11/14	
3	10/11/14	
4	10/11/14	
5	10/11/14	
6	10/11/14	



CITY OF FLORENCE, AL.	2011
ENGINEERING DEPARTMENT	
TARGETO & Sam's	5
PROP. PARKING LOT CONNECTION	6
LIMITS OF CONSTRUCTION	7
REVISIONS	DATE: 1-28
DATE: 06-27-18	6

CENTERLINE COORDINATES

STATION	EAST	NORTH
0+00	1928111.13	1761224.16
PC 0+10.26	1928119.57	1761218.30
PI 0+55.26	1928156.53	1761192.63
PT 0+98.64	1928201.05	1761186.19
PC 1+02.98	1928205.34	1761185.57
PI 1+52.98	1928254.83	1761178.41
PT 2+01.39	1928296.66	1761151.02
2+99.78	1928378.96	1761097.12

LEGEND

	EXISTING PAVEMENT MARKINGS TO REMAIN
	EXISTING PAVEMENT LEGEND TO REMAIN
	EXISTING ARROW TO BE REMOVED
	EXISTING STOP BAR
	PROPOSED PAVEMENT MARKINGS
	PROPOSED PAVEMENT LEGEND
	PROPOSED STOP BAR
	EXISTING OVERHEAD ELECTRIC LINE TO REMAIN IN PLACE
	EXISTING UNDERGROUND ELECTRIC LINE TO REMAIN IN PLACE
	EXISTING 4" PE GAS LINE TO REMAIN IN PLACE
	EXISTING 10" DUCTILE IRON WATER LINE TO REMAIN IN PLACE
	EXISTING 8" DUCTILE IRON WATER LINE TO REMAIN IN PLACE
	EXISTING UNDERGROUND TELEPHONE LINE TO REMAIN IN PLACE
	PROPOSED ASPHALT
	EXISTING AND PROPOSED GRASSED AREAS
	EXISTING LANDSCAPED ISLAND TO REMAIN
	EXISTING CURB AND GUTTER TO REMAIN
	PROPOSED CURB AND GUTTER TO BE REMOVED
	EXISTING AND FINAL SPOT ELEVATION

ELEVATIONS

PT. NO./STA.	EDGE OF PAVEMENT	FLOWLINE OF GUTTER	BACK OF CURB	CENTERLINE
①	64007	64004	64054	N/A
②	64015	64011	64061	N/A
③	64020	64016	64066	N/A
④	64027	64023	64073	N/A
⑤	64040	64036	64086	N/A
⑥/STA.1+27.50	N/A	N/A	N/A	64047
⑦	64055	64059	64109	N/A
⑧	64064	64068	64118	N/A
⑨	64078	64074	64124	N/A
⑩	64086	64082	64132	N/A
STA. 1+40	64059	64055	64105	64059
STA. 1+50	64081	64073	64123	64081
STA. 1+60	64114	64110	64160	64114
STA. 1+70	64158	64154	64204	64158
STA. 1+80	64205	64201	64251	64205
STA. 1+90	64253	64249	64299	64253
⑪	64320	64313	64363	N/A
⑫	64274	64267	N/A	N/A
⑬	64266	64255	N/A	N/A
⑭	64254	64247	64297	N/A

NOTE: THE PROPOSED PAVEMENT BUILDUP WILL MEET OR EXCEED THE EXISTING PAVEMENT BUILDUP.
NOTE: ALL PROPOSED CURB & GUTTER TO MATCH EXISTING CURB & GUTTER.
NOTE: ONLY TREES AND BUSHES WITHIN THE PROPOSED CONNECTION FOOTPRINT WILL BE REMOVED.
NO ADDITIONAL LANDSCAPING WILL BE REQUIRED BY THE CITY.

CITY OF FLORENCE, AL.	Sheet
ENGINEERING DEPARTMENT	
OTARGET & Sams	6
PROP. PARKING LOT CONNECTION	
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