

SOLAR GROUND LEASE

THIS SOLAR GROUND LEASE ("Lease") is entered into as of _____, 2018 (the "Effective Date"), by and between the City of Foley, Alabama, a municipal corporation under the laws of the State of Alabama, as the landlord ("Landlord"), and Alabama Municipal Electric Authority, a public corporation under the laws of the State of Alabama, as the tenant ("Tenant").

WITNESSETH:

WHEREAS, Landlord owns certain land in Baldwin County, Alabama, more specifically described in Exhibit A, attached hereto and incorporated herein by this reference, together with all rights, easements and appurtenances thereunto belonging or appertaining, including all rights, title, and interest possessed by Landlord over the land underlying the publicly dedicated streets lying within the boundaries of the area described in Exhibit A (the "Site"); and

WHEREAS, Tenant desires to use the Site for the purpose of constructing, installing, operating and maintaining a solar photovoltaic power plant (the "Project"); and

WHEREAS, Landlord desires to lease the Site to Tenant and Tenant desires to lease the Site from Landlord pursuant to the terms and conditions contained herein.

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

ARTICLE I. Basic Terms

1.1 Definitions. Initially-capitalized words and phrases in this Lease shall have the meanings set forth in the preamble and in this Lease, unless otherwise required by the context in which they appear.

1.2 Lease. Landlord hereby leases the Site to Tenant, and Tenant hereby leases the Site from Landlord, for the Term, on all the terms and conditions contained in this Lease. It is also hereby agreed as follows:

(a) Landlord hereby agrees to use its commercially reasonable efforts to provide as much advance written notice to Tenant as is reasonably possible of any planned utility outages at the Site.

(b) The parties hereby agree that they shall record or cause to be recorded an executed short form of this Lease within thirty (30) days of the Effective Date, at the sole cost and expense of Tenant.

(c) Tenant shall at all times keep the Site free from accumulations of waste materials. Before completing the installation of the Project, Tenant shall remove from the Site

any rubbish, tools, scaffolding, equipment, and materials and leave the area in a clean, neat, and orderly condition.

(d) During the maintenance and operation of the Project, Tenant shall keep the Site in a clean, neat, and orderly condition.

ARTICLE II. Term and Rent

2.1 Term and Termination. The term of this Lease shall commence on the Effective Date and shall terminate on the 20th anniversary of the Effective Date (the "Expiration Date"), unless otherwise earlier terminated pursuant to terms and provisions contained herein (the "Term"). On the Expiration Date, this Lease shall terminate and Tenant shall surrender the Site and the Project to Landlord in good condition, reasonable wear and tear excepted.

2.2 Rent and Taxes. As compensation for entering into this Lease, Tenant shall pay to Landlord rent (the "Annual Rent"), equal to One Dollar (\$1) per annum. The Annual Rent shall be due and payable in advance on or before the Effective Date and each anniversary thereof during the Term. Tenant shall have the right, but not the obligation, to pay all of the Annual Rent in advance. Tenant shall pay, or cause to be paid, as the same shall respectively become due, all utility or other charges, including "service charges," incurred or imposed for the operation, maintenance, use, occupancy, upkeep, and improvement of the Site. Landlord shall pay, or cause to be paid, as the same shall respectively become due: (i) all taxes, regulatory fees, and governmental charges of any kind whatsoever, including ad valorem taxes, that may at any time be lawfully assessed or levied against or with respect to the Site; and (ii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements which are in respect of the Site or any part thereof.

ARTICLE III. Operation and Maintenance

3.1 Permits. Tenant shall solely be responsible for obtaining any and all necessary permits or other authorizations from any and all governmental authorities in order to design, construct, install and operate the Project during the Term of this Lease.

3.2 No Cost to Landlord. Tenant hereby agrees that all work incident to the design, construction, installation, operation, maintenance, repair, replacement, upgrade, or other use of the Project on the Site shall be performed by the Tenant, its employees, officers, directors, independent contractors, subcontractors, or any other agent without cost or expense to the Landlord.

3.3 Maintenance and Repair. Any repair or maintenance of the Project will be completed by and for Tenant, at its sole cost and expense, for Tenant's benefit as legal and beneficial owner of the Project. Tenant hereby agrees that all work performed by it, its employees, officers, directors, independent contractors, subcontractors, or other agents, including without limitation those parties charged with designing, constructing, installing, operating, maintaining, repairing, replacing, upgrading, or otherwise using the Project as contemplated by this Lease shall be performed in accordance with and shall comply in all material respects with

all applicable governmental laws, regulations, and ordinances. Tenant hereby agrees that any design, construction, installation, operation, maintenance, repair, replacement, upgrade, or other use of the Project shall be performed in accordance with the terms and provisions of this Lease and that, except in the case of emergencies, Tenant shall give Landlord prior written notice of any such repair or maintenance.

3.4 Right To Delegate Duties. Tenant shall have the right to delegate responsibility for certain oversight and management activities to one or more independent contractors or subcontractors licensed in the City of Foley and reasonably acceptable to Landlord that will be providing certain services on behalf of Tenant. Tenant shall be responsible for all work performed on the Site and for the delivery, storage, security, and disposition of all materials delivered to the Site during the construction and installation of the Project and during the maintenance, repair, replacement, upgrade, operation, or any other use of the Project during the Term.

3.5 Indemnity and Hold Harmless Provisions.

(a) Tenant. To the fullest extent permitted by law, Tenant shall defend, indemnify and hold harmless the Landlord and Landlord's agents and employees (collectively, the "Landlord Indemnified Party(ies)"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees, resulting from injury to or death of persons, and damage to or loss of property (including without limitation those arising from Hazardous Materials brought onto the Site by Tenant) to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, Tenant or its contractors, agents or employees during the design, construction and installation of the Project as well as during the operation, management and maintenance of the Project for the term of this Lease in connection with this Lease; provided, however, that nothing herein shall require Tenant to indemnify any Landlord Indemnified Party under this Section 3.5(a) to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, any of the Landlord Indemnified Parties.

(b) Landlord. To the fullest extent permitted by law, Landlord shall defend, indemnify and hold harmless the Tenant and Tenant's directors, officers, agents and employees (collectively, the "Tenant Indemnified Party(ies)"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees, resulting from the breach of any representation or warranty set forth in this Lease, and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the acts or omissions of Landlord or its contractors, agents, invitees, members, trespassers or employees in connection with this Lease or such persons' use of or presence upon the Site; provided, however, that nothing herein shall require Landlord to indemnify any Tenant Indemnified Party under this Section 3.5(b) to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, any of the Tenant Indemnified Parties.

(c) Landlord represents and warrants to Tenant that to its actual knowledge, without inquiry, there are no Hazardous Materials present on, in or under the Site in violation of any applicable federal, state or local law or regulation (collectively, "Environmental Laws"). Landlord shall not introduce or use any Hazardous Materials on, in or under the Site in violation of any Environmental Law. If Landlord or Tenant becomes aware of any such Hazardous

Materials, it shall promptly notify the other party of the type and location of such materials in writing. "Hazardous Materials" shall mean any substance or chemical which is a "health hazard" or "physical hazard," including any hazardous or toxic substances, material or waste, regulated or listed pursuant to any federal, state or local environmental law, including without limitation, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act as such Acts have been or are hereafter amended from time to time.

3.6 Insurance Required.

(a) At all times throughout the Term, Tenant shall maintain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums in respect thereto.

(b) Each insurance policy shall be issued by one or more financially responsible insurers with an AM Best rating of A-VIII or better. Without limiting the generality of the foregoing, all insurance policies carried pursuant hereto shall name Tenant and the Landlord as parties insured thereunder as the respective interest of each of such parties may appear. Tenant shall be named as an additional insured under any general liability policy maintained by Landlord with respect to the Site.

(c) Upon learning of any damage or destruction to the Site or the Project, Landlord and Tenant shall promptly give, or cause to be given, written notice of such event to the other party. If the Project is damaged or destroyed to the extent that Tenant determines that the repair or replacement of the Project is not commercially reasonable, then Tenant may remove the Project from the Site and terminate this Lease.

3.7 Liens. Tenant hereby agrees that, other than as a co-grantor with Landlord, it shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialmen's lien), charge, security interest, encumbrance or claim of any nature (collectively referred to as "Liens") on or with respect to Landlord's interest in the Site. If Tenant breaches its obligations under this Section 4.7, it shall (i) promptly cause such Lien to be discharged and released of record without cost to Landlord, and (ii) defend and indemnify Landlord against all costs and expenses (including reasonable attorneys' fees and expenses and reasonable court costs and expenses) incurred in discharging and releasing such Lien.

ARTICLE IV.

Use

4.1 Use. The Site shall be used by Tenant exclusively for constructing, installing, repairing, removing and operating a solar electric generating system, and all uses in connection therewith, and such other uses as landlord may approve, which consent shall not be unreasonably withheld.

4.2 Waste; Nuisance. Tenant shall not commit, and shall not permit any other Person to commit, any waste, damage, disfigurement or injury to the Site. Tenant shall not cause or maintain, and shall not permit any other person to cause or maintain, a nuisance on the Site.

ARTICLE V.
Damage or Destruction; Condemnation

5.1 Condemnation. If all or any part of the Site or the Project shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between Landlord and/or Tenant and those authorized to exercise such right (any such matters being herein referred to as a “Taking”), Landlord and Tenant shall each have the right to participate in any such condemnation proceedings or agreement for the purpose of protecting their rights hereunder and making a claim for their respective damages and expenses as a result of such Taking. Each party so participating shall pay its own expenses therein.

5.2 Termination. If substantially all of the Project is damaged or destroyed by fire or other casualty, or shall be the subject of a Taking, or if substantially all of the Site or the access thereto shall be the subject of a Taking at any time during the Term, Tenant may elect to terminate this Lease upon written notice to the Landlord given within sixty (60) days of the casualty or Taking. For purposes hereof, “substantially all of the Project” shall be deemed to have been damaged or destroyed, or the subject of a taking, if, in Tenant’s reasonable determination, the undamaged or remaining part of the Project or the Site shall be insufficient for the economic and feasible use and operation of the Project at the Site by Tenant.

ARTICLE VI.
Default; Remedies

6.1 Landlord’s Default. Each of the following shall be deemed a default by Landlord:

(a) Failure to perform any act to be performed by Landlord for or to the exclusive benefit of Tenant hereunder and to comply with any provision contained herein with such failure continuing for more than thirty (30) calendar days after written notice of such failure is delivered to Landlord, provided that if a default cannot with due diligence be cured within thirty (30) calendar days from the delivery of notice of said default, then such event shall not constitute a default unless Landlord fails to begin attempting to cure such event within thirty (30) calendar days from the delivery of notice of said default, fails to pursue such cure with reasonable diligence or fails to complete the cure of such event within a reasonable time thereafter, not to exceed ninety (90) calendar days; and

(b) The filing by or against Landlord of a petition under the Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof (unless such petition is dismissed within sixty (60) days of the filing thereof); Landlord being adjudged bankrupt or insolvent in proceedings filed against Landlord thereunder; the making by Landlord of a general assignment for the benefit of creditors; Landlord’s taking the benefit of any insolvency action or law; the appointment of a permanent receiver or trustee in bankruptcy for Landlord or its assets; or the appointment of a temporary receiver for Landlord or its assets if such temporary receivership has not been vacated or set aside within thirty (30) calendar days from the date of such appointment; or the initiation of an arrangement or similar proceedings for the benefit of creditors by or against Landlord.

6.2 Tenant’s Default. Each of the following shall be deemed a default by Tenant:

(a) Failure to pay any sums payable to Landlord by Tenant hereunder as and when due and such default shall continue for a period of thirty (30) calendar days after written notice is delivered to Tenant;

(b) Failure to perform any act to be performed by Tenant hereunder and to comply with any provision, condition, or covenant contained herein with such failure continuing for more than thirty (30) calendar days after written notice of such failure is delivered to Tenant; provided that if a default cannot with due diligence be cured within thirty (30) calendar days from the delivery of notice of said default, then such event shall not constitute a default unless Tenant fails to begin attempting to cure such event within thirty (30) calendar days from the delivery of notice of said default, fails to pursue such cure with reasonable diligence and fails to complete the cure of such event within a reasonable time thereafter; and

(c) The filing by or against Tenant of a petition under the Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof (unless such petition is dismissed within sixty (60) days of the filing thereof); Tenant being adjudged bankrupt or insolvent in proceedings filed against Tenant thereunder; the making by Tenant of a general assignment for the benefit of creditors; Tenant's taking the benefit of any insolvency action or law; the appointment of a permanent receiver or trustee in bankruptcy for Tenant or its assets; or the appointment of a temporary receiver for Tenant or its assets if such temporary receivership has not been vacated or set aside within thirty (30) calendar days from the date of such appointment; or the initiation of an arrangement or similar proceedings for the benefit of creditors by or against Tenant.

6.3 Remedies. Upon the occurrence of any default by either party, the non-defaulting party may, in addition to any other remedies available to it at law or in equity, deliver to the defaulting party written notice terminating this Lease.

6.4 No Accord and Satisfaction. Neither the acceptance by the non-defaulting party of a lesser amount than due hereunder, nor any endorsement or statement on a check or an instrument accompanying any payment shall be deemed an accord and satisfaction, and the non-defaulting party may accept any such check or payment without prejudicing its right to recover all outstanding amounts due under this Lease and to pursue all remedies available to it at law or in equity.

6.5 Performance. The failure of a party hereto to insist in any one or more instances upon strict performance of any of the terms, covenants or conditions of this Lease shall not be construed as a waiver or relinquishment of the party's right to the future performance of any such terms, covenants, or conditions and all obligations with respect to such future performance shall continue in full force and effect.

ARTICLE VII.

General Provisions

7.1 Interpretation. When the context requires, any gender includes all others, the singular number includes the plural, and vice-versa. Captions are inserted for convenience of reference and do not describe or limit the scope or intent of this Lease. Any recitals above, and any exhibits or schedules referred to and/or attached hereto, are incorporated by reference into

this Lease. “Including” means including, without limitation. If any provision of this Lease is held by a court to be invalid or unenforceable, the other provisions shall remain in effect. No inference or presumption shall be drawn if a party or its attorney prepared and/or drafted this Lease; it shall be conclusively presumed that the parties participated equally in its preparation and/or drafting.

7.2 Notices. Any and all notices, demands, requests, submissions, approvals, consents, or other communications or documents required to be given, delivered or served or which may be given, delivered or served under or by the terms and provisions of this Lease or pursuant to law or otherwise, shall be in writing. All notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by certified or regular U.S. mail, postage prepaid, in which case notice shall be deemed delivered five (5) business days after deposit in such mails, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery. All notices shall be addressed, if to the Tenant, to Tenant at:

Alabama Municipal Electric Authority
80 TechnaCenter Drive, Suite 200
Montgomery, Alabama 36117
Attn: President and Chief Executive Officer

or to such other address as Tenant may from time to time designate by written notice to Landlord, or if to Landlord, addressed to Landlord at:

City of Foley, Alabama
407 East Laurel Avenue
P.O. Box 1750
Foley, Alabama 36535
Attn: _____

or to such address as may be designated by Landlord from time to time

7.3 Holdover. If Tenant, with Landlord’s consent, remains in possession of the Site or any part of it after the expiration of the Term, such occupancy shall be a tenancy from month-to-month subject to all provisions of this Lease pertaining to Tenant’s obligations. If Tenant fails to surrender the Site on expiration of this Lease despite Landlord’s demand to do so, Tenant shall indemnify, defend (by counsel acceptable to Landlord) and hold Landlord harmless from all loss or liability, including any claims made by any succeeding lessee, based on or resulting from Tenant’s failure to surrender the Site, and Landlord shall be entitled to the benefit of all laws respecting summary recovery of possession.

7.4 Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

7.5 Attorneys’ Fees. In the event either Landlord or Tenant brings any suit or other proceeding with respect to the subject matter or enforcement of this Lease, the prevailing party (as determined by the court, agency or other authority before which such suit or proceeding is

commenced) shall, in addition to such other relief as may be awarded, be entitled to recover attorneys' fees, expenses and costs of investigation as actually incurred (including, without limitation, court costs, expert witness fees, costs and expenses of investigation, and all reasonable attorneys' fees, costs and expenses in any such suit or proceeding).

7.6 Landlord's Access. Landlord and its agents shall have the right to enter the Site for any purpose only during normal business hours, accompanied by an authorized representative of Tenant, and upon at least 48 hours advance notice, except in the event of an emergency for which Landlord shall provide as much advance notice, if any, as is reasonable, considering the circumstances. In connection with any such entry, Landlord, and any party entering with Landlord, shall comply with all safety and confidentiality requirements of Tenant.

7.7 Merger. If both Landlord's and Tenant's estates in the Site have both become vested in the same owner, this Lease shall nevertheless not be terminated by application of a doctrine of merger unless agreed in writing by Landlord and Tenant, and any and all Mortgagees.

7.8 Governing Law; Forum. This Lease shall be construed under the domestic laws of the State of Alabama without giving effect to any choice or conflict of law rule that would cause application of the laws of any jurisdiction other than that set forth in this Section 10.8. Each party hereto irrevocably agrees that any legal action, suit or proceeding brought by it in any way arising out of this Lease must be brought solely and exclusively in the Alabama state court nearest to the Site.

7.9 Quiet Possession. On Tenant's paying all Annual Rent and observing and performing all the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Site free from any interference by any party claiming by, through or under Landlord during the entire Term hereof, subject to all provisions of this Lease.

7.10 Entire Agreement. This Lease, together with all exhibits hereto, contains the entire understanding of the undersigned with respect to the transactions contemplated hereby and supersedes all prior understandings relating to the subject matter hereof.

7.11 Execution and Counterparts. The parties have signed below voluntarily after having been advised by their counsel of all provisions hereof, and, in signing below, they are not relying on any inducements, promises and representations made by or on behalf of the other except as contained in this Lease. This Lease may be executed in counterparts, each of which shall be deemed an original. An executed counterpart of this Lease transmitted by fax shall be equally as effective as a manually executed counterpart. Each party shall take all reasonable steps, and execute, acknowledge and deliver all further instruments necessary or expedient to implement this Lease.

7.12 Survival of Obligations. The indemnity obligations of the parties set forth herein shall survive the expiration or earlier termination of this Lease.

7.13 Modifications. This Lease cannot be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless

such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is or may be sought.

7.14 No Third Party Beneficiary. The provisions of this Lease are and will be for the benefit of Landlord and Tenant only and are not for the benefit of any third person, and, accordingly, no third person shall have the right to enforce the provisions of this Lease.

7.15 No Joint Venture. This Lease shall not in any manner be construed as creating a joint venture or partnership, and each party shall be solely responsible for all actions it takes and expenses it incurs in carrying out its obligations under this Lease.

7.16 Unavoidable Delays. Neither party hereto will be liable to the other for default or delay in the performance of any of its obligations hereunder, except as to the obligations imposed by this Lease for the payment of Annual Rent.

7.17 Amendments and Addenda. This Lease may not be amended, altered, modified, or superseded and no addenda may be executed relating to this Lease except by an agreement in writing executed by both parties hereto.

[Signatures appear on the following page.]

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

LANDLORD:

CITY OF FOLEY, ALABAMA

By: _____
Name: John Konair
Title: Mayor

TENANT:

ALABAMA MUNICIPAL ELECTRIC
AUTHORITY

By: _____
Name: Fred D. Clark, Jr.
Title: President and Chief Executive Officer

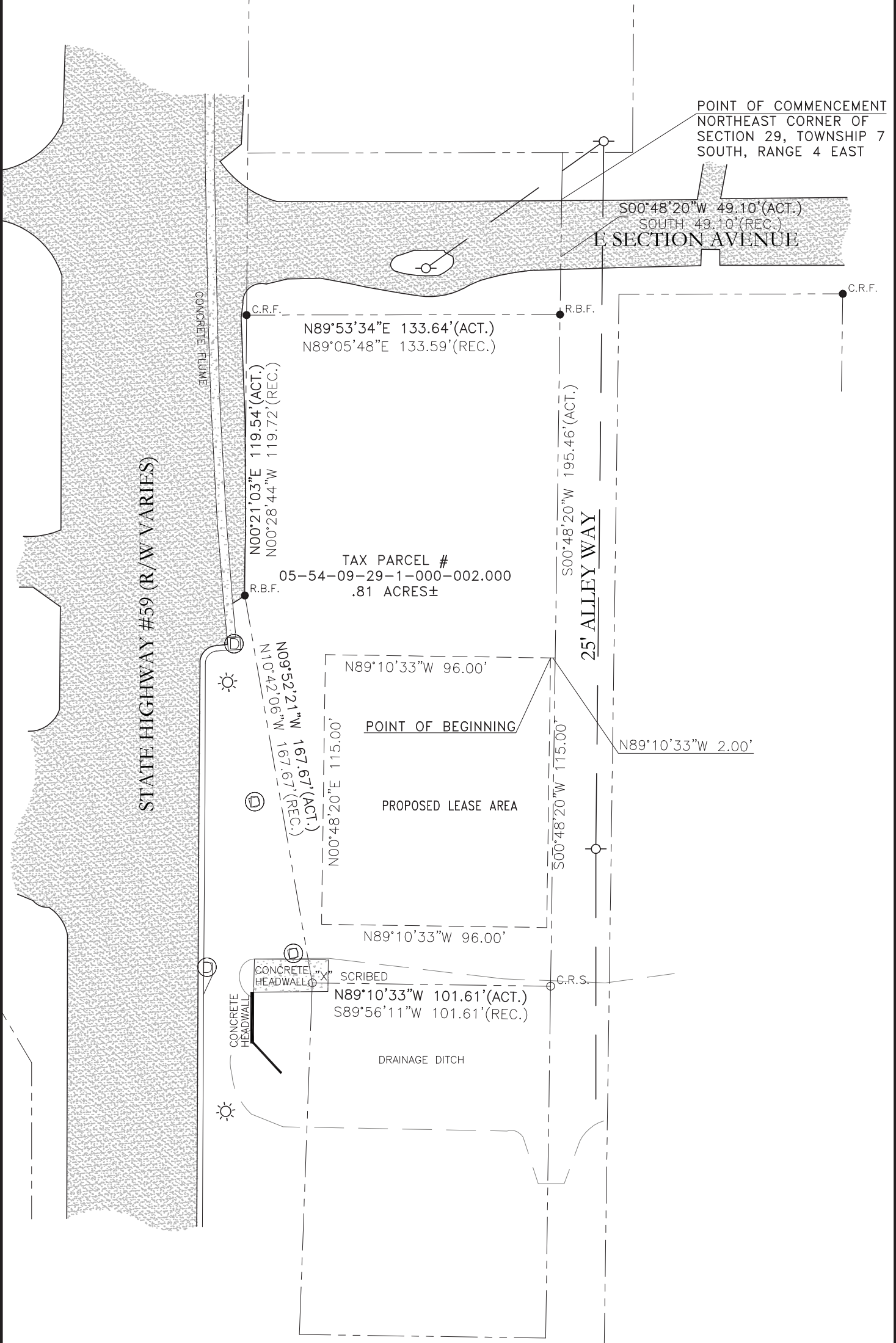
EXHIBIT A

DESCRIPTION OF THE SITE

LEASE DESCRIPTION

COMMENCING AT THE NORTHEAST CORNER OF SECTION 29, TOWNSHIP 7 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN S-00°48'20"-W, ALONG THE WEST LINE OF A 25 FOOT ALLEY WAY, 195.46 FEET TO A POINT; THENCE RUN N-89°10'33"-W, LEAVING SAID WEST LINE, 2.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S-00°48'20"-W, 115.00 FEET TO A POINT; THENCE RUN N-89°10'33"-W, 96.00 FEET TO A POINT; THENCE RUN N-00°48'20"-E, 115.00 FEET TO A POINT; THENCE RUN S-89°10'33"-E, 96.00 FEET TO THE POINT OF BEGINNING. LYING IN AND BEING A PORTION OF TAX PARCEL # 05-54-09-29-1-000-002.000.

NUMBER:	REVISION:	DATE:



 Sawgrass CONSULTING, LLC ENGINEERING - SURVEYING - CONSTRUCTION MANAGEMENT 11143 Old Highway 31 Spanish Fort, AL 36527 818 N. McKenzie Street Foley, AL 36535 Phone: (251) 544-7900 Phone: (251) 970-7900	EXHIBIT "A"	SCALE: 1"=50'
	E SECTION AVENUE, FOLEY, ALABAMA	DATE: JUNE 25, 2018
	RIVIERA UTILITIES	DRAWN BY: QM
		CHECKED BY:
		SHEET: 4 OF 4