

## EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into between and among AMSOUTH BANK, N.A., as Ancillary Trustee for NationsBank of North Carolina, N.A., as Trustee for the Public Employees Retirement System of Ohio (the "Owner"), JOLENE HUDSON, an individual ("Jolene"), DON ROLLINS, an individual ("Rollins"), and DANNY HUDSON, an individual ("Danny").

### RECITALS:

Owner is the owner of certain property situated in Shelby County, Alabama, which is proposed to be subdivided into single family residential lots as the 20th Sector of Brook Highland (the "20th Sector"). The preliminary plat for the 20th Sector was conditionally approved by the Shelby County Planning Commission on December 16, 1991 (Case Number S-41-91), a copy of the most recent version of which is attached hereto as Exhibit "A" (the "Preliminary Plat"). Among the conditions to the approval of the final plat for the 20th Sector is a requirement that Owner provide access to certain property adjoining the 20th Sector which includes individual parcels owned by each of Jolene, Rollins and Danny. The property owned by Jolene is more particularly described on Exhibit "B" hereto (the "Jolene Property"); the property owned by Rollins is more particularly described on Exhibit "C" hereto (the "Rollins Property"); and the property owned by Danny is more particularly described on Exhibit "D" hereto (the "Danny Property"). The Jolene Property, the Rollins Property and the Danny Property are sometimes collectively referred to herein as the "Adjoining Property."

Owner desires to grant an easement for ingress and egress between the Adjoining Property and the infrastructure constructed or to be constructed in the 20th Sector. Jolene, Rollins and Danny desire to accept the access to the Adjoining Property through the easement herein granted in lieu of the access currently provided by the unnamed county road that connects the 20th Sector to Cahaba Beach Road. The parties desire to enter into this Easement Agreement to reflect the terms and conditions for the provisions of such access.

### AGREEMENT

NOW, THEREFORE, THESE PREMISES CONSIDERED and in consideration of Ten and no/100 Dollars (\$10.00), the parties do hereby agree as follows:

10149632

09/28/1994-29498  
11:55 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
008 MCD 28.00

CLAYTON I. SWEENEY, ATTORNEY AT LAW

Inst # 1994-29498

1. (a) Owner hereby gives, grants and conveys to Jolene, Rollins and Danny, and their respective successors and assigns, the following:

(i) A non-exclusive easement for the passage of motor vehicles and pedestrians over and across a strip of land having a width of sixty feet situated on Lot 2029 according to the Preliminary Plat and lying between Street A and the boundary with the Adjoining Property. The exact location of said sixty foot easement (the "Easement") shall be reflected on the final plat for the 20th Sector as and when the same shall be finally approved by the Shelby County Commission and recorded with the Office of the Judge of Probate of Shelby County, Alabama.

(ii) A non-exclusive easement, over, across and under the Easement for the installation, maintenance, repair and replacement of utilities that benefit the Adjoining Property, including without limitation, water, sanitary sewer, electric, gas and telephone; provided that all transmission, distribution and other lines and pipes shall be placed underground; the owners of the Adjoining Property shall pay all costs of installation, repair and replacement of any such lines and pipes installed for benefit of all or any part of the Adjoining Property shall, at their expense, repair and replace all damage to the Easement caused in connection with the installation, maintenance, repair, replacement or improvement of the utilities by the owners of the Adjoining Property.

(b) The easement herein granted shall be for the benefit of the Adjoining Property for the use and enjoyment of the owners of the Adjoining Property and their respective lessees, sublessees, licensees, contractors, subcontractors, agents, employees and other invitees.

(c) The owners of the Adjoining Property shall have the right to construct a road and to install lines and pipes for utilities on and under the Easement subject to the following conditions:

(i) Prior to construction of the road and/or the installation of utilities, Owner shall have either reflected the location of the Easement on the recorded plat for the 20th Sector or amended the Preliminary Plat to reflect the location of the Easement; and

(ii) The road shall be constructed in accordance with the requirements for dedicated roads in Shelby County, Alabama; and



(iii) The owners of the Adjoining Property shall be responsible for the cost of constructing the road and installing the utilities as herein contemplated.

(d) The owners of the Adjoining Property shall cooperate with Owner in connection with its petition to vacate the portion of the unnamed county road that underlies the 20th Sector. Each of Jolene, Rollins and Danny hereby consent to the vacation of said portion of the county road for themselves and for their successors and assigns with respect to the Adjoining Property.

2. (a) Owner hereby agrees that Jolene shall have the right to construct a roadway to extend Street B as reflected in the Preliminary Plat ("Street B Extension") to the boundary of the Jolene Property; provided that the construction of said roadway shall be subject to the following conditions:

(i) The road shall be constructed within the location provided for the extension of Street B in accordance with the Land Use Plan for Brook Highland as approved by the Shelby County Planning Commission on March 16, 1987; and

(ii) The Street B Extension shall be constructed, at the expense of Jolene, in accordance with the requirements for dedicated roads in Shelby County, Alabama; and

(iii) Upon its construction, the Street B Extension shall be submitted to Shelby County for dedication as a public road.

(b) In the event that the Street B Extension is constructed and Owner develops the property abutting the Street B Extension into single family residential lots in accordance with the Land Use Plan, Owner agrees that the Jolene Property may, at the election of Jolene, be subdivided into single family lots whose infrastructure connects into the Street B Extension; provided that said lots shall be made subject to the Declaration of Protective Covenants of Brook Highland, a Residential Subdivision, as recorded in Book 194, page 254 in the Probate Office of Shelby County, Alabama, as the same may have been and may be amended.

3. Each of Jolene, Rollins and Danny understand and agree that the access from the Adjoining Property to the 20th Sector through the Easement under paragraph 1 above and the Street B Extension under paragraph 2 above shall be for the exclusive benefit of the Adjoining Property and that no property other than the Adjoining Property shall have access to the 20th Sector and/or the Street B Extension through the infrastructure constructed or to be constructed on the Adjoining Property. The parties acknowledge and agree that such exclusivity of access is of value to all parties and that money damages cannot adequately compensate

Owner for any damage caused by providing additional property access to the 20th Sector and/or the Street B Extension through the Adjoining Property. Therefore, in the event that any of Jolene, Rollins or Danny shall breach the provisions of this paragraph 3, Owner shall be entitled to injunctive relief.

4. No covenant, condition or restriction set forth in this Easement Agreement is intended to be, or shall be construed as, a condition subsequent or as creating the possibility of reverter.

5. The covenants and agreements herein contained shall be covenants running with the land and shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

6. The easements, covenants and provisions of this Easement Agreement may be terminated or amended by a written instrument executed by Owner, Jolene, Rollins and Danny; provided that no such termination or amendment shall unreasonably interfere with the use of the Easement or the Street B Extension as herein provided unless agreed to by Owner and the owners of all of the Adjoining Property. Such amendment or termination shall be effective upon filing said instrument in the Office of the Judge of Probate of Shelby County, Alabama.

IN WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be duly executed this 29 day of July, 1992.

AMSOUTH BANK, N.A., AS ANCILLARY  
TRUSTEE FOR NATIONSBANK OF NORTH  
CAROLINA, N.A., AS TRUSTEE FOR  
THE PUBLIC EMPLOYEES RETIREMENT  
SYSTEM OF OHIO

By: [Signature]  
Its: Vice President  
Trust Officer

Jolene Hudson

[Signature]  
Don Rollins

Danny Hudson

STATE OF ALABAMA       )  
JEFFERSON COUNTY       )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that John A. Bastwick, whose name as Vice President & Trust Officer of AmSouth Bank N.A., a national banking association, as Ancillary Trustee for NationsBank of North Carolina, as Trustee for the Public Employees Retirement System of Ohio, is signed to the foregoing Supplemental Declaration of Protective Covenants, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Supplemental Declaration of Protective Covenants, he, as such officer and with full authority, executed the same voluntarily for and as the act of said national banking association acting in its capacity as Ancillary Trustee as aforesaid.

Given under my hand and official seal of office this 29<sup>th</sup> day of July, 1992.

Connie R. Halstead

Notary Public

My Commission Expires: 1/5/95

STATE OF ALABAMA       )  
\_\_\_\_\_ COUNTY       )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Jolene Hudson, whose name is signed to the foregoing Easement Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Easement Agreement, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA       )  
Shelby COUNTY       )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Don Rollins, whose name is signed to the foregoing Easement Agreement, and who is known to me, acknowledged before me on this day that, being informed of the



contents of the above and foregoing Easement Agreement, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office this 2<sup>nd</sup> day of July, 1992.

Sandra J. Benefield  
Notary Public

My Commission Expires: 11/13/95

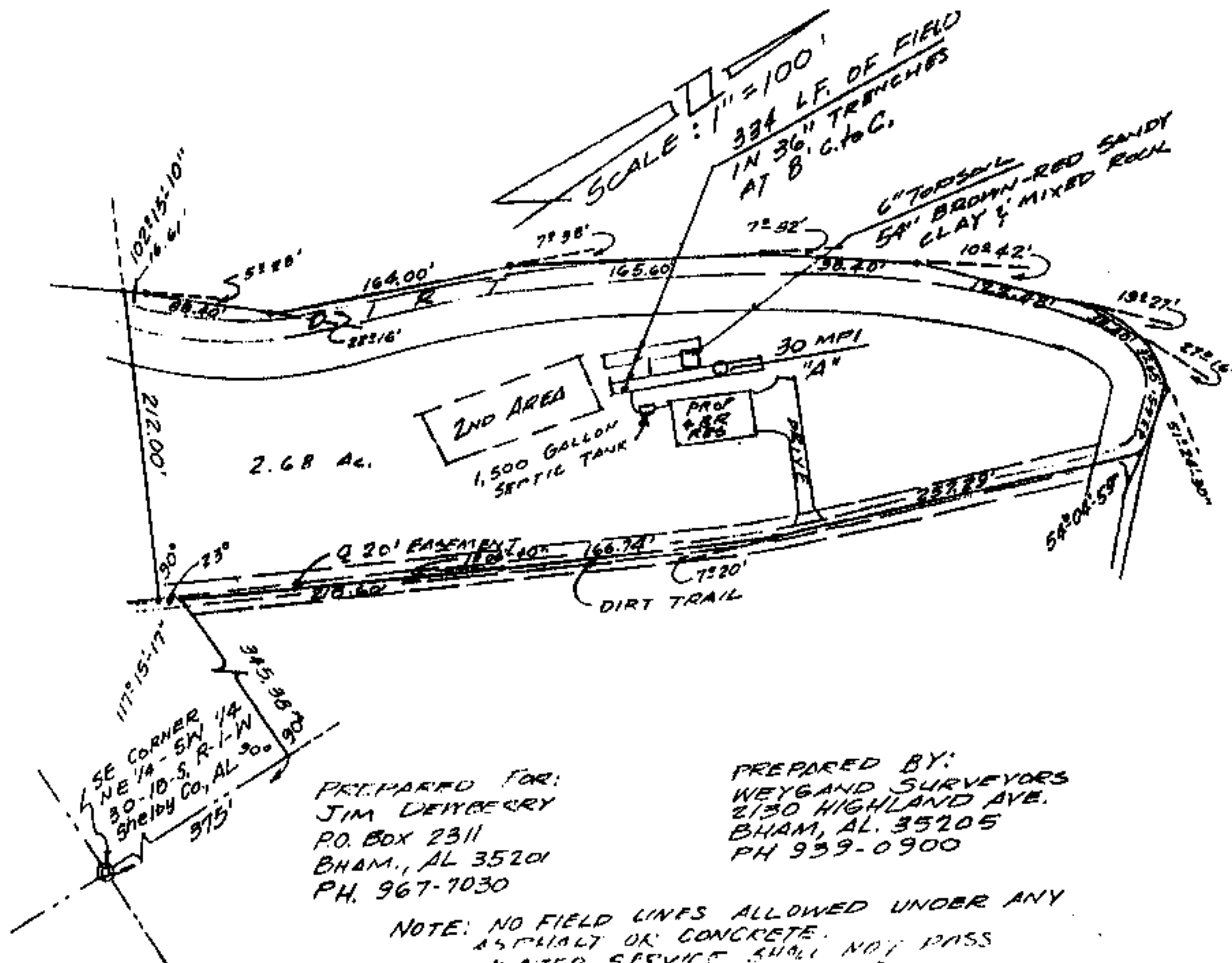
STATE OF ALABAMA     )  
                          COUNTY     )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Danny Hudson, whose name is signed to the foregoing Easement Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Easement Agreement, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



STATE OF ALABAMA)  
JEFFERSON COUNTY)

# DON ROLLIN'S

I, Laurence D. Weygand, Registered Engineer-Land Surveyor, certify that I have surveyed the land shown above; that there are no right-of-way, easements or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, on or over said premises except as shown; that I have consulted the Federal Insurance Administration Flood Hazard Boundary Map and found that this property is not located in a special flood hazard area; that improvements are located as shown above and that the correct description is as follows:

Part of the Northeast  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 30, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:  
From the southeast corner of NE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 30, Township 18 South, Range 1 West, run north along the east line of said  $\frac{1}{4}$ - $\frac{1}{4}$  section for a distance of 375 feet; thence turn an angle to the left of  $90^{\circ}$  and run in a westerly direction for a distance of 345.38 feet to the point of beginning; thence turn an angle to the left of  $62^{\circ}44'43''$  and run in a southwesterly direction for a distance of 23 feet; thence turn an angle to the right of  $90^{\circ}$  and run in a northwesterly direction for a distance of 212.00 feet to the center line of a County Road; thence turn an angle to the right of  $102^{\circ}15'10''$  and run in a northeasterly direction along the center line of said County Road for a distance of 16.61 feet; thence turn an angle to the right of  $5^{\circ}23'$  and run in a northeasterly direction along the centerline of said County Road for a distance of 88.40 feet; thence turn an angle to the left of  $22^{\circ}16'$  and run in a northeasterly direction along the centerline of said County Road for a distance of 164.00 feet; thence turn an angle to the right of  $7^{\circ}38'$  and run in a northeasterly direction along the centerline of said County Road for a distance of 165.60 feet; thence turn an angle to the right of  $7^{\circ}52'$  and run in a northeasterly direction along the centerline of said County Road for a distance of 98.40 feet; thence turn an angle to the right of  $10^{\circ}42'$  and run in a northeasterly direction along the centerline of said County Road for a distance of 122.48 feet; thence turn an angle to the right of  $19^{\circ}27'$  and run in a northeasterly direction along the centerline of said County Road for a distance of 38.40 feet; thence turn an angle to the right of  $27^{\circ}16'$  and run in an easterly direction along the centerline of said County Road for a distance of 37.65 feet; thence turn an angle to the right of  $51^{\circ}24'30''$  and run in a southeasterly direction along the centerline of said County Road for a distance of 43.65 feet; thence turn an angle to the right of  $54^{\circ}04'59''$  and run in a southwesterly direction for a distance of 257.29 feet; thence turn an angle to the right of  $7^{\circ}20'$  and run in a southwesterly direction for a distance of 166.74 feet; thence turn an angle to the left of  $1^{\circ}06'40''$  and run in a southwesterly direction for a distance of 215.60 feet, more or less, to the point of beginning containing 2.68 acres, more or less. Less and except a strip of land being 30 feet wide measured from the centerline of the existing dirt County Road.

Laurence D. Weygand  
Reg. P.E. & L.S. #10173 1994-29498  
PH: 939-0900

09/28/1994-29498  
11:55 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
008 NCD 28.00