

DRAINAGE EASEMENT

THIS DRAINAGE EASEMENT (this "Easement") is made and entered into as of this 8th day of June, 2005, by William E. Peek, Sr. and Jo Ann Peek, husband and wife, ("Grantors") to and for the benefit of Pelham Industrial Enterprises Ten, L.L.C., (together with its successors, assigns, mortgagees, tenants, and permittees, "Grantee").

Shelby County, AL 06/10/2005
State of Alabama

WITNESSETH:

Deed Tax: \$.50

WHEREAS, Grantors are the owners of those certain parcels of land located in the City of Pelham, Alabama, more particularly described in **Exhibit A** hereto ("Grantor's Property");

WHEREAS, Grantee is the owner of a certain parcel of land located in the City of Pelham, Alabama, more particularly described in **Exhibit B** hereto ("Grantee's Property"), which adjoins Grantor's Property to the North;

WHEREAS, Grantors and Grantee, among others, are parties to that certain civil action styled *Baptist Health System, Inc. v. Pelham Industrial Enterprises Ten, Ltd.*, Circuit Court of Shelby County, Alabama, CV-03-339 (the "Litigation");

WHEREAS, the parties to the Litigation have settled the Litigation, and, pursuant to that certain Settlement Agreement and Release (the "Settlement Agreement"), Grantors have agreed to grant to and for the benefit of Grantee nonexclusive, irrevocable, and perpetual easements over, under and across certain portions of the Grantor's Property (the "Easement Area"), as more particularly described in **Exhibit C** hereto, for purposes of using, installing, maintaining, repairing and replacing the drainage facilities, including, without limitation, a drainage ditch, pipes, lines, equipment and detention pond (the "Drainage Facilities") generally as shown on **Exhibit D** hereto;

NOW, THEREFORE, in consideration of the premises recited above and the sum of Ten Dollars (\$10.00) in hand paid by Grantee to Grantors, the receipt and sufficiency of which is hereby acknowledged by Grantors, Grantors hereby agree as follows:

1. **Drainage Easement.** Grantors do hereby grant, bargain, sell and convey unto Grantee a perpetual and non-exclusive easement under, over, through and across the Easement Area for the purposes of permitting the free and unobstructed drainage and flow of storm waters and surface waters collecting or accumulating on or generated from the Grantee's Property, but in no event greater than the volume and velocity such waters currently flow, together with the right, but not the obligation, to operate and maintain within the boundaries of the Easement Area such pipes, lines, storm sewers and other facilities, appliances and equipment which in the judgment of Grantee are necessary, proper or reasonable in connection with Grantee's use of the Easement Area and/or Drainage Facilities.

2. **Maintenance of Drainage Facilities.** Grantor shall keep and maintain the Drainage Facilities in good condition and shall repair and replace the Drainage Facilities as reasonably necessary so as to adequately perform the intended purpose of this Easement in compliance with all applicable laws, ordinances, rules and regulations (the "Maintenance Obligations"). If Grantor shall fail to perform the Maintenance Obligations, Grantee shall have

the right to enter upon the Easement Area and such other portions of the Grantor's Property as may be reasonably necessary and perform the Maintenance Obligations, at Grantors' sole cost and expense, and in such event, Grantee shall not be liable or responsible to Grantor for any losses or damage thereby sustained by Grantor or anyone claiming by, through, or under Grantor, except for Grantee's gross negligence or wanton or willful conduct. Grantee shall be entitled to enforce the terms of this Easement, including, without limitation, the Maintenance Obligations, by any legal and equitable means, including, without limitation, injunctive relief.

3. **Compliance with Laws.** The Maintenance Obligations shall be performed in compliance with all applicable laws, statutes, building codes and regulations of general application (collectively, "Laws"). This Easement shall not abrogate or supersede any applicable Laws requiring the parties to obtain permits, licenses, inspections or approvals in order to construct, maintain, alter, replace, operate or repair the Drainage Facilities.

4. **Grantors' Use.** Grantors reserve the right to use the Drainage Facilities in any manner not inconsistent with Grantee's use of the Drainage Facilities, and Grantors covenant that their use of the Drainage Facilities shall not unreasonably or materially interfere with Grantee's use of the Drainage Facilities or Grantee's rights under this Easement.

5. **Binding Effect.** This Easement shall be perpetual, shall constitute a covenant running with the land in favor of Grantee's Property, and shall be binding upon and inure to the benefit of Grantors, Grantee and their respective successors and assigns.

6. **Governing Law.** This Easement shall be construed and enforced in accordance with the laws of the State of Alabama.

7. **Entire Agreement.** This Easement and the Exhibits attached hereto constitute the entire agreement and understanding between the parties with respect to the subject matter and supersede all prior agreements and understandings, except the Settlement Agreement, which is hereby incorporated by this reference. The terms and conditions of this Easement shall not be modified or amended except in writing executed by Grantors and Grantee.

8. **Joinder by Mortgagee.** The Grantors' Property is encumbered by a mortgage held by COLONIAL BANK ("Mortgagee"), which has joined in this Agreement for the purpose of consenting to this Easement and subordinating its mortgage to the terms and provisions of this Easement, and the Mortgagee agrees that the terms and provisions of this Easement shall survive and continue upon and after any foreclosure of its mortgage on the Grantor's Property or the acquisition of title to the Grantor's Property by the Mortgagee or another third party.

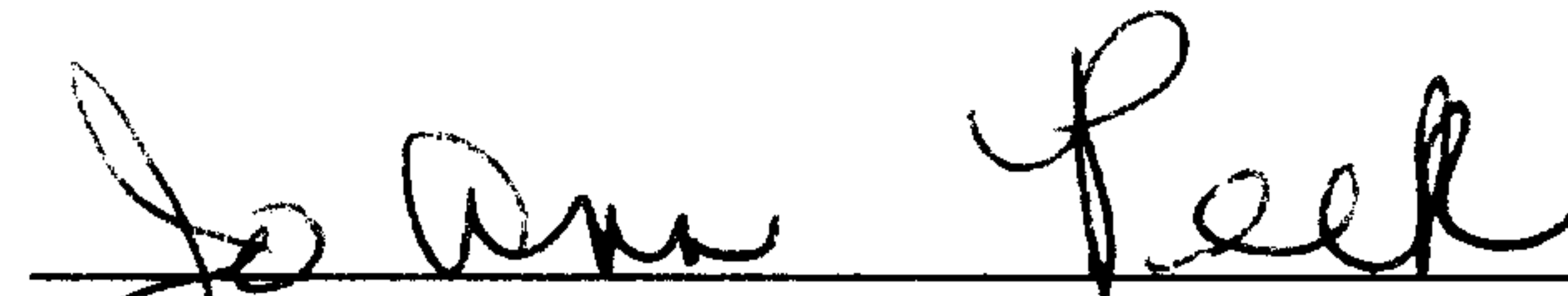
(Signatures appear on following page)

IN WITNESS WHEREOF, Grantors have caused this Easement to be executed as of the date set forth above.

GRANTORS:



WILLIAM E. PEEK, SR.

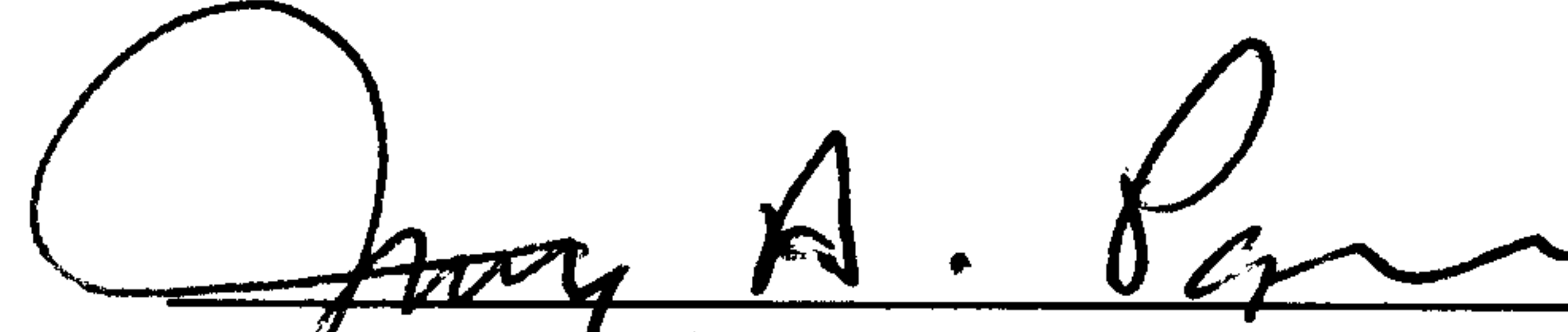


JO ANN PEEK

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public, hereby certify that **WILLIAM E. PEEK, SR.**, whose name is signed to the foregoing **DRAINAGE EASEMENT**, and who is known to me, acknowledged before me on this day that, being informed of the contents of said easement, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 8th day of JUNE, 2005.



Notary Public

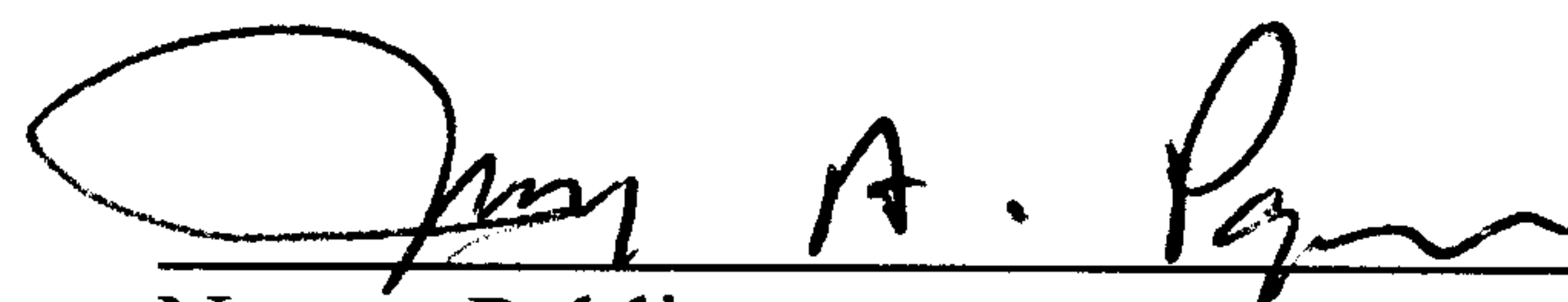
My Commission Expires: 7.15.06

[NOTARIAL SEAL]

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public, hereby certify that **JO ANN PEEK**, whose name is signed to the foregoing **DRAINAGE EASEMENT**, and who is known to me, acknowledged before me on this day that, being informed of the contents of said easement, she executed the same voluntarily on the day the same bears date.

Given under my hand this the 8th day of JUNE, 2005.



Notary Public

My Commission Expires: 7.15.06

[NOTARIAL SEAL]

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Shelby Cnty Judge of Probate, AL
06/10/2005 11:30:52AM FILED/CERT

MORTGAGEE:

COLONIAL BANK

MORTGAGEE

By: *Becky Knowles*
Name: *Becky Knowles - Colonial Bank*
Its: *Sr. V.P.*

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that *Becky Knowles*, whose name as *Sr. Vice President* of *Colonial Bank*, a(n) _____, 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 said instrument, (s)he, in his(her) capacity as such _____ of said _____ and with full authority, executed the same voluntarily for and as the act of said _____ on the day the same bears date.

Given under my hand this the *9th* day of *June*, 2005.

Kristie Kelly
Notary Public
My Commission Expires: *3/15/07*

[NOTARIAL SEAL]

This instrument prepared by:
Jason M. Osborn
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
420 North 20th Street, Suite 1600
Birmingham, Alabama 35203



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Shelby Cnty Judge of Probate, AL
06/10/2005 11:30:52AM FILED/CERT

EXHIBIT A

Grantors' Property

Lot 1-B-1A, Amended Map of Baptist Health System, Inc. Resurvey of Lot 1-B-1, being a resurvey of Lot 1-B-1, Baptist Health System, Inc., Resurvey of Lot 1-B, as recorded in Map Book 30, Page 109

EXHIBIT B

Grantee's Property

DESCRIPTION OF CAHABA VALLEY BUSINESS PARK PHASE 8, SITUATED IN SECTION 31, TOWNSHIP 19 SOUTH, RANGE 2 WEST, SHELBY COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ART OF BLOCK 3 OF CAHABA VALLEY PARK NORTH AS RECORDED IN MAP BOOK 13, PAGE 140, IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF THE N.W. 1/4 OF THE N.E. 1/4 OF SECTION 31, TOWNSHIP 19 SOUTH, RANGE 2 WEST, SHELBY COUNTY, ALABAMA, SAID 1/4 1/4 SECTION CORNER BEING 1,331 .88 FEET, MEASURED (1.331.96 FEET, RECORD) WEST OF THE NORTHEAST CORNER OF SECTION 31, TOWNSHIP 19 SOUTH, RANGE 2 WEST, SAID POINT BEING THE NORTHEAST CORNER OF SAID BLOCK 3 OF CAHABA VALLEY PARK NORTH AND THE NORTHEAST CORNER OF THE SURVEY OF THE ALAGASCO SITE BY JOSEPH A MILLER, JR. DATED 3-2-95, AND THE NORTHWEST CORNER OF THE SURVEY OF THE DRIVERS MART SITE BY JOSEPH A MILLER, JR. DATED 12-18-96; THENCE RUN WEST ALONG THE NORTH LINE OF SAID N.W. 1/4 OF THE N.E. 1/4 OF SAID SECTION 31 AND ALONG THE NORTH LINE OF SAID BLOCK 3 AND THE NORTH LINE OF SAID ALAGASCO SITE FOR 588.83 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF CAHABA VALLEY PARKWAY NORTH, SAID POINT BEING 60.08 FEET EAST OF THE NORTHWEST CORNER OF SAID BLOCK 3; THENCE 92°-39'-22" LEFT AND RUN SOUTHERLY ALONG THE EAST RIGHT OF WAY LINE OF SAID CAHABA VALLEY PARKWAY NORTH AND ALONG THE WEST PROPERTY LINE OF THE ALAGASCO SITE FOR 427.54 FEET TO THE N.W. CORNER OF LOT 5 OF CAHABA VALLEY BUSINESS PARK RESURVEY NO. 2, AS RECORDED IN MAP BOOK 23, PAGE 42, IN THE OFFICE OF THE PROBATE JUDGE OF SHELBY COUNTY, ALABAMA; THENCE CONTINUE SOUTHERLY ALONG THE LAST STATED COURSE, AND ALONG THE EAST RIGHT OF WAY LINE OF SAID CAHABA VALLEY PARKWAY NORTH, AND ALONG THE WEST LINE OF SAID LOT 5 FOR 365.33 FEET TO THE S.W. CORNER OF SAID LOT 5, AND THE N.W. CORNER OF CAHABA VALLEY BUSINESS PARK PHASE 6; THENCE CONTINUE SOUTHERLY ALONG THE LAST STATED COURSE AND ALONG SAID RIGHT OF WAY LINE AND ALONG THE WEST LINE OF SAID PHASE 6 OF CAHABA VALLEY BUSINESS PARK FOR 295.46 FEET TO THE S.W. CORNER OF SAID PHASE 6, SAID POINT ALSO BEING THE N.W. CORNER OF PHASE 7 OF CAHABA VALLEY BUSINESS PARK; THENCE CONTINUE SOUTHERLY ALONG THE LAST STATED COURSE AND ALONG SAID RIGHT OF WAY LINE AND ALONG THE WEST LINE OF SAID PHASE 7 FOR 9.48 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, SAID CURVE SUBTENDING A CENTRAL ANGLE OF 14°-40'-52" AND HAVING A RADIUS 1,359.64 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT OF WAY LINE AND ALONG THE WEST LINE OF SAID PHASE 7 FOR 348 33 FEET TO THE END OF SAID CURVE AND THE S.W. CORNER OF SAID PHASE 7 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THEN FROM TANGENT OF SAID CURVE TURN 89°-09'-26" LEFT AND RUN

NORTHEASTERLY ALONG THE SOUTH LINE OF SAID PHASE 7 FOR 30.55 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, SAID CURVE SUBTENDING A CENTRAL ANGLE OF 07°-51'-56" AND HAVING A RADIUS OF 1,070.97 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG THE SOUTH LINE OF SAID PHASE 7 FOR 147.02 FEET TO THE END OF SAID CURVE; THENCE AT TANGENT TO SAID CURVE RUN NORTHEASTERLY ALONG THE SOUTH LINE OF SAID PHASE 7 FOR 417.85 FEET TO A POINT ON THE SOUTHWEST LINE OF SAID DRIVERS MART SURVEY; THENCE 26°-58'00" RIGHT AND RUN SOUTHEASTERLY ALONG THE SOUTHWEST LINE OF SAID DRIVER'S MART SURVEY FOR 135.90 FEET; THENCE 20°-30'-00" RIGHT AND RUN SOUTHEASTERLY ALONG THE SOUTHWEST LINE OF SAID DRIVERS MART SURVEY FOR 174.53 FEET; THENCE 08°-30'-00" RIGHT AND RUN SOUTHEASTERLY ALONG THE S.W. LINE OF SAID DRIVERS MART SURVEY FOR 37.46 FEET TO A POINT ON THE NORTH LINE OF THE SHELBY MEDICAL CENTER-BAPTIST MEDICAL CENTERS RESURVEY AS RECORDED IN MAP BOOK 18, PAGE 27, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA; THENCE 105°-32'-07" RIGHT AND RUN SOUTHWESTERLY ALONG THE NORTH LINE OF SAID RESURVEY FOR 766.37 FEET TO THE N.W. CORNER OF SAID RESURVEY, SAID POINT BEING ON THE EAST RIGHT OF WAY LINE OF CAHABA VALLEY PARKWAY; THENCE 96°-45'-37" RIGHT TO BECOME TANGENT TO A CURVE TO THE LEFT, SAID CURVE SUBTENDING A CENTRAL ANGLE OF 06°-44'-26" AND HAVING A RADIUS OF 199.44 FEET; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT OF WAY LINE FOR 23.46 FEET TO THE END OF SAID CURVE; THENCE AT TANGENT TO SAID CURVE RUN NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE FOR 214.33 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, SAID CURVE SUBTENDING A CENTRAL ANGLE OF 09°-41'-00" AND HAVING A RADIUS OF 1,359.64 FEET; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG RIGHT OF WAY LINE FOR 229.75 FEET TO THE END OF SAID CURVE AND THE POINT OF BEGINNING. SAID PARCEL CONTAINS 258,426 SQUARE FEET, MORE OR LESS, OR 5.93 ACRES, MORE OR LESS.

EXHIBIT C

Easement Area

A parcel of land being a portion of Lot 1-B-1A, AMENDED MAP – BAPTIST HEALTH SYSTEM, INC. RESURVEY OF LOT 1-B-1, as shown on the map or plat thereof recorded in Map Book 33, Page 18, in the Office of the Judge of Probate, Shelby County, Alabama, said parcel of land being more particularly described by the following metes and bounds description, to wit: Begin at the Northeast corner of said Lot 1-B-1A, said point being witnessed by a 1/2" rebar found in place, run thence along the North boundary line of said Lot, N90°00'00"W (assumed bearing) for a distance of 20.00 feet, to the west line of an existing 20' DRAINAGE EASEMENT, as shown on said map or plat; thence S01°01'41"W along said west line for a distance of 187.03 feet; thence leaving the west line of said drainage easement S46°13'53"W for a distance of 14.75 feet; thence S00°37'37"E for a distance of 337.16 feet, to the intersection with the aforesaid west line of the drainage easement; thence continue along said west line S01°15'52"W along said west line for a distance of 72.06 feet; thence continue along said west line S01°34'58"W for a distance of 64.94 feet, to the south end of said easement; thence along said south end S88°25'02"E to a point on the east boundary line of the aforesaid Lot 1-B-1A; thence along the said east boundary line (also being the east line of said easement) for the following three (3) courses: (1) N01°34'58"E for a distance of 65.00 feet; (2) N01°15'52"E for a distance of 248.25 feet; (3) N01°01'41"E for a distance of 358.74 feet, to the Point of Beginning. Said parcel of land contains 15,310 square feet, more or less.



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Shelby Cnty Judge of Probate, AL
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EXHIBIT D

Drainage Facilities

(See attached)

HARLEY DAVIDSON

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Shelby Cnty Judge of Probate, AL
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DRAINAGE EASEMENT

LEGAL DESCRIPTION & SKETCH

Not A Survey

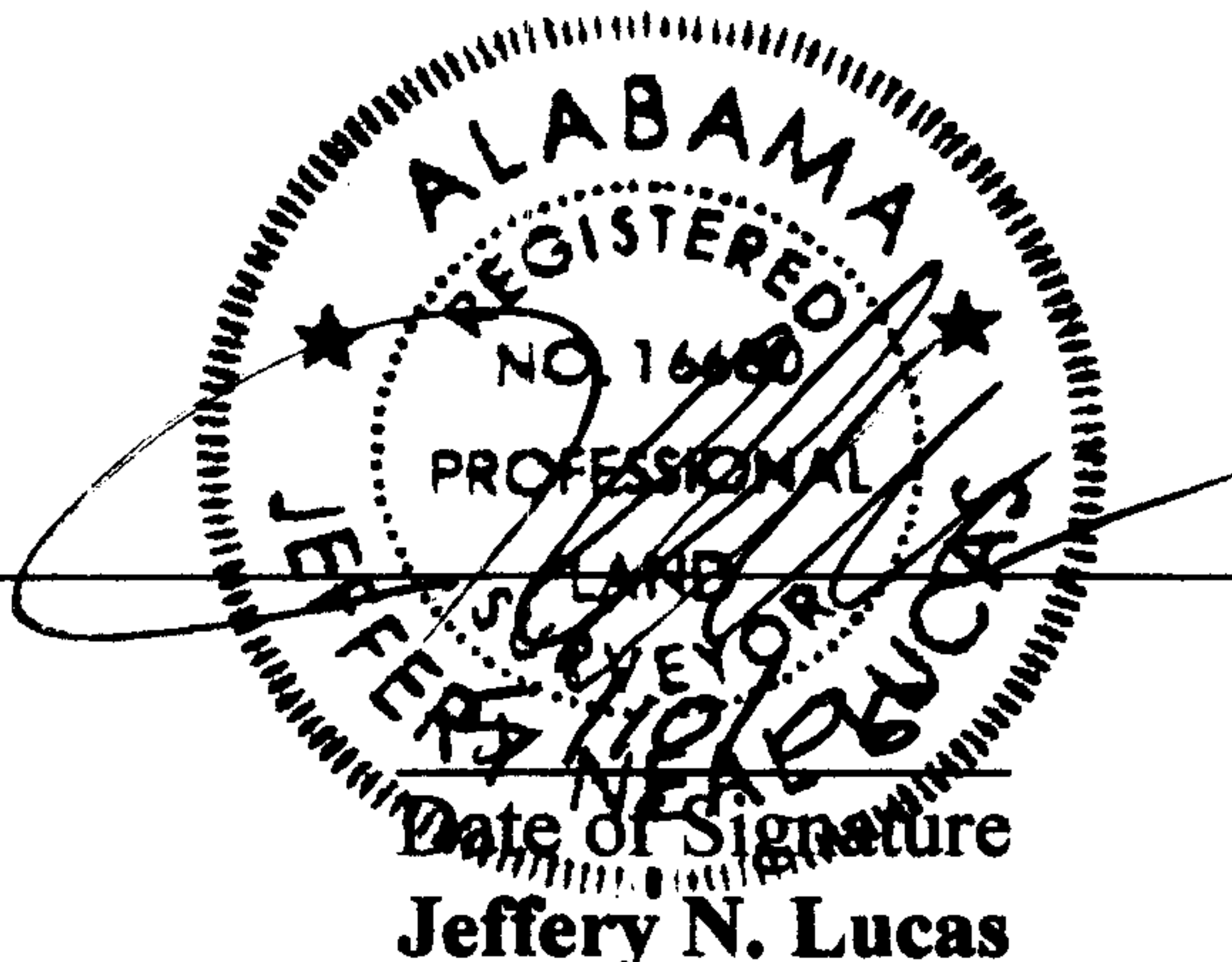
A parcel of land being a portion of Lot 1-B-1A, AMENDED MAP – BAPTIST HEALTH SYSTEM, INC. RESURVEY OF LOT 1-B-1, as shown on the map or plat thereof recorded in Map Book 33, Page 18, in the Office of the Judge of Probate, Shelby County, Alabama, said parcel of land being more particularly described by the following metes and bounds description, to wit: Begin at the Northeast corner of said Lot 1-B-1A, said point being witnessed by a 1/2" rebar found in place, run thence along the North boundary line of said Lot, N90°00'00"W (assumed bearing) for a distance of 20.00 feet, to the west line of an existing 20' DRAINAGE EASEMENT, as shown on said map or plat; thence S01°01'41"W along said west line for a distance of 187.03 feet; thence leaving the west line of said drainage easement S46°13'53"W for a distance of 14.75 feet; thence S00°37'37"E for a distance of 337.16 feet, to the intersection with the aforesaid west line of the drainage easement; thence continue along said west line S01°15'52"W along said west line for a distance of 72.06 feet; thence continue along said west line S01°34'58"W for a distance of 64.94 feet, to the south end of said easement; thence along said south end S88°25'02"E to a point on the east boundary line of the aforesaid Lot 1-B-1A; thence along the said east boundary line (also being the east line of said easement) for the following three (3) courses: (1) N01°34'58"E for a distance of 65.00 feet; (2) N01°15'52"E for a distance of 248.25 feet; (3) N01°01'41"E for a distance of 358.74 feet, to the Point of Beginning. Said parcel of land contains 15,310 square feet, more or less.

SURVEYOR'S NOTES

1. **Type of Drawing** - This is a Legal Description and Sketch to accompany the description. Even though some information on this drawing may have been verified by field measurements, this is **NOT A SURVEY**. The sole purpose of this drawing is to graphically depict the legal description shown hereon.
2. **Bearing Basis** - Bearings are based on the North boundary of Lot 1-B-1A as N90°00'00"W, assumed.
3. **Source of Description** - The legal description shown hereon was prepared by the undersigned land surveyor.
4. **Land Areas** - Acreages shown hereon are based on office calculation or approximations and should not be considered as reliable as field surveyed acreages.
5. **Scaled Data** - Attention is directed to the fact that this drawing may have been reduced or enlarged in size due to reproduction. This should be taken into consideration when obtaining scaled information from this drawing.
6. **Note Valid Without Seal** - *This drawing is not valid without the signature and raised or "red" seal of a licensed land surveyor.*

SURVEYOR'S CERTIFICATE

I hereby certify that all parts of this drawing have been completed in accordance with the current requirements of the *Standards of Practice for Surveying in the State of Alabama* to the best of my knowledge, information, and belief.



Alabama Professional Land Surveyor No. 16680

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SOUTHLAND SURVEYING COMPANY, L.L.C.

(2636 Oakleaf Cir., Bessemer, AL 35022)

Post Office Box 361606

Birmingham, Alabama 35236-1606

Ph: 205-425-5200 Fx: 205-425-5253

OTW: www.JNLucasPLS.com

Client: J.B. TRIMBLE, INC.

Date of Field Survey: N/A

Date of Map Preparation: MAY 10, 2005

Site Address: N/A

Last Revision: N/A

PROJECT NO.: 05-0302

Sheet 1 of 1



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LOT 8 - CAHABA VALLEY BUSINESS PARK

