

**IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA**

**For the Condemnation of a R.O.W.,  
PELHAM 19.5 LIMITED PARTNERSHIP,  
Plaintiff,**

**vs.**

**H. WALKER AND ASSOCIATES, INC.,  
Defendant.**

**Case No. PR-2006-000357**

**DECREE GRANTING CONDEMNATION  
AND APPOINTING COMMISSIONERS**

This cause came on to be heard on the 31<sup>st</sup> day of July, 2006, upon the Complaint of Pelham 19.5 Limited Partnership, to condemn certain lands or interests in lands.

It appearing to the Court that all defendants who are named in the Complaint have had notice of the filing of the Complaint and of the day set for hearing thereof, as provided by law;

Thereupon, the Court proceeded to hear on the 31<sup>st</sup> day of July, 2006, the allegations of the Complaint and responsive pleadings filed by the defendants and all evidence thereon offered by the parties, and upon consideration of the same the Court now determines that the allegations of the Complaint have been established and proven by legal evidence as to every party named therein, and that the Complaint should be granted.

It is, therefore, ORDERED, ADJUDGED and DECREED that the Complaint be and the same is hereby granted as to all parties named therein. And the Court now coming to appoint commissioners to assess the damages and compensation for said thirty (30) foot easement to which the defendants are entitled for the structures, lands or interest in lands sought to be condemned by the plaintiff, and it appearing to the Court that Jim Strickland, Eddy Jowers, and Corley Ellis, are citizens of Shelby County, Alabama, the county in which the structures and lands sought to be condemned are located, and that each of them possesses the qualifications of jurors under the laws of the State of Alabama and is disinterested in the proceeding;

It is, therefore, ORDERED, ADJUDGED and DECREED that Jim Strickland, Eddy Jowers, and Corley Ellis are hereby appointed commissioners to assess the damages and compensation to which the defendants, as owners and parties holding or claiming some interest in the lands described in the Complaint are entitled.

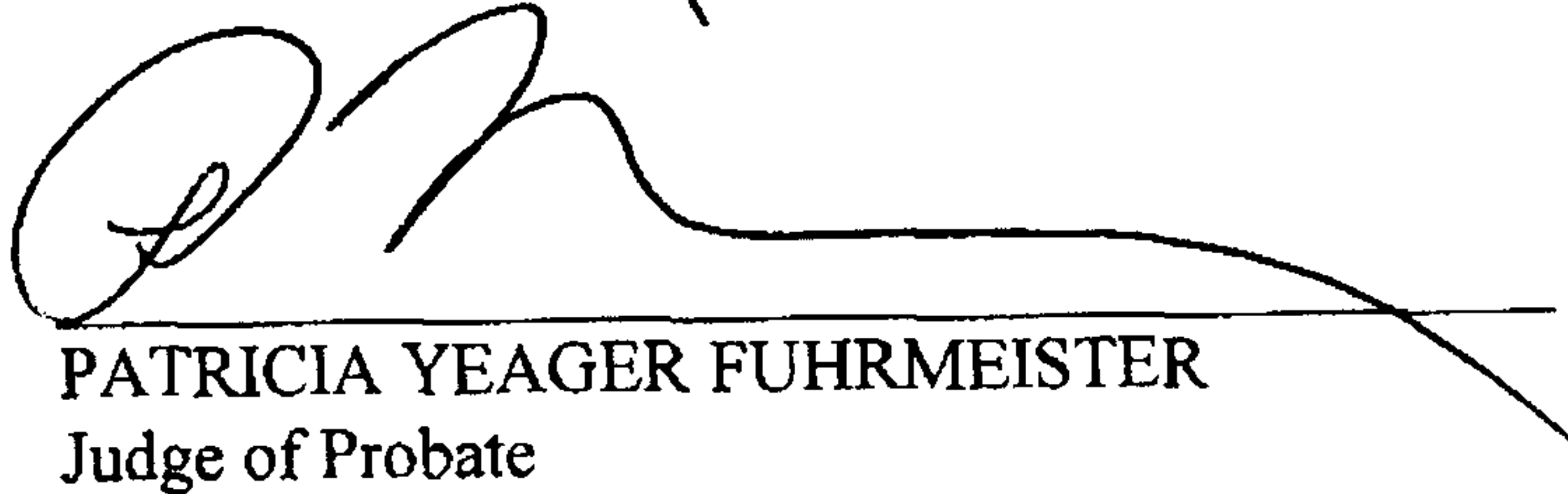
**SEP 25 2006**

PR-2006-000357

Page 2

It is further ordered that notice of the appointment of the commissioners be served upon each of such commissioners and that they report to this Court, in writing, the amount of damages and compensation so ascertained and assessed by them as being due said owners of, or the owners of an interest in, said structures and lands within the time prescribed by law.

DONE and ORDERED this the 25 day of September, 2006.

  
PATRICIA YEAGER FUHRMEISTER  
Judge of Probate

cc: Mike Atchison, Esq.  
Patrick F. Smith

SEP 25 2006

I certify this to be a true and  
correct copy Patricia Yeager Fuhrmeister  
6/15/07 Probate Judge  
Shelby County



I certify this to be a true and correct copy *Patricia Yeager Fuhrmeister* 6/15/07

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Shelby Cnty Judge of Probate, AL  
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PROBATE COURT OF SHELBY COUNTY, ALABAMA

Probate Judge  
Shelby County

IN RE: APPLICATION OF  
Pelham 19.5 Limited Partnership

RECEIVED

JUN 13 2006

Patricia Yeager Fuhrmeister  
Judge of Probate

FOR THE CONDEMNATION OF )  
RIGHT OF WAY )  
Pelham 19.5 Limited Partnership )  
Condemnor )  
vs. )  
H. Walker and Associates, Inc. )  
Condemnees )

Case No.:

PR-2006-000357

### COMPLAINT/APPLICATION FOR ACQUISITION OF RIGHT OF WAY

Comes Pelham 19.5 Limited Partnership and makes application to the Court as follows:

#### I. Parties.

1. Pelham 19.5 Limited Partnership (Condemnor) is a limited partnership, having its address c/o Nice Home Real Estate, P.O. Box 611136, Birmingham, Alabama 35261.

2. H. Walker and Associates, Inc. (Condemnees) is a corporation, having its address at 2172 Highway 31 South, Pelham, Alabama 35124.

#### II. Jurisdiction.

3. This Court has jurisdiction of this action under the provisions of Code of Alabama, Section 18-3-3 (1975).

#### III. Allegations.

4. Condemnor is the owner in fee simple of the following described lands, lying and situated in Shelby County, Alabama, to-wit:

The Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 2, Township 20 South, Range 3 West. LESS AND EXCEPT: Beginning at the Northwest corner of Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$ , Section 2, Township 20 South, Range 3 West, run South along West line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section 661.62 feet; thence turn an angle to the left and run parallel to the North line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section 735 feet; thence turn an angle to the left and run 810 feet, more or less, to a point on the North line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section that is 85 feet West of the Northeast corner of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$ , Section 2, Township 20 South, Range 3 West; thence run Westerly along the North line of the said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section a distance of 1239.06 feet to the point of beginning.

ALSO, LESS AND EXCEPT THE FOLLOWING: Commence at the Southeast corner of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 2, Township 20 South,



Range 3 West, Shelby County, Alabama and run thence Northerly along the East line of said  $\frac{1}{4}$ -  $\frac{1}{4}$  Section a distance of 330.00 feet to the point of beginning of the property being described; thence continue along the last described course a distance of 481.67 feet to a point; thence turn an angle of 107 degrees 15 minutes 00 seconds to the left and run Southwesterly a distance of 630.12 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds to the left and run South-Southeasterly a distance of 460.00 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds to the left and run Northeasterly a distance of 487.29 feet to the point of beginning.

5. Condemnor's Property is not adjacent or contiguous to any public road or highway as contemplated by Code of Alabama, Section 18-3-1, and Condemnor has no reasonable adequate means of access to and from Condemnor's property.

6. Condemnees' H. Walker and Associates, Inc., is the owners in fee simple of the property described in Instrument #1994-08607, in the Probate Office of Shelby County, Alabama, a copy of which is attached hereto, as Exhibit "A".

7. Condemnees' Properties intervene and lie between Condemnor's Property and the public road nearest or most convenient to Condemnor's Property.

8. Attached hereto as Exhibit "E" is a map showing the properties of the Condemnor and Condemnees together with the nearest public road.

9. Attached hereto as Exhibit "F" is a survey showing the proposed easement over the property lying between the termination of Chase Drive as shown on the map and survey of Royal Oaks, Eighth Sector, as recorded in Map Book 24, Page 113, and the Northeast property line of the Condemnor.

10. The Properties of the Condemnor and Condemnees are located within the municipality of Pelham, Alabama.

11. Condemnor has applied to the City of Pelham for approval to proceed with this condemnation action, and a copy of the resolution authorizing said condemnation is attached hereto as Exhibit "G".

12. Condemnor offers to pay Condemnees the value of the land taken and compensation for damage to the land, if any, through which said right of way is sought to be established, resulting from the establishment of such road or right of way.

WHEREFORE, PREMISES CONSIDERED, Condemnor pray that this court will take jurisdiction of this matter; that process will issue in the form and in the manner requested by law and the rules of this court requiring Condemnees to Answer or otherwise respond to this Application; that this Court will set this Application for hearing and upon a final hearing of this matter will order, adjudge, and decree as follows:

A) Declare and determine that Condemnor shall have and may acquire a convenient right of way, not exceeding fifty feet in width, over the lands of Condemnees intervening and lying between Condemnor's Property and the public road or highway nearest or most convenient thereto, and

B) Declare and determine what amount, if any, Condemnor must pay to Condemnees for the value of the land taken and compensation for damage to the land, through which right of way is established, resulting from the establishment of such road right of way.

C) Condemnor prays for such other, further, general, and different relief to which it may be entitled.

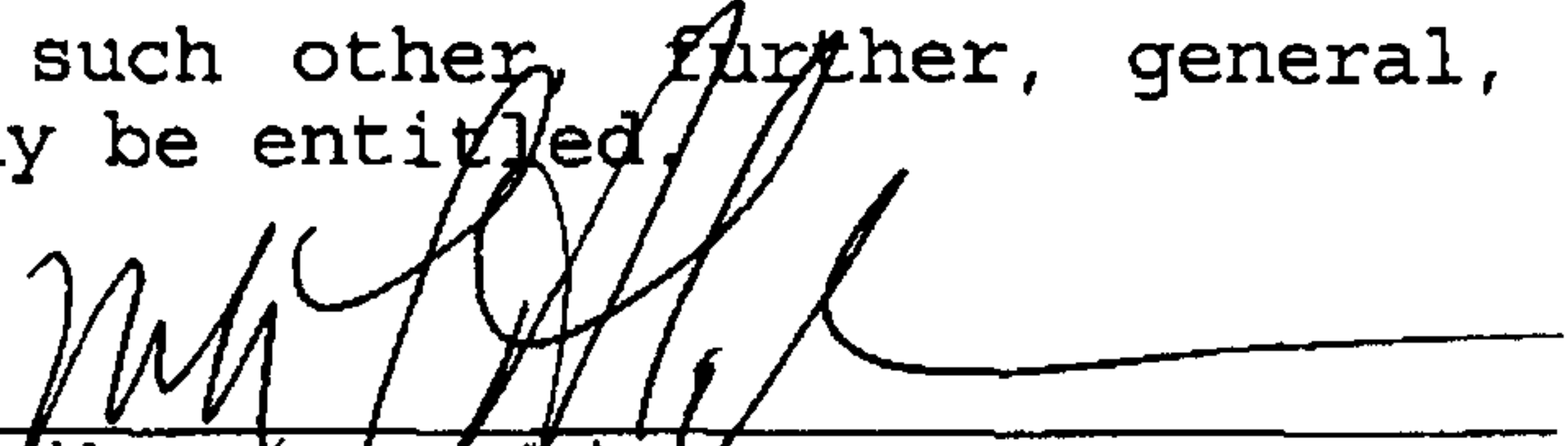
  
Mike T. Atchison,  
Attorney for Condemnor  
P.O. Box 822  
Columbiana, Alabama 35051  
Telephone: (205) 669-9268  
Facsimile: (205) 669-3130



Exhibit "A"



20070621000292290 6/12 \$44.00  
Shelby Cnty Judge of Probate, AL  
06/21/2007 02:39:33PM FILED/CERT

This instrument prepared by:  
Harold R. Walker  
2172 Hwy 31 South  
Pelham, Alabama 35124

Send Tax Notice To:  
H. Walker & Assoc., Inc.  
2172 Hwy 31 South  
Pelham, Ala 35124

# WARRANTY DEED

STATE OF ALABAMA )

COUNTY OF SHELBY )

KNOW ALL MEN BY THESE PRESENTS, That in consideration of Fifty-Nine Thousand and no/100 (\$59,000.00) to the undersigned grantors in hand paid by the GRANTEES herein, the receipt whereof is acknowledged, we THOMAS W. STUBBS, JR., and wife, LAJUANA STUBBS, (herein referred to as grantors) do grant, bargain, sell and convey unto H. WALKER & ASSOCIATES, INC., (herein referred to as GRANTEES), the following described real estate situated in SHELBY COUNTY, Alabama, to-wit:

Commence at the Southeast corner of the SW 1/4 of the NW 1/4 of Section 2, Township 20 South, Range 3 West, Shelby County, Alabama, and run thence Northerly along the East line of said 1/4 - 1/4 Section a distance of 330.00 feet to the point of beginning of the property being described; thence continue along last described course a distance of 481.67 feet to a point; thence turn an angle of 107 deg. 15 min. 00 sec. to the left and run Southwesterly a distance of 630.12 feet to a point; thence turn an angle of 90 deg. 00 min. 00 sec. to the left and run South-Southeasterly a distance of 460.00 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds to the left and run Northeasterly a distance of 487.29 feet to the point of beginning. Situated in Shelby County, Alabama.

TO HAVE AND TO HOLD to the said GRANTEES his, her or their heirs and assigns forever.

And we do for ourselves and for our heirs, executors, and administrators covenant with the said GRANTEES. their heirs and assigns, that we are lawfully seized in fee simple of said

Inst # 1994-08607

03/16/1994-08607  
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SHELBY COUNTY JUDGE OF PROBATE  
003 HJS 15:30

premises; that they are free from all encumbrances, unless otherwise noted above; that we have a good right to sell and convey the same as aforesaid; that we will and our heirs, executors and administrators shall warrant and defend the same to the GRANTEES, their heirs and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF, we have hereunto set our hands and seals  
this 15<sup>th</sup> day of March, 1994.

Thomas W. Stubbs, Jr.  
Thomas W. Stubbs, Jr.

LaJuana Stubbs  
LaJuana Stubbs

Thomas W. Stubbs, Jr.  
Thomas W. Stubbs, Jr., as Attorney  
in Fact for LaJuana Stubbs

Inst # 1994-08607

STATE OF ALABAMA }

COUNTY OF SHELBY }

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Thomas W. Stubbs, Jr., husband of LaJuana Stubbs, whose names is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.





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Shelby Cnty Judge of Probate, AL  
06/21/2007 02:39:33PM FILED/CERT

Given under my hand and official seal this 15th day of  
March, 1994

NOTARY  
PUBLIC

William R. Jester  
Notary Public

My Commission Expires: 9/12/95

Inst # 1994-08607

STATE OF ALABAMA )  
COUNTY OF SHELBY )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Thomas W. Stubbs, Jr., whose name as Attorney in fact for LaJuana Stubbs, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he, as such Attorney in Fact, and with full authority as shown by Power of Attorney recorded in Instrument #1993-23248 in the Probate Office of Shelby County, Alabama, executed the same voluntarily on the day the same bears date, for and as the act of the said LaJuana Stubbs.

Given under my hand and official seal this 15th day of  
March, 1994.


NOTARY  
PUBLIC

William R. Jester  
Notary Public

My Commission Expires: 9/12/95

03/16/1994-08607  
03:35 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
003 MJS 15.50



  
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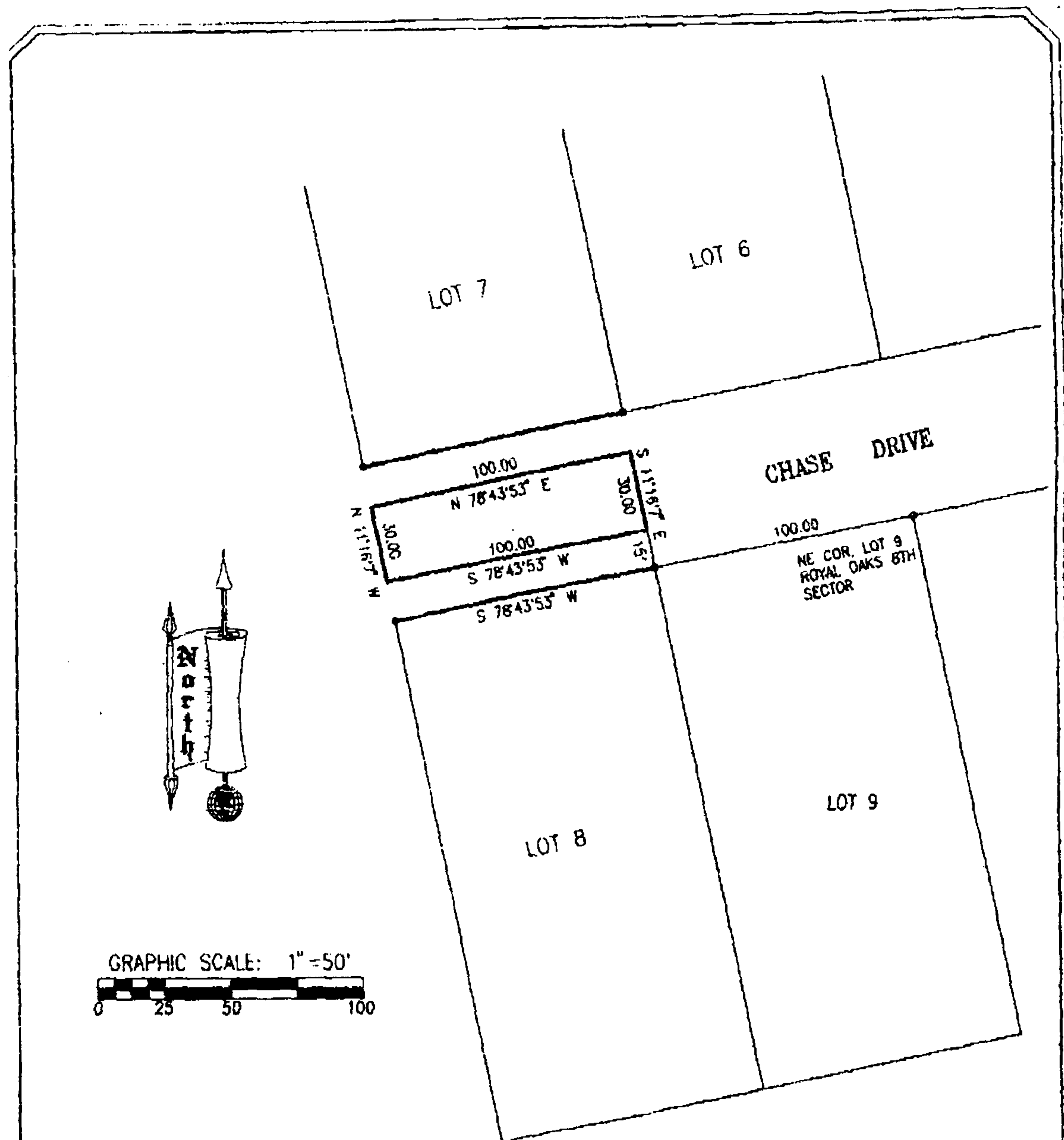
**SEE CASE FILE**

**FOR**

**EXHIBIT "E"**

Exhibit "F"

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Shelby Cnty Judge of Probate, AL  
06/21/2007 02:39:33PM FILED/CERT



### EASEMENT DESCRIPTION

#### PROPERTY DESCRIPTION:

A 30 FOOT EASEMENT, DESCRIBED AS FOLLOWS:

COMMENCE AT THE NE CORNER OF LOT 9, ROYAL OAKS EIGHTH SECTOR AS RECORDED IN MAP BOOK 24, PAGE 113 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA; THENCE S 78°43'53" W FOR 100.00 FEET; THENCE N 11°16'07" W FOR 15.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE LAST DESCRIBED COURSE FOR 30.00 FEET; THENCE S 78°43'53" W FOR 100.00 FEET; THENCE S 11°16'07" E FOR 30.00 FEET; THENCE N 78°43'53" E FOR 100.00 FEET TO THE POINT OF BEGINNING.



**Simmons  
Surveying**

P.O. BOX 895 108 PINSON PLAZA  
PINSUN, ALABAMA 35126  
(205) 681-3678

Copyright 2000

DRAWING NO.:

DRAFTSMAN: THOMAS II

DATE:

NOTE: THIS DRAWING IS FOR INFORMATION PURPOSES ONLY  
AND DOES NOT CONSTITUTE AS AN AUTHENTIC SURVEY IF  
NOT ACCOMPANIED BY SIGNATURE AND RED STAMPED OR  
EMBOSSED REGISTERED LAND SURVEYOR SEAL.



## Resolution

### A Resolution.

Consenting to the commencement of an action under the provisions of Alabama Code Section 18-3-1 (1975) et seq., by Pelham 19.5 Limited Partnership, to acquire a right of way to certain lands located in the City of Pelham, Alabama.

BE IT RESOLVED by the City Council of the City of Pelham, Alabama, as follows:

SECTION ONE: Whenever the words "City", "City Council", or "Governing Body", or any derivative thereof is used in the Resolution, they shall be deemed to refer to the municipal government of the City of Pelham, Alabama, as such municipal government may be referred to in **Alabama Code Section 18-3-1 (1975)**. Whenever the words "Pelham 19.5 Limited Partnership" or any derivative thereof is used herein, they shall be deemed to refer to Pelham 19.5 Limited Partnership, its successors and assigns.

SECTION TWO: The City does hereby consent and approve of the commencement of an action under **Alabama Code 18-3-1, et seq., (1975)**, by Pelham 19.5 Limited Partnership for the acquisition of a right of way between the following described tract of land owned by Pelham 19.5 Limited Partnership and the public road nearest or most convenient thereto:

The Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 2, Township 20 South, Range 3 West.  
LESS AND EXCEPT: Beginning at the Northwest corner of Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$ , Section 2, Township 20 South, Range 3 West, run South along West line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section 661.62 feet; thence turn an angle to the left and run parallel to the North line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section 735 feet; thence turn an angle to the left and run 810 feet, more or less, to a point on the North line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section that is 85 feet West of the Northeast corner of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$ , Section 2, Township 20 South, Range 3 West; thence run Westerly along the North line of the said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section a distance of 1239.06 feet to the point of beginning.

ALSO, LESS AND EXCEPT THE FOLLOWING: Commence at the Southeast corner of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 2, Township 20 South, Range 3 West, Shelby County, Alabama and run thence Northerly along the East line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section a distance of 330.00 feet to the point of beginning of the property being described; thence continue along the last described course a distance of 481.67 feet to a point; thence turn an angle of 107 degrees 15 minutes 00 seconds to the left and run Southwesterly a distance of 630.12 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds to the left and run South-Southeasterly a distance of 460.00 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds to the left and run Northeasterly a distance of 487.29 feet to the point of beginning.

SECTION THREE: The City has organized or appointed a planning commission under the provisions of **Alabama Code Section 11-52-\_\_\_\_\_, et seq., (1975)** and as referred to in **Alabama Code Section 18-3-1 (1975)**.

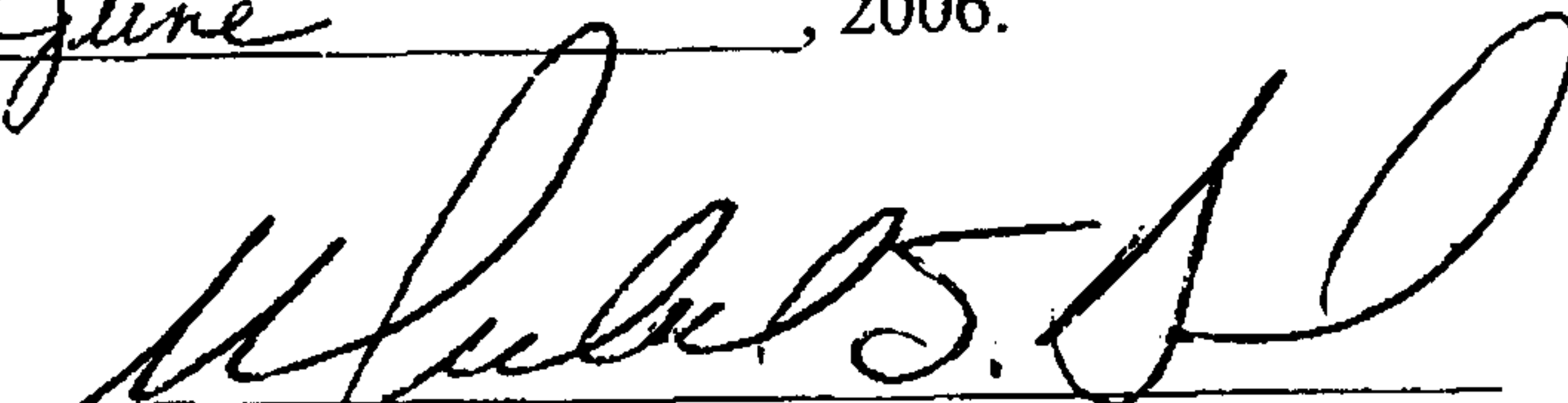


SECTION FOUR: Nothing contained herein shall be construed to be a statement or position as to the acquisition of the right of way referred to herein, and the operation and effect of this Resolution is limited to the mere written approval as required under the provisions of **Alabama Code Section 18-3-1 (1975)**.


SECTION FIVE: If any section, sentence, clause, or phrase of this Resolution is for any reason held illegal, invalid, or unconstitutional, such shall not affect the validity of the entire resolution or any of the remaining portions thereof, which shall remain in full force and effect.

SECTION SIX: This Resolution shall take effect and be in force on and after the earliest date permitted by law, upon and after is enactment and any publication required by law.

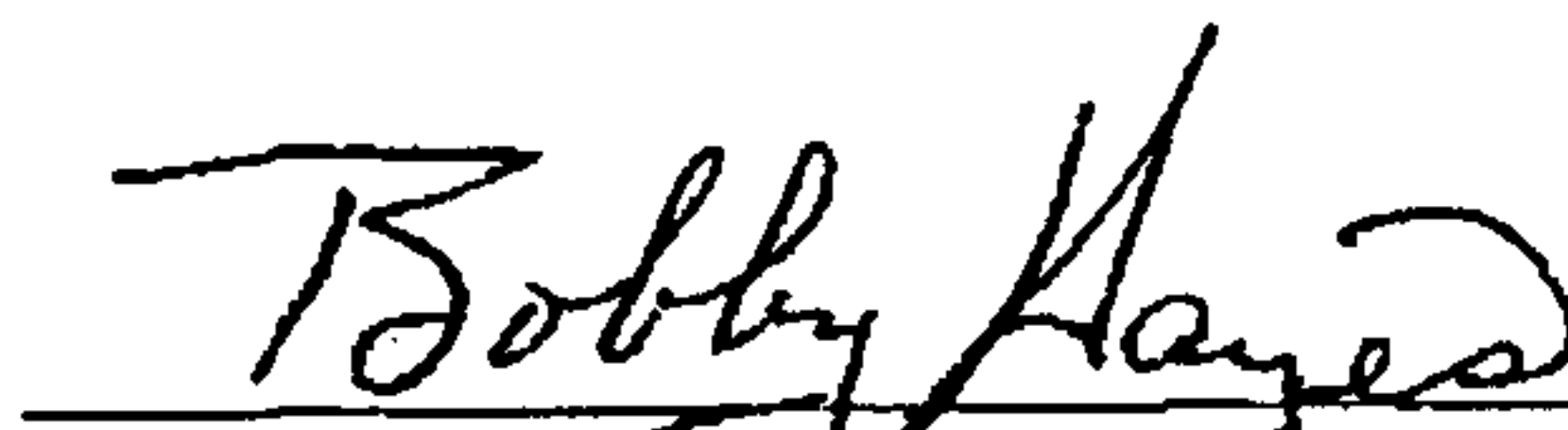
ADOPTED, this the 5<sup>th</sup> day of June, 2006.

  
Mike Dickens, President of the City Council  
Of the City of Pelham, Alabama.

ADOPTED, this the 5<sup>th</sup> day of June, 2006.

  
Odie Amason, President of the Planning  
Commission of the City of Pelham, Alabama.

ADOPTED, this the 5<sup>th</sup> day of June, 2006.

  
Bobby Hayes, Mayor  
Of the City of Pelham, Alabama.

Seal

ATTEST

  
Assistant City Clerk

I, the undersigned qualified clerk of the City of Pelham, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City Council of the City named herein, at a regular meeting of such Council held on the 5th day of June 2006, and that such resolution is on file in the office of the City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this 5th day of June 2006.

  
Assistant City Clerk