

## ORDINANCE NO. 470

### AN ORDINANCE APPROVING THE TRANSFER OF SURPLUS REAL PROPERTY

#### BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELHAM, ALABAMA, AS FOLLOWS:

**Section 1.** It is hereby established and declared that the following described real property of the City of Pelham, Alabama, is no longer needed for public or municipal purposes:

The legal description is attached to this ordinance and made a part hereof as Exhibit A.

**Section 2.** Pursuant to the authority granted by § 11-47-20, Code of Alabama 1975, the mayor is hereby authorized and directed to execute a Real Estate Exchange Contract, a copy of which is attached to this ordinance and made a part hereof, and ultimately a statutory warranty deed conveying said property identified on Exhibit A of this Ordinance in the name of the City of Pelham, Alabama, to the Pelham Board of Education, for and in consideration of the exchange of real property that is identified on Exhibit B of said Contract from the Pelham Board of Education to the City. The execution of the Real Estate Exchange Contract and the statutory warranty deeds that are contemplated by that Contract are contingent upon prior approval of the City Attorney and the Pelham Board of Education.

**Section 3.** This Ordinance shall become effective upon its passage and publication or posting as required by law.

**THEREUPON** Beth McMillan, a council member moved and Maurice Mercer, a council member seconded the motion that Ordinance No. 470 be given vote. The roll call vote on said motion was as follows:

Rick Hayes  
Council President

yes

Ron Scott  
Council Member

yes

Beth McMillan  
Council Member

yes

Maurice Mercer  
Council Member

yes

Karyl Rice  
Council Member

yes

Ordinance No. 470 passed by majority vote of all members of the Council and the Council President declared the same passed.

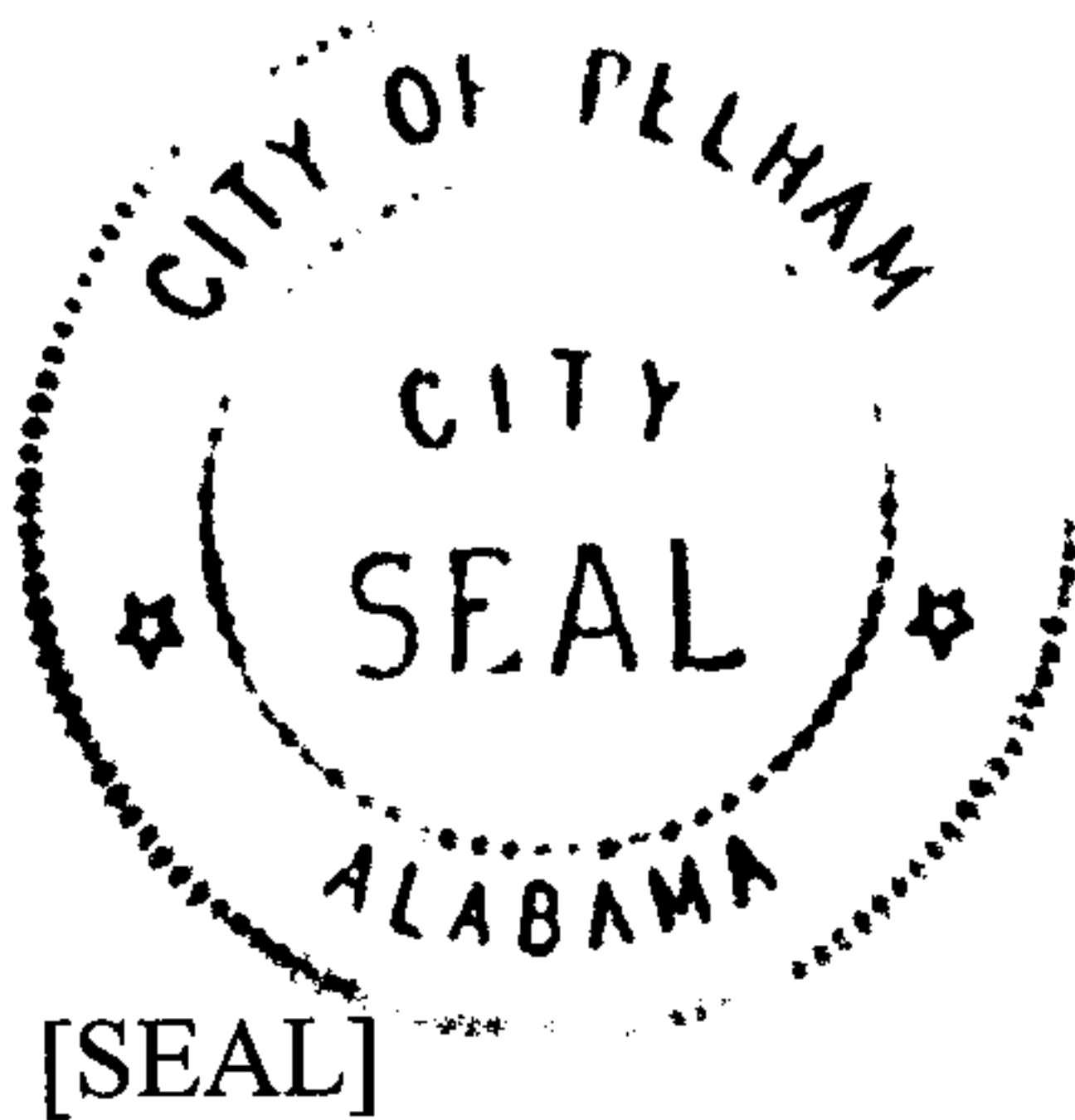
**ADOPTED** and approved this 7<sup>th</sup> day of December, 2015.

R. A. Hayes  
Rick Hayes, Council President

Ron Scott  
Ron Scott, Council Member

Beth McMillan  
Beth McMillan, Council Member

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Maurice Mercer  
Maurice Mercer, Council Member

Karyl Rice  
Karyl Rice, Council Member

ATTEST:

Marsha Yates  
Marsha Yates, CMC, City Clerk

APPROVED:

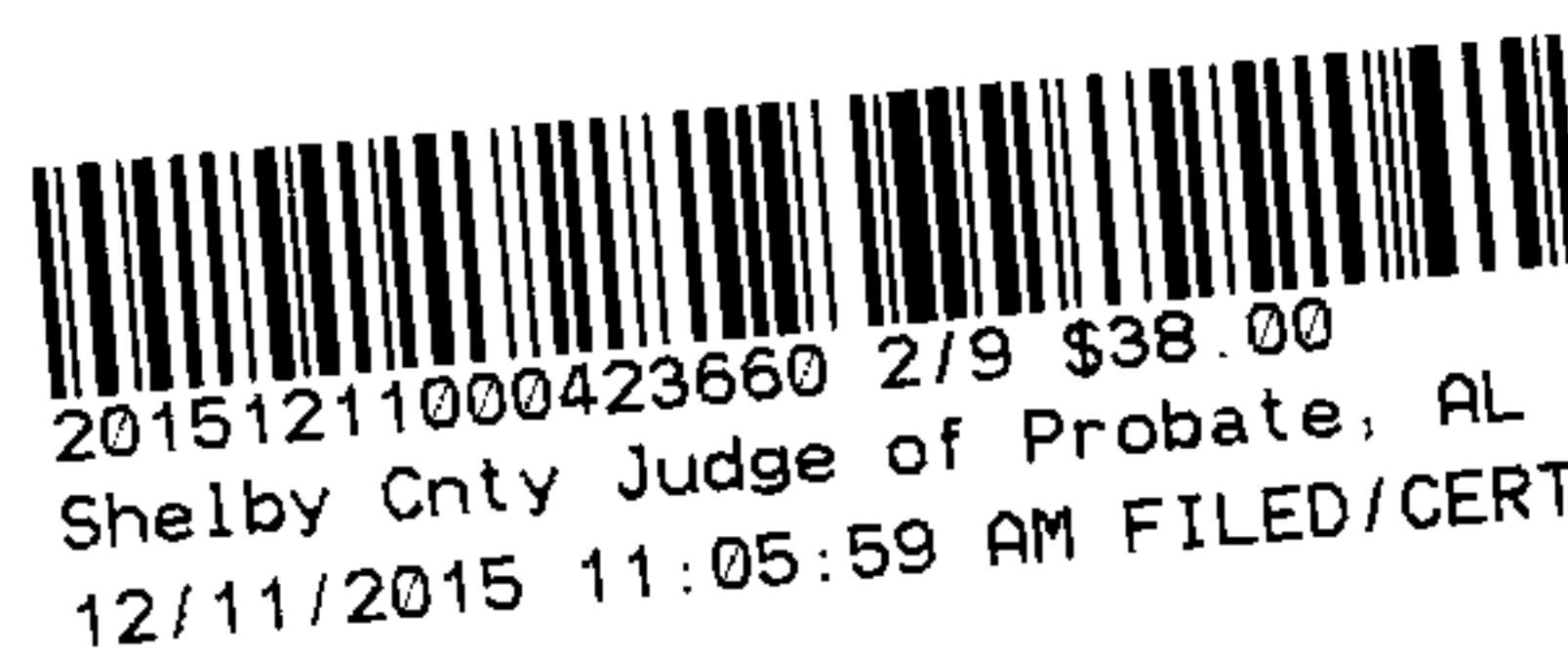
Gary Waters 12/7/15  
Gary Waters, Mayor Date

### POSTING AFFIDAVIT

I, the undersigned qualified City Clerk of the City of Pelham, Alabama, do hereby certify that the above and foregoing ORDINANCE No. 470 was duly ordained, adopted, and passed by the City Council of the City of Pelham, Alabama at a regular meeting of such Council held on the 7<sup>th</sup> day of December 2015, and duly published by posting an exact copy thereof on the 8<sup>th</sup> day of December 2015, at four public places within the City of Pelham, Alabama, including the Mayor's Office at City Hall, City Park, Library, Water Works and [www.pelhamonline.com](http://www.pelhamonline.com). I further certify that said ordinance is on file in the office of the City Clerk and a copy of the full ordinance may be obtained from the office of the city Clerk during normal business hours.



Marsha Yates  
Marsha Yates, CMC, City Clerk





## REAL ESTATE EXCHANGE CONTRACT

The undersigned **City of Pelham, Alabama** ("City") and **Pelham Board of Education** ("Board") enter into this Real Estate Exchange Contract ("Contract") by which they agree to exchange the following described real estate, improvements, shrubbery, plantings, fixtures, and appurtenances, situated in Shelby County, Alabama, on the terms stated below:

City Property: See legal description attached hereto as Exhibit A

Board Property: See legal description attached hereto as Exhibit B

1. Consideration: No monetary consideration will be paid by either party in connection with this Contract or the contemplated exchange. The consideration for this Contract is the agreement of the parties to exchange their respective properties.

2. Title insurance and survey: Each party at its own expense may obtain a title insurance policy and survey covering the property it is receiving.

3. Hazard insurance: Each party will keep in force sufficient fire, extended coverage, and vandalism insurance on its property to protect all interests until this exchange is complete and the deeds delivered.

4. Closing date: The exchange shall be closed and the deeds delivered on or before the 31st day of December, 2015, except that each party shall have a reasonable length of time within which to perfect title or cure defects in the title to its property. Possession is to be given on delivery of deeds, subject to the City's usage rights as set out in Section 6 below.

5. Marketable title: Each party agrees to convey marketable title to its property to the other party by statutory warranty deed free of all encumbrances, except as set out herein. Each party agrees that any encumbrances not herein excepted or assumed may be cleared at time of closing. Title will be conveyed subject to existing utility rights of way or other matters of record accepted by a party.

6. Leaseback: The Board intends to continue to use the Board Property until the beginning of the 2016-2017 academic year, when classes are expected to commence at a new elementary school that currently is under construction. After the exchange, the City, for consideration of \$1.00, agrees to lease the Board Property back to the Board through August 31, 2016 (the "Lease"). While leasing the Board Property, the Board will continue to be responsible for any and all related expenses including utilities, maintenance, repairs, property & liability insurance and janitorial services. If the Board does not complete its transition of operations to its new elementary school facility by August 31, 2016, the parties agree to extend the initial Lease on its same terms for one year or until that transition is completed, whichever occurs first. Following the expiration of the initial Lease (including any extension), the parties agree that, if requested by the Board, they will negotiate in good faith the terms of another leaseback of the Board Property to the Board; provided that any such lease may be terminated if a third party purchaser acquires the Board Property from the City or another use for the Board Property is approved by the City. During the term of any lease of the Board Property to the Board,

(A) The City may use the Board Property for any needs and at such times as do not conflict



with the Board's use of the property, including youth sports, public meetings, and the partial use of the property by a third party;

(B) The City shall not be liable to the Board for any damage to the Board Property after it is conveyed to the City or the Board's contents thereon caused by fire or other peril includable in the coverage afforded by the standard form of fire insurance policy with extended coverage endorsement attached (whether or not such coverage is in effect), no matter how caused, it being understood that the Board will look solely to its insurer for reimbursement. The Board shall not be liable to the City for any damage to the Board's Property after it is conveyed to the City or the City's contents thereon caused by fire or other peril includable in the coverage afforded by the standard form of fire insurance policy with extended coverage endorsement attached (whether or not such coverage is in effect), no matter how caused, it being understood that the City will look solely to its insurer for reimbursement. Any waiver of either party's rights against the other party hereto, contained in this subsection, shall be ineffective if such waiver would void any insurance, unless the other party shall pay any increase in premiums required to keep such coverage in effect within ten (10) days after notice thereof;

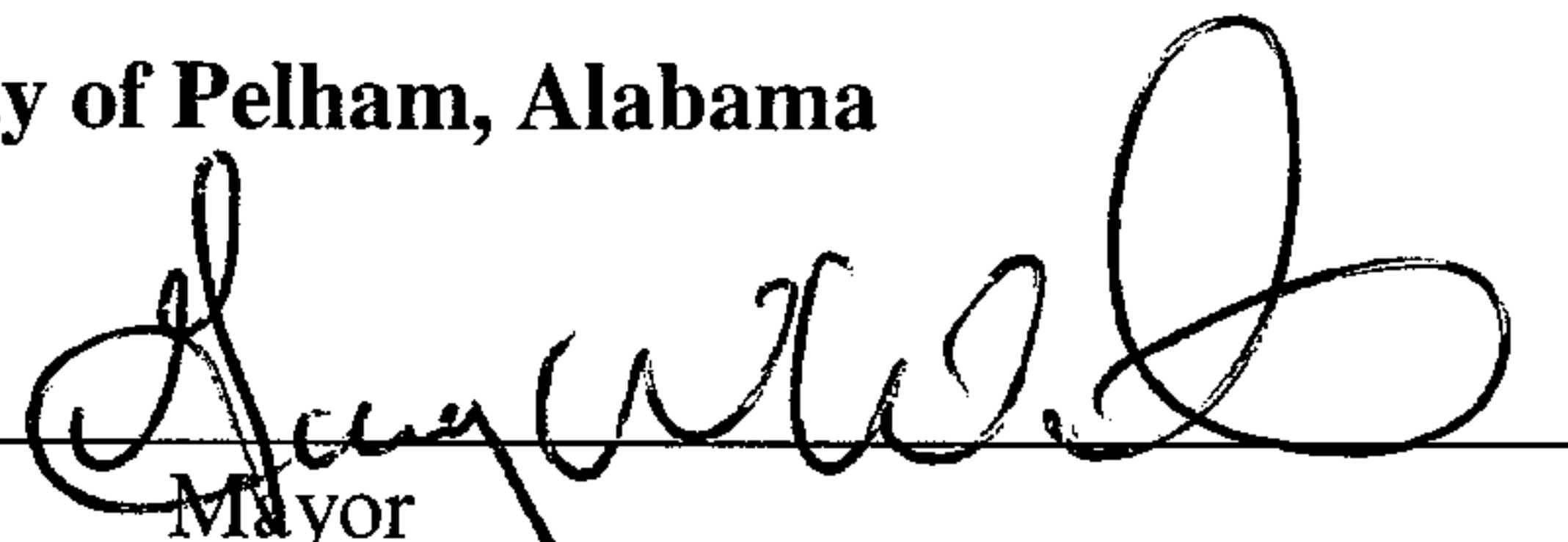
7. Design of Approval of New Middle School. A new middle school is intended to be constructed on the City Property, and the Board has provided the City initial design plans for that school. In the continued spirit of cooperation, the external design of the new middle school must be mutually approved by the Pelham City Council and the Board to ensure compatibility with the planned expansion of the Pelham City Park, including the proposed recreation center, walking trails and other enhancements for Pelham residents, students and visitors.

8. Approvals: This Contract will become effective when approved by the Pelham City Council and the Pelham Board of Education and signed below by their respective representatives.

*This Contract states the entire agreement between the parties and merges in this agreement all statements, representations, and covenants heretofore made, and any other agreements not incorporated herein are void and of no force and effect, and all warranties herein made shall survive the delivery of the above deeds.*

**City of Pelham, Alabama**

By

  
Mayor

Date: 12/2/15, 2015



Attest: City Clerk

**Pelham Board of Education**

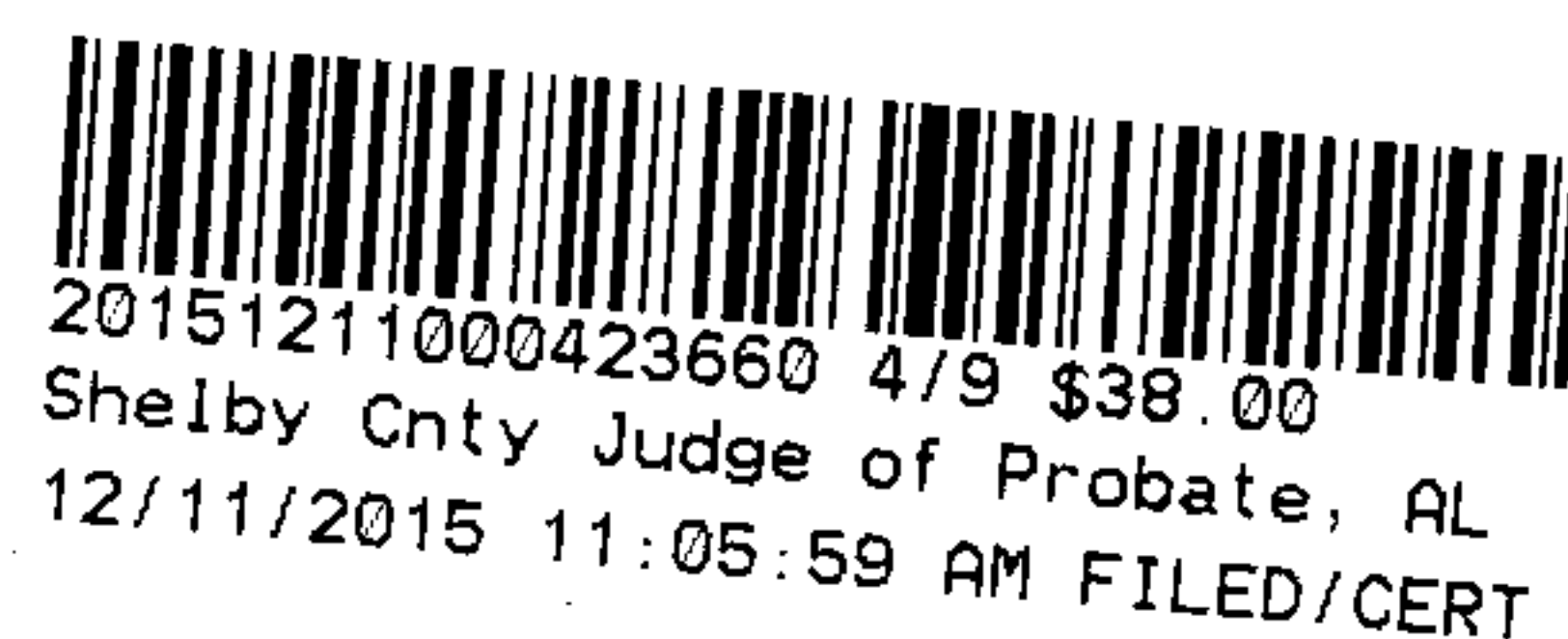
By

  
Superintendent

Date: 12 7, 2015



Attest: Board Administrative Assistant



**Exhibit A – City Property to Be Conveyed to Board**

The approximate boundaries of the City Property are shown on the attachment. The legal description of the City Property will be determined by subsequent survey and agreed upon by the parties before closing.



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## EXHIBIT A

A tract of land lying and being in the Northeast Quarter and the Northwest Quarter of the Southwest Quarter of Section 12, Township 20 South, Range 3 West, Shelby County, AL and being more particularly described as follows.

Commence at the Southwest corner of the Northeast Quarter of the Southwest Quarter of Section 12, Township 20 South, Range 3 West, and run N-00°05'46"-W along the West line of said Northeast Quarter for a distance of 58.79 feet; thence leaving said West line run N-89°54'14"-E for a distance of 61.21 feet to the POINT OF BEGINNING; thence run N-00°00'00"-E for a distance of 281.32 feet; thence run N-90°00'00"-W for a distance of 451.10 feet to a curve to the right having a radius of 126.43 feet, a chord distance of 252.86 feet and a chord bearing of N-00°00'00"-E; thence along the arc of said curve for a distance of 397.19 feet; thence run N-90°00'00"-E for a distance of 402.56 feet; thence run N-00°59'05"-E for a distance of 47.71 feet; thence run S-88°38'55"-E for a distance of 711.62 feet to a curve to the right having a radius of 25.00 feet a chord distance of 37.92 feet and a chord bearing of S-39°19'00"-E; thence along the arc of said curve for a distance of 43.09 feet to a curve to the right having a radius of 96.01 feet, a chord distance of 23.52 feet and a chord bearing of S-17°05'02"-W; thence along the arc of said curve for a distance of 23.58 feet; thence run S-24°07'08"-W for a distance of 137.53 feet; thence run S-27°06'27"-W for a distance of 428.47 feet to a curve to the right having a radius of 25.00 feet, a chord distance of 26.46 feet and a chord bearing of S-59°04'26"-W; thence along the arc of said curve for a distance of 27.88 feet; thence run N-88°58'41"-W for a distance of 406.76 feet back to the POINT OF BEGINNING.

Said Tract contains 10.77 acres more or less or (469,315 sq. ft.).



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2701 1st Avenue S, Suite 100 | Birmingham, AL 35233  
Tel: 205.879.4411 **GMCNETWORK.COM**

C1.01

sheet 2 of

**Exhibit B – Board Property to Be Conveyed to City**

See attached.



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## EXHIBIT B

### Parcel I:

All that part of the W 1/2 of NW 1/4 of Section 6, Township 20, Range 2 West, which lies West of the right of way of the new four lane Birmingham-Montgomery Highway, being U.S. Highway 31, and South and East of Bishop Creek, as the same was located on January 28th 1942, being situated in Shelby County, Alabama.

Less and Except the following:

A parcel of land located in the NW 1/4 of Section 6, Township 20 South, Range 2 West, more particularly described as follows:

Begin at the SW corner of the SW 1/4 of the NW 1/4 of said Section 6; thence in a Northerly direction along the Westerly line of said Section a distance of 85.98 feet; thence  $115^{\circ} 48' 54''$  right in a Southeasterly direction a distance of 203.09 feet; thence  $154^{\circ} 57' 28''$  right in a Westerly direction a distance of 182.85 feet to the point of beginning

### Parcel II:

A parcel of land located in the NW 1/4 of Section 6, Township 20 South, Range 2 West, more particularly described as follows:

Commence at the Southwest corner of the SW 1/4 of the NW 1/4 of said Section 6; thence in a Northerly direction along the Westerly line of said Section 6, a distance of 85.98 feet; thence  $115^{\circ} 48' 54''$  right in a Southerly direction a distance of 203.09 feet to the point of beginning; thence continue along the last described course a distance of 82.59 feet to a point on the Northwesternly right of way line of U.S. Highway No. 31; thence  $88^{\circ} 13' 29''$  left in a Northeasterly direction along said right of way line a distance of 39.17 feet; thence  $116^{\circ} 49' 03''$  left in a Westerly direction a distance of 92.49 feet to the point of beginning.



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