

STATE OF ALABAMA)
SHELBY COUNTY)

1086
NON-EXCLUSIVE ACCESS EASEMENT AGREEMENT

THIS NON-EXCLUSIVE ACCESS EASEMENT AGREEMENT, made and entered into on this 1st day of October, 1987, by and between AMSOUTH BANK N.A., AS ANCILLARY TRUSTEE FOR NCNB NATIONAL BANK OF NORTH CAROLINA, AS TRUSTEE FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO ("Grantor"), AND DANIEL MEADOWS II, L.P., a Virginia limited partnership doing business in the State of Alabama as Daniel Meadows II, Limited Partnership ("Grantee").

W I T N E S S E T H:

WHEREAS, Grantor has contemporaneously herewith acquired from Grantee certain real property situated in Shelby County, Alabama (the "Property"), which is more particularly described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, Grantee is the owner of certain real property situated in Shelby County, Alabama (the "Adjacent Property"), which is more particularly described in Exhibit B attached hereto and incorporated herein by reference; and

WHEREAS, the Adjacent Property is situated adjacent to and contiguous with the Property; and

WHEREAS, in connection with and in consideration of the sale by Grantee of the Property, Grantor has agreed to grant to Grantee a perpetual, non-exclusive easement for ingress and egress and utility facilities and services over, across, under, through and upon the Property, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, the parties do hereby agree as follows:

Jack A.

1. GRANT OF EASEMENT.

(a) Grantor does hereby grant, sell, convey and assign unto Grantee, its successors and assigns, its tenants, subtenants, licensees, customers, employees, guests, business invitees and agents and their respective successors and assigns:

- (i) the permanent, perpetual and non-exclusive right and easement for vehicular and pedestrian passage, travel and traffic over, upon, across and through the Property for purposes of ingress to and egress from all or any portion of the Adjacent Property;
- (ii) the permanent, perpetual and non-exclusive right and easement to install, construct, maintain, replace, remove, alter and repair entranceways, roads, drives, walks, ways and appurtenances (collectively, the "Access Facilities") over, across, through and upon the Property as necessary for the use of the Adjacent Property;
- (iii) the permanent, perpetual and non-exclusive right and easement to install, construct, use, maintain, replace, remove, alter and repair all utility and communication equipment, improvements and other facilities of every nature whatsoever (including without limitation lines, pipes, mains, accessories and appurtenances for the carrying or transmission of sewage, storm drainage, gas, water, electricity, cable television and telephone communication) (collectively, the "Utility Facilities") over, across, under, through and upon the Property required for the development of the Adjacent Property and the construction, use and occupancy of improvements constructed or to be constructed thereon; and
- (iv) the permanent, perpetual and non-exclusive right-of-way for ingress and egress over, across, under, through and upon the Property and the permanent, perpetual and non-exclusive easement to use the Property, including without limitation the air space above the Property, as may be reasonably necessary for the enjoyment and exercise of the rights and easements created herein.

(b) Notwithstanding anything provided in Paragraph 1(a) above to the contrary, Grantee agrees not to construct or install any Utility Facilities or Access Facilities (other than the Utility Facilities and Access Facilities existing on the Property as of the date hereof

and shown on the survey of the Property and the Adjacent Property prepared by Laurence D. Weygand dated September 14, 1987 (the "Survey"), a copy of which is attached hereto as Exhibit C and incorporated herein by reference) after the date hereof without the prior written consent of Grantor, which consent shall not be unreasonably withheld or delayed; provided, however, that in no event shall the construction or installation of any additional Utility Facilities or Access Facilities interfere with Grantor's development plans (including utility installations) for the Property and for other property owned by Grantor situated adjacent to or in close proximity with the Property.

(c) The easements and rights-of-way granted hereby shall be used by Grantee on a non-exclusive basis with Grantor, its successors and assigns, and shall extend to the tenants, subtenants, licensees, customers, employees, guests, business invitees and agents of Grantee and their respective successors and assigns; are appurtenant to and shall serve the Adjacent Property; shall be and are covenants running with the land; and shall be binding upon and inure to the benefit of Grantor and Grantee and their respective successors and assigns.

2. CONSTRUCTION OF ROADWAY AND OBSTRUCTIONS.

(a) Grantor may, at its sole cost and expense and at any time it, in its sole discretion, elects, construct and install a roadway (the "Roadway") and such Utility Facilities over, upon, across, through or under the Property. All such construction and installation work shall be in accordance with applicable governmental specifications and shall not materially interfere with or otherwise affect the rights and easements granted herein to Grantee. Grantor shall obtain all necessary licenses, permits and approvals for such work before commencing any such work.

(b) Grantor hereby covenants and agrees that no fences or other obstructions shall be permitted on, across or upon the Property which would inhibit or otherwise restrict the

exercise by Grantee of the easements and rights of way granted herein for the existing Access Facilities, as shown on the Survey.

3. MAINTENANCE OF EASEMENT PROPERTY. Grantor shall at all times maintain, at its sole cost and expense, the Property until the completion of the Roadway on the Property and the acceptance of the Roadway for public dedication by the appropriate governmental authorities.

4. MISCELLANEOUS PROVISIONS.

(a) This Agreement constitutes the entire agreement between the parties hereto and may be amended or modified only upon the written consent of the record title owners of the Property and the Adjacent Property.

(b) The paragraph headings and captions used herein are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or in any way effect the terms and provisions hereof.

(c) Whenever the context so requires, the use of the masculine gender shall be deemed to include the feminine, the singular shall include the plural and vice versa.

(d) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(e) The parties hereto agree to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done or made, upon the written request of the other party (and at the expense of the party requesting the same), any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by either party hereto for the purpose of or in connection with consummating the transactions described herein.

(f) The parties hereto agree that in the event of construction of the Roadway on the Property and acceptance of the Roadway for public dedication and maintenance by the appropriate governmental authorities, this Agreement shall

terminate and the parties hereto shall have no further rights or obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Non-Exclusive Access Easement Agreement to be executed as of the day and year first above written.

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

By: [Signature]

Its: Vice President & Estate Planning Officer

DANIEL MEADOWS II, L.P.,
a Virginia limited partnership
doing business in the State of
Alabama as Daniel Meadows II
Limited Partnership

By: DANIEL REALTY CORPORATION,
an Alabama corporation,
General Partner

By: [Signature]

Its: Sr. Vice President

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STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a notary public in and for said County in said State, hereby certify that John A. Bestwick whose name as Vice Pres. and Estate Planning Officer of AmSouth Bank N.A., a national banking association, as Ancillary Trustee for NCNB National Bank of North Carolina, as Trustee for the Public Employees Retirement System of Ohio 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 the instrument, 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, on the day the same bears date.

Given under my hand this the 2nd day of October, 1987.

[Notarial Seal]

Frank C. Hallaway Jr.
Notary Public

My Commission Expires: October 23, 1990

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a notary public in and for said County in said State, hereby certify that Stephen R. Monk whose name as Sr. Vice President of Daniel Realty Corporation, an Alabama corporation, as general partner of Daniel Meadows II, L.P., a Virginia limited partnership doing business in the State of Alabama as Daniel Meadows II Limited Partnership, 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, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation in its capacity as General Partner as aforesaid.

Given under my hand this the 2nd day of October, 1987.

[Notarial Seal]

Sheila D. Ellis
Notary Public

My Commission Expires: My Commission Expires February 5, 1990

EXHIBIT A

Parcel C:

A parcel of land located in the SE 1/4 of the NW 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, said parcel being 16 feet in width and lying adjacent to the East right-of-way line of Brook Highland Drive as shown on the map of "The Meadows Residential Sector One", as recorded in Map Book 9, Page 142, in the Office of the Judge of Probate, Shelby County, Alabama, and being more particularly described as follows:

From the NW corner of Lot 12, Jessica Ingram property, as recorded in Map Book 3, Page 54, in the Office of the Judge of Probate, Shelby County, Alabama, run in a Southerly direction along the West lot line of said Lot 12 for a distance of 30.26 feet; thence turn an angle to the right of 54 deg. 03' 52" and run in a Southwesterly direction for a distance of 70.27 feet to the point of beginning of the property herein described; from the point of beginning thus obtained, continue along the last described course for a distance of 19.42 feet to a point on the East right-of-way line of Brook Highland Drive as shown on the map of "The Meadows Residential Sector One," as recorded in Map Book 9, Page 142, in the Office of the Judge of Probate, Shelby County, Alabama, said point being on a curve to the right, said curve being concave to the West and having a radius of 1,153.80 feet, a central angle of 2 deg. 37' 02" and a chord of 52.70 feet, which forms an interior angle to the right of 126 deg. 06' 26" with the last described course; run thence in a Southerly direction along the arc of said curve for a distance of 52.70 feet to the end of said curve; run thence in a Southerly direction tangent to said curve for a distance of 324.02 feet to the beginning of a curve to the right, said curve being concave to the Northwest and having a radius of 605.12 feet, a central angle of 18 deg. 21' 26" and a chord of 193.05 feet; run thence in a Southwesterly direction along the arc of said curve for a distance of 193.88 feet to a point; thence turn an interior angle to the right of 80 deg. 08' 18" from the chord of the last described curve and departing said right-of-way line run in an Easterly direction for a distance of 16.90 feet to a point on a curve to the left, said curve being concave to the Northwest and having a radius of 621.12 feet, a central angle of 17 deg. 50' 56" and a chord of 192.71 feet which forms an interior angle to the right of 99 deg. 36' 27" with the last described course; run thence in a Northeasterly direction along the arc of said curve for a distance of 193.49 feet to the end of said curve; run thence in a Northerly direction, tangent to said curve, for a distance of 324.02 feet to the beginning of a curve to the left, said curve being concave to the West and having a radius of 1,169.80 feet, a central angle of 3 deg. 09' 36" and a chord of 64.51 feet; run thence in a Northerly direction along the arc of said curve for a distance of 64.52 feet to the point of beginning.

EXHIBIT B

Part of the SE 1/4 of the NW 1/4 and the SW 1/4 of NE 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, and being more particularly described as follows: Lots 6, 8, 10 and 12, Jessica Ingram Property, as recorded in Map Book 3 page 54 in the Office of the Judge of Probate, Shelby County, Alabama, also, an acreage parcel situated in the SE 1/4 of the NW 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, and being more particularly described as follows: From the NW corner of Lot 12, Jessica Ingram Property, as recorded in Map Book 3 page 54, in the Office of the Judge of Probate of Shelby County, Alabama, run in a Southerly direction along the West lot line of said Lot 12 for a distance of 30.26 feet to the point of beginning of the parcel herein described; from the point of beginning thus obtained, continue in a Southerly direction along the West lot lines of said Lots 12, 10, 8 and 6, for a distance of 620.60 feet; thence turn an angle to the right of 90 degrees 47 minutes 50 seconds and run in a Westerly direction for a distance of 116.86 feet to a point on the East right of way line of Brook Highland Drive, as shown on the map of "The Meadows Residential Sector One", as recorded in Map Book 9 page 142, in the Office of the Judge of Probate, Shelby County, Alabama, said point being on a curve to the left which has a radius of 605.12 feet, a central angle of 18 degrees 21 minutes 26 seconds and a chord of 193.05 feet which forms an interior angle to the left of 80 degrees 08 minutes 18 seconds with the last described call; run thence along said right of way line in a Northerly direction along the arc of said curve for a distance of 193.88 feet to the end of said curve; run thence in a Northerly direction tangent to said curve for a distance of 324.02 feet to the beginning of a curve to the left, said curve having a radius of 1153.80 feet, a central angle of 2 degrees 37 minutes 02 seconds and chord of 52.70 feet; run thence in a Northerly direction along the arc of said curve for a distance of 52.70 feet; thence turn an interior angle to the left of 126 degrees 06 minutes 26 seconds from the chord of the last described curve and run in a Northeasterly direction for a distance of 89.69 feet to the point of beginning.

LESS AND EXCEPT the following described Parcels A, B & C:

Parcel A:

Part of Lot 12, Jessica Ingram Property, as recorded in Map Book 3 page 54 in the Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows: Beginning at the NW corner of said Lot 12, run thence in a Southerly direction along the West lot line of said Lot 12 for a distance of 30.26 feet; thence turn an angle to the left of 89 degrees 23 minutes 50 seconds and run in an Easterly direction for a distance of 1236.08 feet to a point on the West right of way line of Shelby County Road No. 495; thence turn an angle to the left of 94 degrees 03 minutes 43 seconds and run in a Northerly direction along said West right of way line for a distance of 36.62 feet to a 2 inch capped pipe; thence turn an angle to the left of 86 degrees 13 minutes 44 seconds and run in a Westerly direction along the North line of said Lot 12 for a distance of 1233.82 feet to the point of beginning.

Parcel B:

Part of Lot 6, Jessica Ingram Property, as recorded in Map Book 3 page 54 in the Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows: Beginning at the SW corner of said Lot 6, run thence in an Easterly direction along the South line of said Lot 6 for a distance of 1274.54 feet to the West right of way line of Shelby County Road No. 495; thence turn an angle to the left of 94 degrees 15 minutes 23 seconds and run in a Northerly direction along said right of way line for a distance of 10.02 feet; thence turn an angle to the left of 85 degrees 44 minutes 37 seconds and run in a Westerly direction for a distance of 1273.94 feet to the West line of said Lot 6; thence turn an angle to the left of 90 degrees 47 minutes 50 seconds and run in a Southerly direction along the West line of said Lot 6 for a distance of 10.00 feet to the point of beginning.

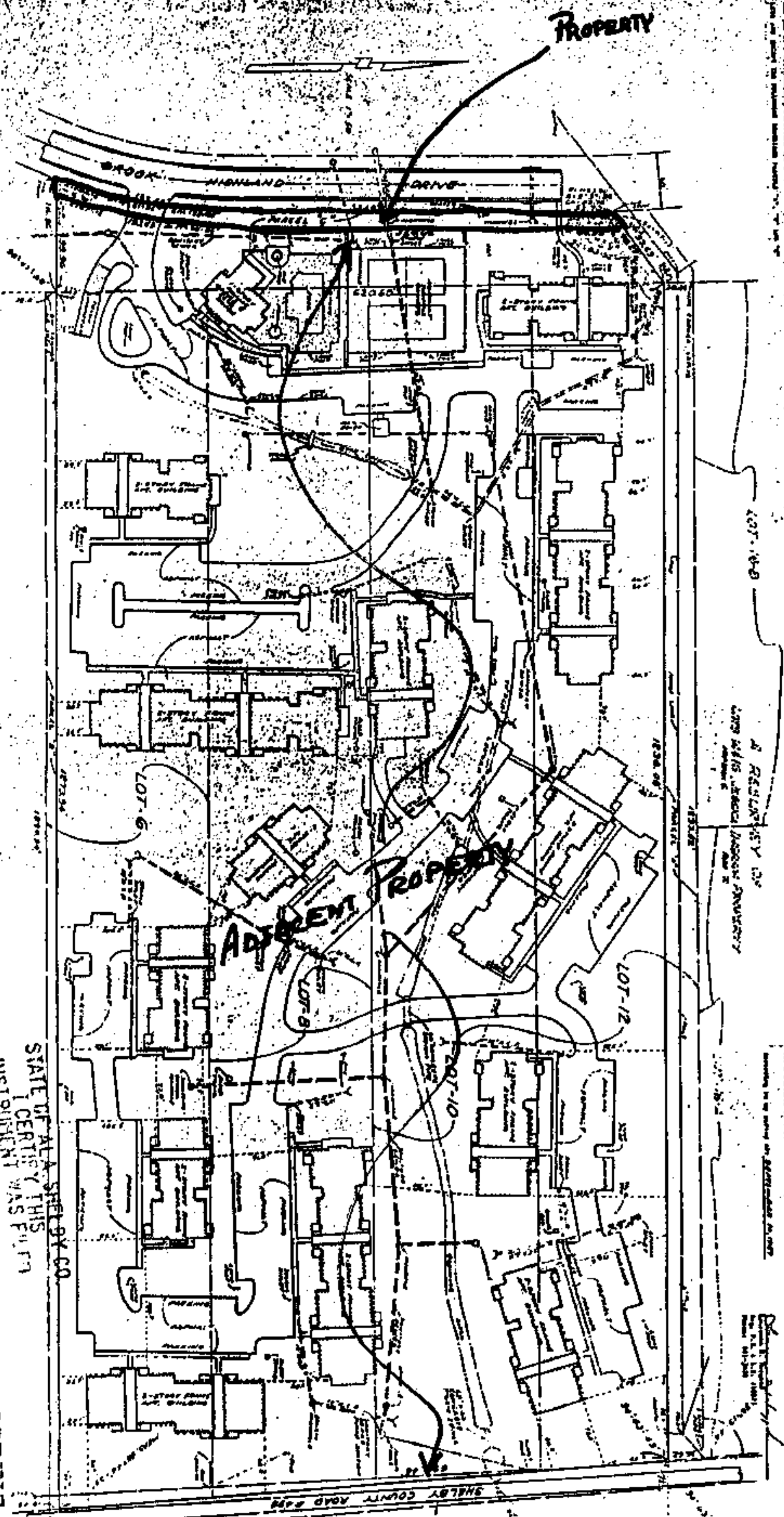
Parcel C:

A parcel of land located in the SE 1/4 of the NW 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, said parcel being 16 feet in width and lying adjacent to the East right-of-way line of Brook Highland Drive as shown on the map of "The Meadows Residential Sector One", as recorded in Map Book 9, Page 142, in the Office of the Judge of Probate, Shelby County, Alabama, and being more particularly described as follows:

From the NW corner of Lot 12, Jessica Ingram property, as recorded in Map Book 3, Page 54, in the Office of the Judge of Probate, Shelby County, Alabama, run in a Southerly direction along the West lot line of said Lot 12 for a distance of 30.26 feet; thence turn an angle to the right of

54 deg. 03' 52" and run in a Southwesterly direction for a distance of 70.27 feet to the point of beginning of the property herein described; from the point of beginning thus obtained, continue along the last described course for a distance of 19.42 feet to a point on the East right-of-way line of Brook Highland Drive as shown on the map of "The Meadows Residential Sector One," as recorded in Map Book 9, Page 142, in the Office of the Judge of Probate, Shelby County, Alabama, said point being on a curve to the right, said curve being concave to the West and having a radius of 1,153.80 feet, a central angle of 2 deg. 37' 02" and a chord of 52.70 feet, which forms an interior angle to the right of 126 deg. 06' 26" with the last described course; run thence in a Southerly direction along the arc of said curve for a distance of 52.70 feet to the end of said curve; run thence in a Southerly direction tangent to said curve for a distance of 324.02 feet to the beginning of a curve to the right, said curve being concave to the Northwest and having a radius of 605.12 feet, a central angle of 18 deg. 21' 26" and a chord of 193.05 feet; run thence in a Southwesterly direction along the arc of said curve for a distance of 193.88 feet to a point; thence turn an interior angle to the right of 80 deg. 08' 18" from the chord of the last described curve and departing said right-of-way line run in an Easterly direction for a distance of 16.90 feet to a point on a curve to the left, said curve being concave to the Northwest and having a radius of 621.12 feet, a central angle of 17 deg. 50' 56" and a chord of 192.71 feet which forms an interior angle to the right of 99 deg. 36' 27" with the last described course; run thence in a Northeasterly direction along the arc of said curve for a distance of 193.49 feet to the end of said curve; run thence in a Northerly direction, tangent to said curve, for a distance of 324.02 feet to the beginning of a curve to the left, said curve being concave to the West and having a radius of 1,169.80 feet, a central angle of 3 deg. 09' 36" and a chord of 64.51 feet; run thence in a Northerly direction along the arc of said curve for a distance of 64.52 feet to the point of beginning.

EXHIBIT C

[illegible][illegible][illegible]

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JUDGE OF PROBATE

TOTAL

\$28.50

1967 OCT 15 PM 3 30

RECORDING FEES \$275

STATE OF ALABAMA
I CERTIFY THIS
INSTUMENT WAS FILED

REPORTING FEES