

STATE OF ALABAMA        )

SHELBY COUNTY            )

EASEMENT FOR SANITARY SEWER LINES AND WATER LINES

In consideration of ten dollars (\$10.00) and other valuable consideration paid to AmSouth Bank, N.A., as Ancillary Trustee for NationsBank of North Carolina, N.A., as Trustee for the Public Employees Retirement System of Ohio (hereinafter called "Grantor") by The Water Works and Sewer Board of the City of Birmingham, a public corporation organized under and by virtue of the laws of the State of Alabama, (hereinafter called "Board"), the receipt and sufficiency of which the Grantor hereby acknowledges, the Grantor does hereby grant, bargain, sell and convey unto the Board, its successors and assigns, an easement (hereinafter called "Easement") over, across, under and through the hereinafter described real estate for the purposes of, at such times and from time to time in the future as the Board may elect, laying, constructing, installing, maintaining, operating, renewing, repairing, changing the size of, relocating, removing and/or replacing sanitary sewer pipelines and water pipelines and such appurtenances, appliances, fixtures and equipment, whether above or beneath the surface of the ground, deemed by the Board to be necessary or useful in connection with the collection and treatment of sewage and the transportation, distribution and sale of water (hereinafter collectively called "Pipelines"), together with all rights and privileges necessary or convenient for the full enjoyment or use of the rights herein granted, including, but not limited to, the free right of ingress

Inst # 1994-09070

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*Clayton J. Sawyer*

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and egress over the hereinafter described real estate, together with the right, from time to time, in connection with the enjoyment of the privileges herein conveyed, to cut and keep clear all trees, brush, undergrowth and other obstructions, whether located upon or near the Easement, to the extent necessary to permit the full enjoyment of the rights and privileges herein granted, and the protection of the Pipelines, and together with the right, from time to time, in connection with the enjoyment of the privileges herein conveyed, to cut and remove or otherwise disturb paving or other road covering to the extent necessary to permit the full enjoyment of the rights and privileges granted to the Board hereunder, subject to the Board's obligation to repair any damage done by it to the paving or other road covering; said real estate being described as follows:

the strips or parcels of land which are a part of the real estate described on Exhibit A attached hereto which are designated or shown as streets or easements on the plan for the proposed Twenty-First Sector of Brook Highland attached hereto as Exhibit B, which strips or parcels of land shall be dedicated or reserved as streets or easements when the subdivision maps of the proposed Twenty-First Sector of Brook Highland subdivision are recorded in the office of the Judge of Probate of Shelby County, Alabama.

The rights and privileges herein granted are given, granted and accepted upon the following conditions and subject to the following stipulations:

1. The Grantor hereby covenants with the Board that the Grantor is lawfully seized in fee simple of the above described real estate, that it is free from all encumbrances, except as

hereinafter set forth in this paragraph and that the Grantor has a good right to grant the easement and right of way granted hereby as aforesaid and that the Grantor will warrant against the claims of all persons subject to current real estate ad valorem taxes which are not delinquent, and any other liens or encumbrances which are approved in writing by the Board. The easement granted hereby is granted subject to easements and restrictions of record including, without limitation, the following:

1. General and special taxes or assessments for 1994 and subsequent years not yet due and payable.

2. Declaration of Protective Covenants for the "Watershed Property" which provides, among other things, for an Association to assess and maintain the Watershed Maintenance Areas, etc. of the development; all of said covenants, restrictions and conditions being set out in instrument recorded in Real 194 page 54 in the Probate Office.

3. Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Brook Highland, as set out in instrument recorded in Real 194 page 254 in the Probate Office, along with Articles of Incorporation as recorded in Real 194 page 281, and ByLaws recorded in Real 194 page 287A in the Probate Office, along with Supplementary Instrument to be recorded.

4. A Deed and Bill of Sale from AmSouth as Ancillary Trustee to the Water Works and Sewer Board of the City of Birmingham conveying the sanitary sewer trunkline, pipelines, force mains, gravity flow mains, etc. located under the surface of the subject land, as shown by instrument recorded in Real 194 page 43 in the Probate Office, along with an Easement for Sanitary Sewer Lines and Water Lines as set out in Real 194 page 1 in the Probate Office.

5. Drainage Agreement between AmSouth Bank, N.A., as Ancillary Trustee and Eddleman and Associates as set out in Real 125 page 238 in the Probate Office.

6. Agreement for electrical services to NCNB/Brook Highland as set out by instrument recorded in Real 306 page 119 in the Probate Office.

7. Restrictions, covenants and conditions as set out and contained within deeds conveyed to other parties as set out in Real



301 page 1, Real 220 page 339 and Instrument No. 1992-14567 in the Probate Office.

8. Easements to Alabama Power Company as set out in Real 207 page 380 and Real 220 pages 521 and 532 in the Probate Office.

9. Restrictive covenants with regard to underground transmission installation by Alabama Power Company as recorded in Real 181 page 995 in the Probate Office.

10. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Deed Book 32 page 48 in the Probate Office.

11. Reciprocal easement agreement as set out in Real 125 page 249 and Real 199 page 18 in the Probate Office.

12. Restrictive Covenant & Agreement as set out in the Deed from NCNB National Bank of North Carolina to Brook Highland Limited Partnership dated 10/12/93 and recorded by Instrument No. 1993-32511 in the Probate Office.

(The instruments referred to herein as recorded are recorded in the office of the Judge of Probate of Shelby County, Alabama.)

2. The Grantor agrees not to construct, cause to be constructed, or permit to be constructed, on the above described real estate any lake or pond or any building or structure of any kind which would prevent ready access to, or interfere with, the Pipelines for any of the purposes hereinabove set forth.

3. No delay of the Board in the use of the easement and rights hereby granted or in laying or installing Pipelines in or along the Easement shall result in the loss, limitation or abandonment of any right, title, interest, right of way, easement or estate granted hereby.

4. By the acceptance of this instrument, the Board agrees, at its sole cost, to maintain the Pipelines in good operating condition and to repair and replace the Pipelines, as necessary, at

all times in the future, so long as the Pipelines are being used by the Board. The Board agrees to repair at its sole cost, any damage caused to the Easement areas by it or its contractors and subcontractors, including damage to any pavement, gutters, curbing, landscaping and other permitted improvements within the Easement areas. If the Board damages the Easement areas, it agrees to restore same to substantially the same condition existing at the time of the damage as soon as reasonably practicable under the circumstances.

5. The Grantor reserves the absolute right to use the real estate subject to the Easement for any purposes not inconsistent or in conflict with the rights and privileges herein granted to the Board.

6. This instrument states the entire agreement between the Grantor and the Board and merges in this instrument all statements, representations and covenants heretofore made and any agreements not included in this instrument are void and of no force and effect. This instrument may be modified only by a written instrument signed by the Grantor and the Board.

7. This instrument shall inure to the benefit of, and be binding upon the Grantor and the Board and their respective successors and assigns.

To have and to hold unto the Board, its successors and assigns forever.

**IN WITNESS WHEREOF**, AmSouth Bank, N.A., as Ancillary Trustee for NationsBank of North Carolina, N.A., as Trustee for the Public

Employees Retirement System of Ohio, has caused this Instrument to be executed by its duly authorized corporate officer, on this 16<sup>th</sup> day of March, 1994.

AmSouth Bank, N.A., as Ancillary  
Trustee for NationsBank of North  
Carolina, N.A., as Trustee for the  
Public Employees Retirement System  
of Ohio

ATTEST:

Linda S. Lehe  
Its Asst Vice President  
and Trust Officer

By: [Signature]  
Its Vice President & Trust Officer

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State hereby certify that John A. Bostwick whose name as Vice Pres. & Trust Officer of AmSouth Bank, N.A., a national banking association, as Ancillary Trustee for NationsBank of North Carolina, N.A., as Trustee for the Public Employees Retirement System of Ohio, is signed to the foregoing Easement, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Easement, 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 this the 16<sup>th</sup> day of March, 1994.

AFFIX SEAL

Wicky B. Hoven  
Notary Public  
My commission expires: 1/21/89

This instrument prepared by:

Jack P. Stephenson, Esq.  
Burr & Forman  
SouthTrust Tower  
420 N. 20th Street, Suite 3000  
Birmingham, Alabama 35203



## Exhibit A

A parcel of land to be known as Brook Highland 21st Sector situated in Section 30, Township 18 South, Range 1 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Northeast corner of the Northwest Quarter of the Northeast Quarter of said Section 30, run thence on a bearing of North 89 degrees 38 minutes 07 seconds West for a distance of 124.88 feet to the point of beginning of the parcel herein described; thence run South 49 degrees 17 minutes 39 seconds East for a distance of 171.76 feet to a point; thence run South 11 degrees 32 minutes 30 seconds West for a distance of 389.86 feet to a point; thence run South 28 degrees 53 minutes 28 seconds West for a distance of 169.54 feet to a point; thence run South 33 degrees 32 minutes 30 seconds West for a distance of 205.00 feet to a point; thence run South 31 degrees 37 minutes 33 seconds West for a distance of 399.46 feet to a point; thence run South 7 degrees 39 minutes 27 seconds West for a distance of 401.74 feet to a point; thence run South 26 degrees 11 minutes 28 seconds West for a distance of 173.91 feet to the Northeast corner of Lot 2019, Brook Highland 20th Sector as recorded in Map Book 16, Page 148, in the Office of the Judge of Probate, Shelby County, Alabama; thence run North 60 degrees 27 minutes 30 seconds West along the Northeast line of said Lot 2019 for a distance of 200.00 feet to the Northwest corner of said Lot 2019; thence run South 29 degrees 32 minutes 30 seconds West along the West line of said Lot 2019 for a distance of 56.61 feet to a point; thence run North 60 degrees 27 minutes 30 seconds West for a distance of 60.00 feet crossing the right-of-way line of Brook Highland Ridge to the Northeast corner of Lot 2020 of said Brook Highland 20th Sector; thence continuing along last stated course and also along the North line of Lot 2020 for a distance of 200.00 feet to the Northwest corner of said Lot 2020; thence run North 29 degrees 32 minutes 30 seconds East for a distance of 112.26 feet to a point; thence run North 3 degrees 36 minutes 29 seconds East for a distance of 256.00 feet to a point; thence run North 15 degrees 26 minutes 46 seconds East for a distance of 170.55 feet to a point; thence North 26 degrees 11 minutes 50 seconds East for a distance of 293.77 feet to a point; thence run North 33 degrees 32 minutes 30 seconds East for a distance of 519.65 feet to a point; thence run North 10 degrees 43 minutes 03 seconds East for a distance of 267.35 feet to a point; thence run South 74 degrees 24 minutes 30 seconds East for a distance of 201.43 feet to the beginning of a curve to the right having a central angle of 22 degrees 53 minutes 01 seconds and a radius of 305.00 feet and a chord bearing of North 27 degrees 02 minutes 01 seconds East; thence run along the arc of said curve in a Northeasterly direction for a distance of 121.82 feet to the end of said curve; thence turn an angle to the right of 63 degrees 19 minutes 52 seconds from the chord of last stated curve and run South 89 degrees 38 minutes 07 seconds East for a distance of 78.46 to the point of beginning. Said parcel contains 18.287 acres, more or less.

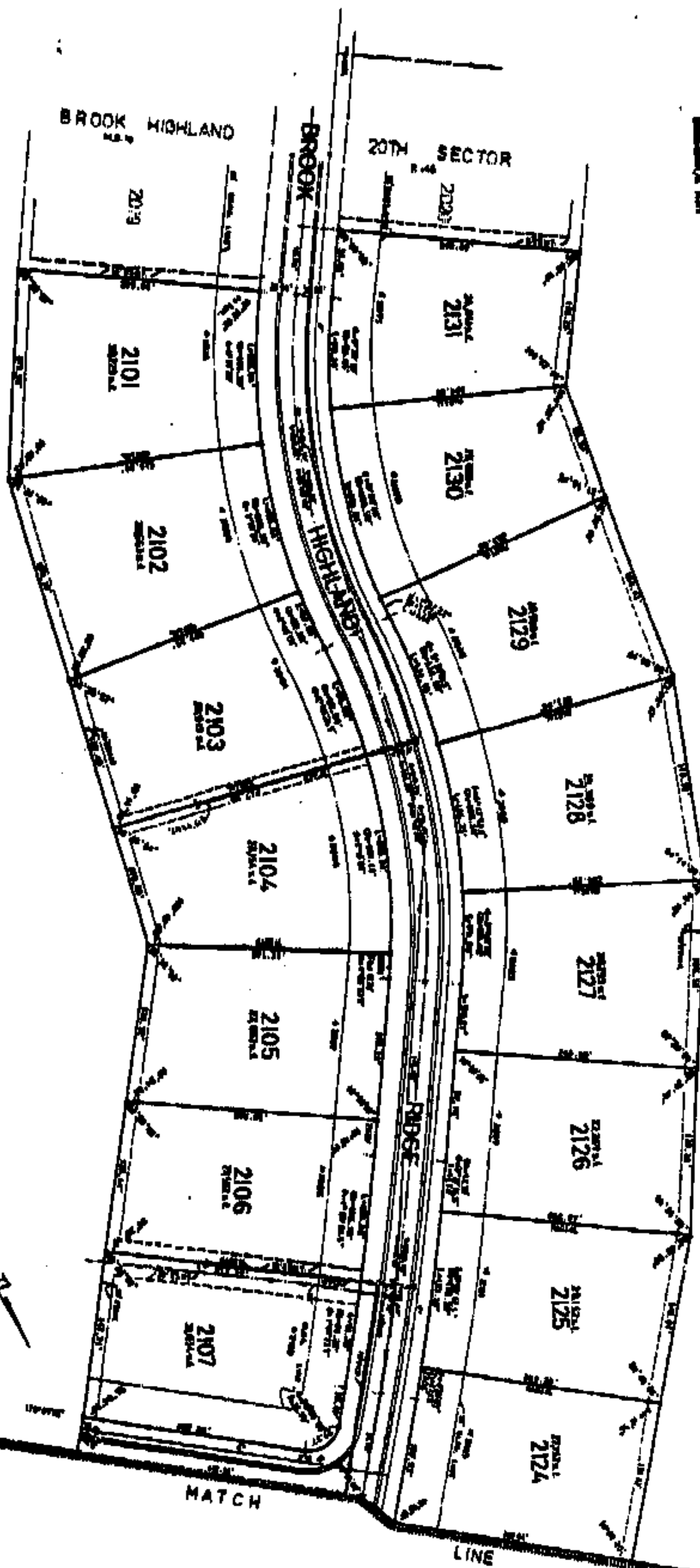
Exhibit B



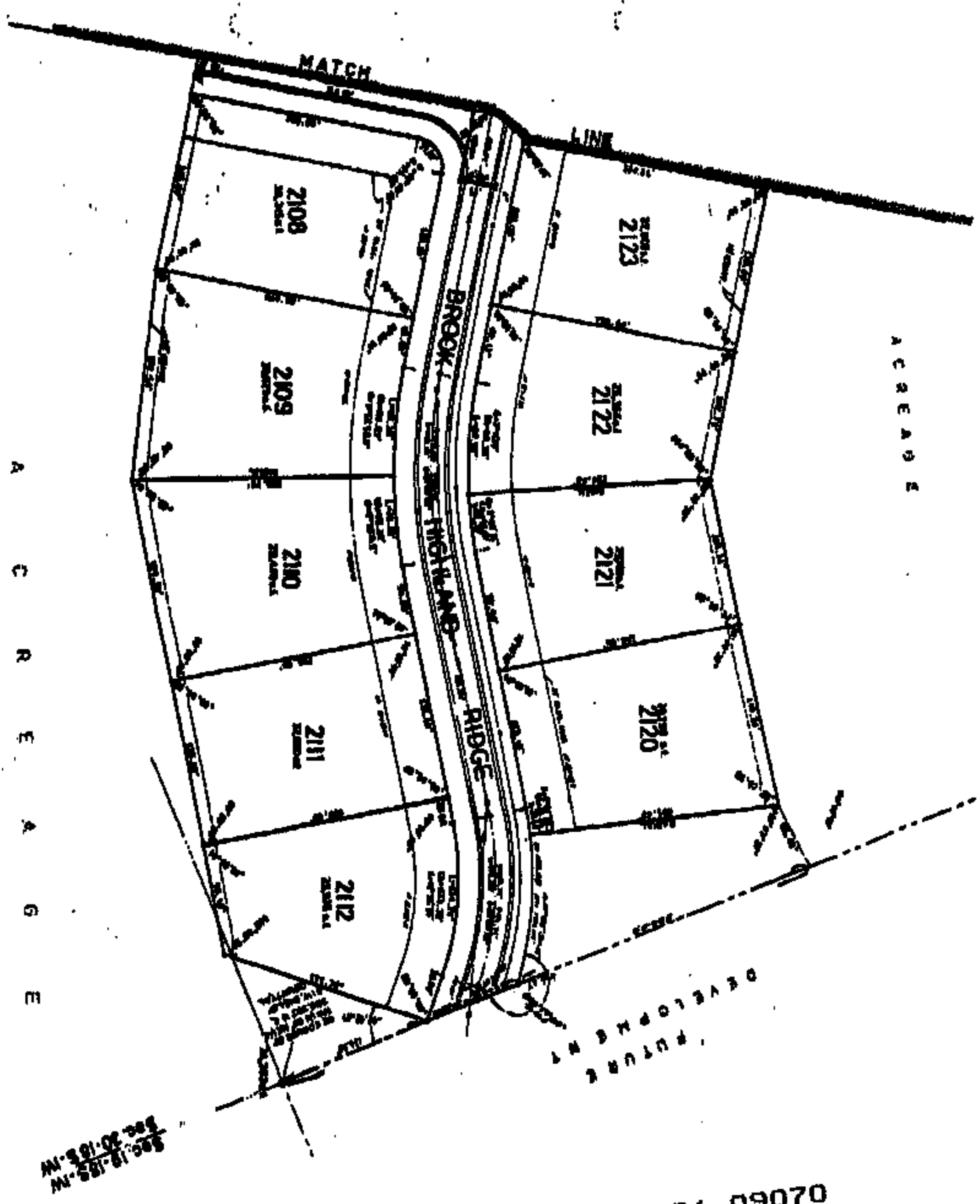
**BROOK HIGHLAND**  
AN EDDLEMAN COMMUNITY  
**21ST SECTOR**

PREPARED BY: EDDLEMAN COMMUNITIES, INC.  
SHEET 1 OF 2  
DATE: 10/1/94

A C R E A D E







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BROOK HIGHLAND  
 21ST SECTOR