

AUTHORIZATION NO. BG 464-25

GAS EXTENSION AND MORTGAGE AGREEMENT

FOR

DEVELOPMENT PURPOSES

THIS AGREEMENT, made and entered into this 10th day of October, 1963, by and between ALABAMA GAS CORPORATION, (hereinafter called the "Company"), and _____

T. E. BONNER & J. B. DAVIS REALTY COMPANY

of Shelby County, Alabama (hereinafter called the "Developers");

WITNESSETH:

THAT WHEREAS, the Developers, in order to increase the value of and to develop certain property in ~~the City of~~ _____, Shelby County, Alabama, desire the Company to extend its present gas main distribution system as shown on Print No. BG 464-25 attached hereto and made a part hereof, and also desire the Company to install service lines (if required) connecting said gas main extension with the buildings on lots adjacent to said gas main extension; said present gas main system being represented on said print by black lines and the proposed gas main extension thereof being represented thereon by red lines and said connecting service lines being represented thereon by green lines; said proposed gas main extension as represented by said red lines, together with said connecting service lines as represented by said green lines, being hereinafter referred to as the "Extension";

AND WHEREAS, the estimated costs of installing the Extension is Three thousand seven hundred sixty-five and no/100--- Dollars (\$ 3,765.00)

NOW, THEREFORE, in consideration of the foregoing and of the sum of One Dollar (\$1.00) in hand paid to the Company by the Developers,

-2-

the receipt and sufficiency of which are hereby acknowledged, the Company does hereby agree with the Developer as follows:

1. That the Company will install the Extension as soon as practicable after it has secured the necessary materials, rights-of-way and labor.

2. For the purposes of this Agreement, the Company will consider that the Developer earns credit under this contract, said credit to be computed in the following manner:

Whenever the Company, within five (5) years from date upon which the installation of the Extension is fully completed and placed in service, shall furnish gas service from or by means of the Extension to any consumer who shall have executed a regular contract for service, under the Company's rules and regulations governing the rendering of gas service requiring no extension of mains, and such consumer shall be served for a period of not less than thirty (30) consecutive days, then in those events, the Company will, after the expiration of said thirty days, credit the Developer for each such consumer so served as follows:

(a) For consumers using gas service for heating only, the sum of One hundred thirty-six and no/100----- Dollars (\$ 136.00) less the cost of service line which it may be necessary to install to serve said consumers, where such service pipe was not included in the original Extension, said cost of service line being figured at sixty cents (\$.60) per linear foot, or

(b) For consumers using gas service for heating and one or more year round gas appliances (including but not limited to a gas range or a gas water heater) the sum of Two hundred thirty-eight and no/100---- Dollars (\$ 238.00) less the cost of service line which it may be necessary to install to serve said consumers, where such service pipe was not included in the original Extension, the cost of said service line being figured at sixty cents (\$.60) per linear foot.

3. Within thrity (30) days following the fifth anniversary of the completion of the installation of the Extension, the Developers shall deposit with the Company without demand the amount, if any, by which the actual costs of the construction of the Extension exceeds the total credit earned by the Developers as set out in paragraph 2, as of the fifth anniversary of the completion of the Extension. After such deposit is made and prior to the tenth anniversary of the completion of the installation of the Extension, the Company will make refunds to the Developers with respect to each consumer who is furnished gas service for a period of not less than thirty (30) consecutive days, who executes a contract for gas service under the Company's rules and regulations for gas service requiring no extension of mains and who had not, on the date of the making of such deposit by the Developers, been furnished gas service for a period of at least thirty consecutive days, as follows:

(a) For consumers using gas service for heating only, the sum of One hundred thirty-six and no/100-----Dollars (\$ 136.00) less the cost of service line which it may be necessary to install to serve said consumers, where such service pipe was not included in the original Extension, the cost of said service line being figured at sixty cents (\$.60) per linear foot, or

(b) For consumers using gas service for heating and one or more year round gas appliances (including but not limited to a gas range or gas water heater) the sum of Two hundred thirty-eight and no/100Dollars (\$ 238.00) less the cost of service line which it may be necessary to install to serve said consumers, where such service line was not included in the original Extension, the cost of said service line being figured at sixty cents (\$.60) per linear foot.

(c) All refunds to be made to the Developers with respect to such consumers will cease when the entire amount deposited, with simple interest accrued annually at the rate of four per cent (4%) per annum

on unrefunded balances at December 31 of each year, shall have been refunded to said Developers; it being expressly understood and agreed that the total amount of said refunds, if any, shall in no event exceed the amount of such deposit plus interest accrued on unpaid balances. It is further agreed that no interest shall accrue until one full year shall have elapsed from date of the making of such deposit and that this Agreement and all rights of developers to any refund shall cease and be at an end at the expiration of the ten (10) year period provided above, even though the total amount of refunds as of the expiration of said ten (10) year period shall not have equalled the amount of such deposit, plus interest accrued on unpaid balances. It is understood and agreed that no interest shall be due to or paid to Developers except out of refunds which may come due to Developers as hereinabove provided.

4. If at any time prior to the fifth anniversary of the completion of the installation of the Extension, the total credit earned by the Developers pursuant to the formula in paragraph 2 shall be equal to or greater than the actual costs of construction of the Extension, this Agreement and the obligation of the Developers under this Agreement shall terminate and thereafter the Developers shall be under no obligation to make any deposit with the Company and the Company within a reasonable time thereafter shall take whatever steps as shall be necessary to satisfy of record the mortgage referred to in Section 5 below.

5. Contemporaneously with the execution hereof and prior to the beginning of the construction by the Company of the Extension, the Developers will execute and deliver to the Company a mortgage in the form attached hereto and made a part hereof.

6. At any time prior to the termination of this Agreement the Developers may, if they be not in default under the terms of this Agree-

ment, request that all or a portion of the property described in and subject to said Mortgage be released from the lien thereof. In the event of such request, the Company may require as a condition to such release that other property, not subject to any lien or encumbrance, be mortgaged to secure the obligations of the Developers under this Agreement and in such event may require as a further condition to such release that an appraisal of such other property be conducted by an appraiser satisfactory to the Company and may also require that a title insurance policy covering or an abstract of title respecting such other property be supplied the Company.

7. The amount to be deposited by the Developers with the Company shall not be reduced nor shall any amount refundable to the Developers by the Company be increased with respect to any customer who cannot be served by the Extension as originally installed, notwithstanding the Extension may be used by the Company as a part of the system by which gas service is furnished to such customer.

8. "Consumer," as used in this Agreement for the purpose of stating the basis upon which the Developers earn credits pursuant to Section 2 hereof and for the purpose of stating the basis of the Company's obligation to make refund, means and shall mean only that consumer who is occupant of a house or dwelling when that house or dwelling is first served from the Extension and no person who shall afterwards occupy said house or dwelling and take gas service subsequent to said first consumer shall be considered a consumer so as to entitle the Developers to earn credit or be entitled to a refund under the provisions of this Agreement. Provided further that "Consumer" as used herein means an occupant of the house or dwelling who occupies the house or dwelling as a bona fide place of residence and the Developers shall not be entitled to credit or to a refund on account of gas service to such house or dwelling requested by the Developers or their agent for use during construction, for demonstration or other purposes.

-6-

9. Title to the Extension and all material parts used in the construction and maintenance thereof, shall be vested and shall remain the property of the Company, its successors and assigns, and Company shall be the sole owner thereof, free of any lien, claim or charge of Developers thereon.

10. This agreement shall inure to and be binding upon the heirs, devisees, successors, assigns, executors and administrators of the parties hereto, as well as upon the parties themselves.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

ALABAMA GAS CORPORATION

By

Charles H. ...
Its Vice President

T. E. BONNER & J. B. DAVIS REALTY CO.

J. B. Davis
T. E. Bonner
Developers

STATE OF ALA. SHELBY CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON 10/26/63
RECORDED & \$ 10.00 MTG. TAX
& \$ 10.00 DEED TAX HAS BEEN
PD. ON THIS INSTRUMENT.

Conrad M. ...
JUDGE OF PROBATE

*For drawing
attached see
Map 69, p. 15*

STATE OF ALA. JEFFERSON CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON

DEED 6937P766

NOV 7 11 14 AM '63

RECORDED & \$ 10.00 MTG. TAX
& \$ 10.00 DEED TAX HAS BEEN
PD. ON THIS INSTRUMENT.

James ...
CLERK OF COURSE

APPROVED AS TO FORM:

ATTORNEY

BOOK 228 PAGE 271