

STATE OF ALABAMA )  
SHELBY COUNTY )

1344

In consideration of ten dollars (\$10.00) and other valuable considerations paid to Eddleman Properties, Inc., an Alabama corporation, (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, a non-exclusive 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 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

BOOK 253 PAGE 817

K. B. Weygand & Assoc. P.C.  
2233 Cahaba Valley Dr.

all trees, brush, undergrowth and other obstructions, whether located upon or near said 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; said real estate being described as follows:

Parcel 1

the strips or parcels of land which are a part of the real estate described in Exhibit A attached hereto and which are more particularly described as lying ten feet on either side of the centerline of the sewer pipelines which are presently located in and under the streets in the proposed The Magnolias at Brook Highland subdivision, which streets are shown on Exhibit B attached hereto (said Exhibit B consists of 1 page).

Parcel 2

the strips or parcels of land which are a part of the real estate described in Exhibit A attached hereto and which are designated or shown as easements on Exhibit B attached hereto, which strips or parcels of land shall be dedicated as easements when the subdivision maps of the proposed The Magnolias at 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:

BOOK 253 PAGE 818

KODK 253 PAGE 819

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 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, the liens or encumbrances which are set forth in Exhibit A.

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 interference 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 said easement shall result in the loss, limitation or abandonment of any right, title, interest, right of way, easement or estate granted hereby.

4. 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.

5. 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, Eddleman Properties, Inc. has caused this instrument to be executed by its duly authorized officers, on this 29<sup>th</sup> day of August, 1989.

ATTEST:

*Donald D. Eddleman*  
VICE-PRES.

Eddleman Properties, Inc.  
a corporation

By

Its

*Wiley D. Eddleman*  
*President*

BOOK 253 PAGE 820

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned, a notary public in and for said County in said State, hereby certify that Billy D. Eddleman, whose name as President of Eddleman Properties, Inc., a corporation, 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 of Eddleman Properties, Inc. and with full authority, executed the same voluntarily for and as the act of Eddleman Properties, Inc.

Given under my hand and official seal of office this 29<sup>th</sup> day of August, 1989.

Deborah K. Rangel  
Notary Public

My Commission Expires: 5/4/91

This instrument was prepared by:

Jack P. Stephenson, Jr.  
Burr & Forman  
3000 SouthTrust Tower  
Birmingham, Alabama 35203

BOOK 253 PAGE 821

EXHIBIT A

Legal Description

Being that certain tract or parcel of land situated in Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, and part of Lots 23 through 32 inclusive Jessica Ingram Property as recorded in Map Book 3, Page 54, in the Office of the Judge of Probate, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of said Section 31 and run thence South  $0^{\circ} 08' 50''$  West along the East line of said Section 31 for a distance 592.07 feet to the point of beginning, said point of beginning being on the Southwest right of way of Brook Highland Parkway as recorded in Map Book 12, pages 71 and 72, in the Office of the Judge of Probate, Shelby County, Alabama; thence continue along last stated course for a distance of 231.63 feet to an iron pin found at the Southeast corner of said Lot 23; thence run North  $89^{\circ} 12' 47''$  West along the South line of said Lot 23 and also along the South line of said Lot 24 for a distance of 2,427.79 feet to a point on the Southeast right of way of said Brook Highland Parkway, said point being on a curve which is concave to the Southeast having a radial bearing in of South  $37^{\circ} 25' 02''$  East and a central angle of  $4^{\circ} 57' 25''$  and a radius of 701.94 feet; thence run in a Northeasterly direction along the arc of said curve and also along said right of way for a distance of 60.73 feet to a point; thence run North  $57^{\circ} 32' 23''$  East along said right of way for a distance of 1,193.12 feet to a point on a curve to the right having a central angle of  $63^{\circ} 16' 40''$  and a radius of 510.96 feet; thence run in a Northeasterly to Southeasterly direction along the arc of said curve and also along said right of way for a distance of 564.31 feet to a point; thence run South  $59^{\circ} 10' 57''$  East along said right of way for a distance of 306.35 feet to a point; thence run North  $30^{\circ} 49' 03''$  East along said right of way for a distance of 12.00 feet to a point; thence run South  $59^{\circ} 10' 57''$  East along said right of way for a distance of 659.56 feet to the point of beginning. Said parcel containing 26.36 acres, more or less.

Less and except a thirty-foot road right of way being more particularly described as follows:

Commence at the Northeast corner of said Section 31 and run thence South  $0^{\circ} 08' 50''$  West along the East line of said Section 31 for a distance of 823.70 feet to an iron pin found at the Southeast corner of said Lot 23; thence run North  $89^{\circ} 12' 47''$  West along the South line of said Lot 23 for a distance of 1,364.62 feet to the point of beginning, said point being on the East line of said thirty-foot road right of way; thence run North  $4^{\circ} 58' 34''$  East along said road right of way for a distance of 330.11 feet to a point; thence run North  $0^{\circ} 13' 09''$  West along said road right of way for a distance of 380.58 feet to a point on the Southeast right of way of Brook Highland Parkway as recorded in Map Book 12, on pages 71 and 72, in the Office of the Judge of Probate, Shelby County, Alabama, said point being on a curve which is concave to the Southeast having a radial bearing in of South  $28^{\circ} 04' 30''$  East and a radius of 510.96 feet and a central angle of  $3^{\circ} 52' 36''$ ; thence run in a Southwesterly direction along the arc of said curve and also along said right of way for a distance of 34.57 feet to a point, said point being on the West line of said thirty-foot road right of way; thence run South  $0^{\circ} 13' 09''$  East along said road

right of way for a distance of 363.56 feet to a point; thence run South 5° 04' 31" West along said road right of way for a distance of 329.47 feet to a point; thence run South 89° 12' 47" East for a distance of 30.51 feet to the point of beginning. Said less and except parcel containing .48 acres, more or less.

Total property to be acquired 25.88 acres, more or less.

Being a portion of that property conveyed to Amsouth Bank, N.A., as Ancillary Trustee for NCB, National Bank of North Carolina, as Trustee for the Public Employees Retirement System of Ohio by that certain deed dated December 31, 1986, recorded in Book 107, Page 989 in the Office of the Judge of Probate of Shelby County, Alabama.

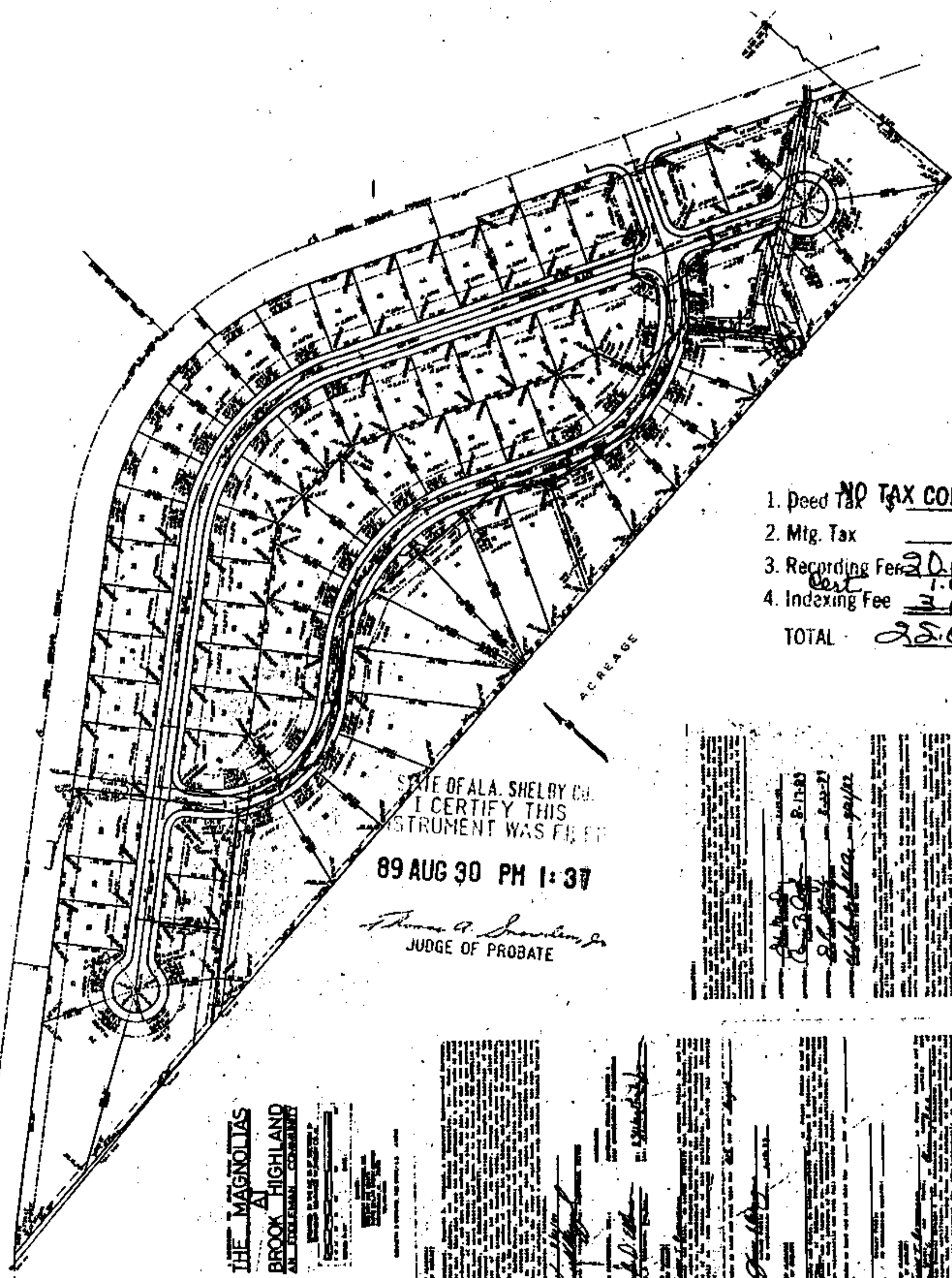
Subject to:

BOOK 220 PAGE 88

1. Ad valorem property taxes for the current year and subsequent years, which are not yet due and payable.
2. Those certain restrictions, covenants and conditions as shown by instrument recorded in Real 194, page 54 in the Office of the Judge of Probate of Shelby County, Alabama.
3. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including without limitation rights set out in Deed Book 327, Page 553 and Deed Book 32, Page 183 in the Office of the Judge of Probate of Shelby County, Alabama.
4. That certain drainage easement as set out in Real 125, Page 238 in the Office of the Judge of Probate of Shelby County, Alabama.

BOOK 253 PAGE 823

# EXHIBIT B



1. Deed Tax NO TAX COLLECTED  
 2. Mtg. Tax 100  
 3. Recording Fee 20.00  
 4. Indexing Fee 1.00  
 TOTAL 21.00

STATE OF ALA. SHELBY CO.  
 I CERTIFY THIS  
 INSTRUMENT WAS FILED

89 AUG 30 PM 1:37

Thomas A. Shivers, Jr.  
 JUDGE OF PROBATE

THE MAGNOLIAS  
 A  
 BROOK HIGHLAND  
 AN EXCLUSIVE COMMUNITY