

INSTRUMENT PREPARED BY:
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1328

PERMANENT
RIGHT-OF-WAY EASEMENT
FOR SANITARY SEWER
PIPELINES

STATE OF ALABAMA)
SHELBY COUNTY)

In consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration in hand paid to NCNB, National Bank of North Carolina, as Trustee for the Public Employees Retirement System of Ohio, (hereinafter called "Grantor"), the receipt of which the Grantor hereby acknowledges, the Grantor does hereby grant, bargain, sell and convey unto 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 "Grantee"), its successors and assigns, a non-exclusive, free, uninterrupted and unobstructed Permanent Right-of-Way located and situated in Shelby County, Alabama, and described as follows, to wit:

Situated in the Northwest 1/4 of Southeast 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the Northwest corner of said 1/4-1/4 section, at a concrete monument, and run easterly 1284.96 feet along the northerly line of said 1/4-1/4 section to a concrete monument on the westerly right-of-way line of Shelby County Road No. 459; thence turn 88°49'29" right and run southerly 1035.64 feet along said right-of-way line to an iron pin; thence turn 89°38'43" right and run westerly 5.00 feet along said westerly right-of-way line to an iron pin; thence turn 90°00' left and run southerly 100.00 feet along said westerly right-of-way line to an iron pin; thence turn 90°00' right and run westerly 10.00 feet along said 90°00' westerly right-of-way line to an iron pin; thence turn 90°00' left and run southerly 50.00 feet along said westerly right-of-way, line to a concrete monument; thence turn 37°57'28" right and run southwesterly 143.80 feet along said westerly right-of-way line to a concrete monument, said monument being the point of intersection of said westerly right-of-way line the northerly right-of-way line of U.S. Highway No. 280; thence turn 46°32'32" right and run westerly 55.00 feet along said northerly right-of-way line to a point, and

BOOK 301 PAGE 623

point being the Point of Beginning of the Easement herein described.

Thence, from said Point of Beginning, continue 30.63 feet along last described course and along said northerly right-of-way line to a point; thence turn 116°25'04" right and run northeasterly 63.01 feet to a point; thence turn 65°03'16" right and run easterly 2.60 feet to a point; thence turn 88°31'40" right and run southerly 56.36 feet to the Point of Beginning.

Said Easement contains 937.56 square feet or 0.0215 acres, more or less. (Said Property to hereinafter be referred to as the "Right-of-Way").

For the purposes of, at such times and from time to time in the future as the Grantee may elect, laying, constructing, installing, maintaining, operating, renewing, repairing, changing the size of, relocating, removing and/or replacing at will one or more sanitary sewer pipelines and such appurtenances, appliances, fixtures and equipment, whether above or beneath the surface of the ground, deemed by the Grantee to be necessary or useful in connection with the collection, transportation, and treatment of sewage (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 said Right-of-Way and over any property which is owned by the Grantor and which is adjacent to said Right-of-Way, together with the right, from time to time, in connection with the enjoyment of the rights and privileges herein conveyed, to cut and keep clear all trees, brush, undergrowth and other obstructions, whether located upon or near said Right-of-Way, to the extent necessary to permit the full enjoyment of the rights and privileges herein conveyed, and the protection of the Pipelines. The Grantee's rights of ingress and egress over the real estate and property which is owned by the Grantor and which is adjacent to said Right-of-Way shall be limited to those times when the Grantee requires access to and from the Right-of-Way for the purposes of laying, constructing, installing, maintaining, operating, renewing, repairing, changing the size of, relocating, removing and/or replacing the Pipelines within such Right-of-Way and such appurtenances, appliances, fixtures and equipment, whether above or beneath the surface of the ground,

BOOK 301 PAGE 624

which the Grantee deems to be necessary or useful in connection with the Pipelines.

The Right-of-Way herein conveyed is given, granted and accepted upon the following conditions and subject to the following stipulations:

1. The Grantor hereby covenants with the Grantee that the Grantor is lawfully seized in fee simple of the Right-of-Way, that said Right-of-Way is free from all encumbrances, except for all such valid and enforceable easements and restrictions of record, the rights of way of U.S. Highway 280 and Alabama State Road 495, and the lien of current real estate ad valorem taxes which are not delinquent (the "Permitted Encumbrances"), and that Grantor has a good right to grant to the Grantee the Right-of-Way granted hereby and that it will warrant and defend said Right-of-Way for the Grantee against all claims, liens and encumbrances, except for the Permitted Encumbrances, and any other liens or encumbrances which are approved in writing by the Grantee.

2. The Grantor reserves the right to use said Right-of-Way for any purpose and in a manner which will not unreasonably endanger or interfere with the Pipelines or the use or enjoyment of the Right-of-Way, estate, interests, rights and privileges granted to the Grantee by this instrument.

3. The Grantor agrees not to construct, cause to be constructed, or permit to be constructed, on said Right-of-Way any structure or obstruction of any kind which would prevent ready access to the Pipelines for any of the purposes set forth herein, except that the Grantor may erect a fence, provided that such fence has a gate and that the Grantee shall be given a key to the lock if the gate is locked, and Grantor may plant and maintain the landscaping and natural vegetation described hereinbelow. The Grantor further agrees that in the event an obstruction of any kind

BOOK 301 PAGE 625

should be constructed which would prevent ready access to the Pipelines for any of the purposes set forth herein, Grantor agrees to indemnify and hold harmless Grantee from any damages or injury Grantee may sustain due to the existence of the obstruction, including the cost of reasonable attorneys fees. For the purpose of this Right-of-Way deed only, paving of any kind, if added at a later date, will not be construed to be an obstruction which should prevent ready access to the Pipelines for any purposes set forth herein. Notwithstanding anything contained herein to the contrary, Grantor may erect, plant, and install landscaping and may construct a berm within the Right-of-Way or adjacent thereto, for the purpose of screening or otherwise concealing from view the Right-of-Way area and the Pipelines. Grantee agrees to promptly repair and be responsible for any damage to and indemnify Grantor for any damage to any paving, landscaping, natural vegetation, fencing, and any constructed berm in the event Grantee disturbs or otherwise damages such in the course of accessing or using said Right-of-Way, or repairing, constructing, installing, operating, renewing, changing the size of, relocating, removing and/or replacing the Pipelines within the Right-of-Way, such obligation of Grantee to be effective within ten (10) days after the initial installation of the Pipelines pursuant hereto.

4. Grantee agrees that the Pipelines placed within said Right-of-Way shall be installed and maintained in substantial accordance with those certain plans and specifications for the Birmingham Water Works and Sewer Board Lift Stations 1, 3 and 4 prepared by CHM Hill, dated October, 1989 including without limitation the "Plan, Sections and Details L.S. No. 4", the "Piping Plan L.S. No. 4", the "Erosion Control Plan L.S. No. 4" and the Site and Demo Plan L.S. No. 4" (collectively the "Plans"). The Grantee further agrees that the Pipelines placed within said Right-of-Way shall be buried so that the top thereof shall not be less than thirty inches (30") below the surface of the ground, and further agrees that following the construction, repair, relocation

or removal of any such Pipeline, Grantee will cause the surface of the ground and any paving or natural vegetation thereon to be restored as nearly as practicable to its former condition.

5. The Grantee shall have the right to lease, sell, assign, transfer and/or convey to others, in whole or in part, and to encumber, in whole or in part, the Right-of-Way and rights and privileges granted to it by this instrument.

6. No delay of the Grantee in establishing the location of the Right-of-Way hereby conveyed, or in the use of any other right hereby granted or in laying or installing the Pipelines in or along said Right-of-Way shall result in the loss, limitation or abandonment of any right, title, interest, easement or estate granted hereby.

7. The Grantor shall remain responsible for all taxes of whatever nature which may be due and owing or may become due and owing on the Right-of-Way.

8. The promises, covenants, and warranties made in this instrument are legally binding on Grantor and all who lawfully succeed to Grantor's rights and responsibilities, including Grantor's heirs, personal representatives, successors and assigns. These promises, covenants and warranties made in this instrument can be enforced by Grantee and all future owners of the Right-of-Way including Grantee's successors and assigns.

9. Notwithstanding anything contained herein to the contrary, the parties hereby acknowledge and agree that AmSouth Bank, N.A. hereby executes this Permanent Right-of-Way Easement for Sanitary Sewer Pipelines solely in its capacity as Ancillary Trustee for NCNB National Bank of North Carolina, as Trustee for the Public Employees Retirement System of Ohio, and except with respect of the execution of this Permanent Right-of-Way Easement

for Sanitary Sewer Pipelines, AmSouth Bank, N.A. shall have no obligations or responsibilities hereunder and makes no warranties or representations hereunder. Parties hereto further acknowledge and agree that in consideration of the service of AmSouth Bank, N.A., as Ancillary Trustee for NCNB National Bank of North Carolina, NCNB National Bank of North Carolina, as Trustee for the Public Employees Retirement System of Ohio, herein assumes all obligations and responsibilities of AmSouth Bank, N.A. hereunder and all other parties having rights and remedies set forth in this Permanent Right-of-Way Easement for Sanitary Sewer Pipelines (the "Parties") agree to look solely to NCNB National Bank of North Carolina, as Trustee for the Employees Retirement System of Ohio, for the performance of all obligations and responsibilities of AmSouth Bank, N.A. hereunder. The Parties agree that this Permanent Right-of-Way Easement for Sanitary Sewer Pipelines is executed by NCNB National Bank of North Carolina not personally or individually, but solely in its capacity as Trustee of the Public Employees Retirement System of Ohio, and it is understood and agreed that all representations, covenants, understandings and agreements herein made on the part of NCNB National Bank of North Carolina are made and intended not as personal representations, covenants, understandings or agreements, but are made and intended for the purpose of binding only the assets of the Trust over which NCNB National Bank of North Carolina is Trustee in favor of the Public Employees Retirement System of Ohio. This Permanent Right-of-Way Easement for Sanitary Sewer Pipelines is executed and delivered by NCNB National Bank of North Carolina not in its own right, but solely in the exercise of powers conferred upon by the applicable Trust Agreement, and the Parties expressly waive any and all personal liability against NCNB National Bank of North Carolina.

TO HAVE AND TO HOLD unto the Grantee, its heirs, personal representatives, successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has executed this instrument
on the 17th day of July, 1990.

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 & Trust Officer

STATE OF Alabama)
COUNTY OF Shelby)

I, the undersigned authority, in and for said County, in said
State, hereby certify that John A. Bostwick, whose name signed to the
foregoing conveyance, and who known to me, acknowledged before me
on this day that, he is V.P. & Trust Officer of AmSouth Bank, N.A., as
Ancillary Trustee for NCNB National Bank of North Carolina, as
Trustee for the Public Employees Retirement System of Ohio, and
that he is informed of the contents of the conveyance, executed the
same voluntarily on the same bears date.

Given under my hand and official seal, this day of 17th July
1990.

Margaret Ruth Peters
Notary Public 12/30/91

STATE OF ALABAMA
COUNTY OF SHELBY
90 JUL 23 AM 10:09

1. Deed Tax	\$	_____
2. Int. Tax	\$	_____
3. Imp. Tax	\$	17.50
4. J. Tax	\$	2.00
5. S. Tax	\$	1.00
6. Comm. Tax	\$	1.00
Total	\$	22.50