

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

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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 Tenth 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 Tenth 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:

- a. Real estate ad valorem taxes for the tax year ending September 30, 1993.
- b. Easement to Alabama Power Company as set out in Real 207, page 380 and in Real 220, pages 521 and 532 in Probate Office.
- c. Public utility easements and building setback line as shown by map to be recorded.
- d. 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 Probate Office.
- e. A Deed and Bill of Sale from AmSouth Bank, N.A., 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 subject land, as shown by instrument recorded in Real 194 page 43 in Probate Office along with an Easement for Sanitary Sewer Lines and Water Lines as set out in Real 194 page 01 in Probate Office.
- f. Drainage Agreement between AmSouth Bank, N.A., as Ancillary Trustee and Eddleman and Associates as set out in Real 125 page 238 in Probate Office.
- g. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto.
- h. Restrictive covenants with regard to Underground Transmission installations by Alabama Power Company as recorded in Real 181 page 995 in Probate Office.

i. Covenants releasing predecessors in title from any liability arising from sinkholes, limestone formations, soil conditions or any other known or unknown surface or subsurface conditions that may now or hereafter exist or occur or cause damage to subject property.

j. Reciprocal Easement Agreement between AmSouth Bank, N.A., as Ancillary Trustee and Eddleman and Associates, as set out in Real 125 page 249 and Real 199 page 18 in Probate Office.

k. Agreement concerning Electric Service to NCNB/Brook Highland and Alabama Power Company recorded in Real 306 page 119 in said Probate Office.

l. Restrictions, covenants and conditions set out and contained in deeds conveyed to other parties as set out in Real 308, page 1, Real 220, page 339, and as Instrument #1992-14567 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 23
day of Sept., 1993.

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:

James S. Lake
Its Asst Vice President
and Trust Officer
STATE OF ALABAMA)

By: W. Baker Crow IV
Its Vice President & Trust Officer

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in
said State hereby certify that W. Baker Crow IV whose name
as V.P. & T.O. 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 23rd day
of Sept., 1993.

Carolyn A. Garrison
Notary Public

AFFIX SEAL

My commission expires: 3/4/94

This instrument prepared by:

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

A parcel of land to be known as Brook Highland 10th Sector situated in Sections 30 and 31, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast corner of Lot 2034, Brook Highland, An Eddleman Community, 20th Sector as recorded in Map Book 16, page 148, in the Office of the Judge of Probate, Shelby County, Alabama, thence run South 86 degrees 01 minutes 34 seconds West along the South line of said Lot 2034 for a distance of 171.05 feet to the Southwest corner of said Lot 2034; thence run South 1 degree 14 minutes 00 seconds East for a distance of 185.65 feet to a point; thence run South 8 degrees 38 minutes 12 seconds East for a distance of 176.77 feet to a point; thence run South 23 degrees 02 minutes 07 seconds East for a distance of 135.49 feet to a point; thence run South 17 degrees 46 minutes 44 seconds East for a distance of 223.10 feet to a point; thence run South 31 degrees 15 minutes 57 seconds East for a distance of 55.67 feet to a point; thence run South 42 degrees 10 minutes 41 seconds West for a distance of 192.69 feet to a point; thence run South 9 degrees 10 minutes 42 seconds East for a distance of 87.38 feet to a point; thence run South 33 degrees 04 minutes 09 seconds West for a distance of 244.13 feet to a point; thence run South 32 degrees 27 minutes 37 seconds East for a distance of 150.00 feet to a point; thence run South 32 degrees 27 minutes 37 seconds East for a distance of 60.00 feet to a point; thence run South 57 degrees 32 minutes 23 seconds West for a distance of 10.00 feet to a point; thence run South 40 degrees 43 minutes 35 seconds East for a distance of 273.79 feet to a point; thence run South 32 degrees 26 minutes 50 seconds East for a distance of 245.00 feet to a point on the Northwest right-of-way of Brook Highland Parkway as recorded in Map Book 12, page 72 in the Office of the Judge of Probate, Shelby County, Alabama; thence run North 57 degrees 32 minutes 23 seconds East along said Northwest right-of-way for a distance of 180.00 feet to a point on a curve to the right having a central angle of 43 degrees 05 minutes 22 seconds and a radius of 622.96 feet; thence run in a Northeasterly direction along the arc of said curve and also along said Northwest right-of-way for a distance of 468.50 feet to a point on a reverse curve to the left having a central angle of 82 degrees 57 minutes 44 seconds and a radius of 30.00 feet; thence run in a Northeasterly direction along the arc of said curve and also along said Northwest right-of-way for a distance of 43.44 feet to a point on the West right-of-way of Brook Highland Drive as recorded in Map Book 12, Page 73, in the Office of the Judge of Probate, Shelby County, Alabama; thence run North 17 degrees 40 minutes 00 seconds East along said West right-of-way for a distance of 361.52 feet to a point; thence run South 72 degrees 20 minutes 00 seconds East along said West right-of-way for a distance of 20.00 feet to a point on a curve to the left having a central angle of 61 degrees 14 minutes 45 seconds and a radius of 365.14 feet; thence run in a Northwesterly direction along the arc of said curve and also along said West right-of-way for a distance of 390.32 feet to a point; thence run North 43 degrees 34 minutes 45 seconds West along said West right-of-way for a distance of 445.22 feet to a point on a curve to the right having a central

angle of 33 degrees 34 minutes 40 seconds and a radius of 507.47 feet; thence run in a Northwesterly direction along the arc of said curve and also along said West right-of-way for a distance of 297.40 feet to a point; thence run North 10 degrees 00 minutes 05 seconds West along said West right-of-way for a distance of 286.46 feet to a point on a curve to the left having a central angle of 23 degrees 16 minutes 56 seconds and a radius of 447.46 feet; thence run in a Northwesterly direction along the arc of said curve and also along said West right-of-way for a distance of 181.83 feet to a point; thence run North 33 degrees 17 minutes 02 seconds West along said West right-of-way for a distance of 38.57 feet to the Southeast corner of Lot 2036 in said Brook Highland, An Eddleman Community, 20th Sector; thence run South 56 degrees 42 minutes 58 seconds West along the Southeast line of Lots 2036 and 2035 in said Brook Highland, An Eddleman Community, 20th Sector for a distance of 334.56 feet to the point of beginning. Said Brook Highland 10th Sector containing 31.305 acres, more or less.

PRELIMINARY MAP

A SUBDIVISION FOR SINGLE FAMILY RESIDENCES

BROOK HIGHLAND AN EDDLEMAN COMMUNITY 10TH SECTOR

SITUATED IN THE SE 1/4 SECTION 30, TOWN
SHR 18S, RANGE 1W, SHELBY COUNTY, ALA-
BAMA.



SCALE: 1" = 100'

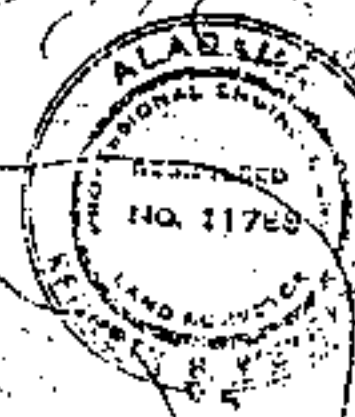
DATE: MAY 18, 1993

DEVELOPER: EDDLEMAN PROPERTIES INC.
2700 HWY 2808
SUITE 305
BIRMINGHAM, AL 35225
TEL: 871-8225

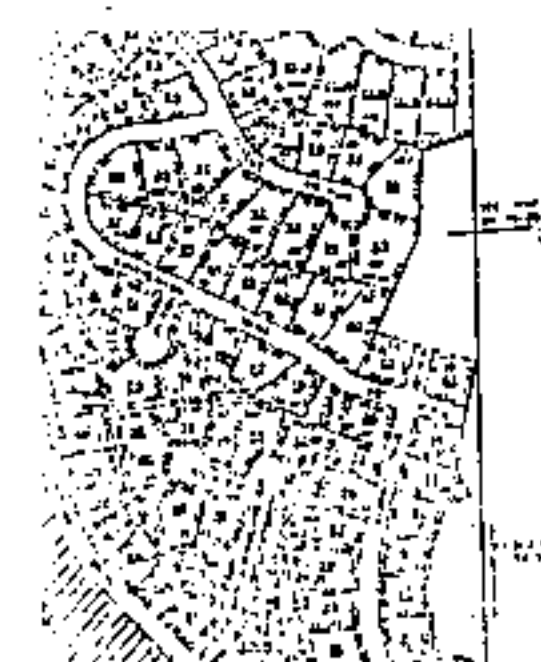
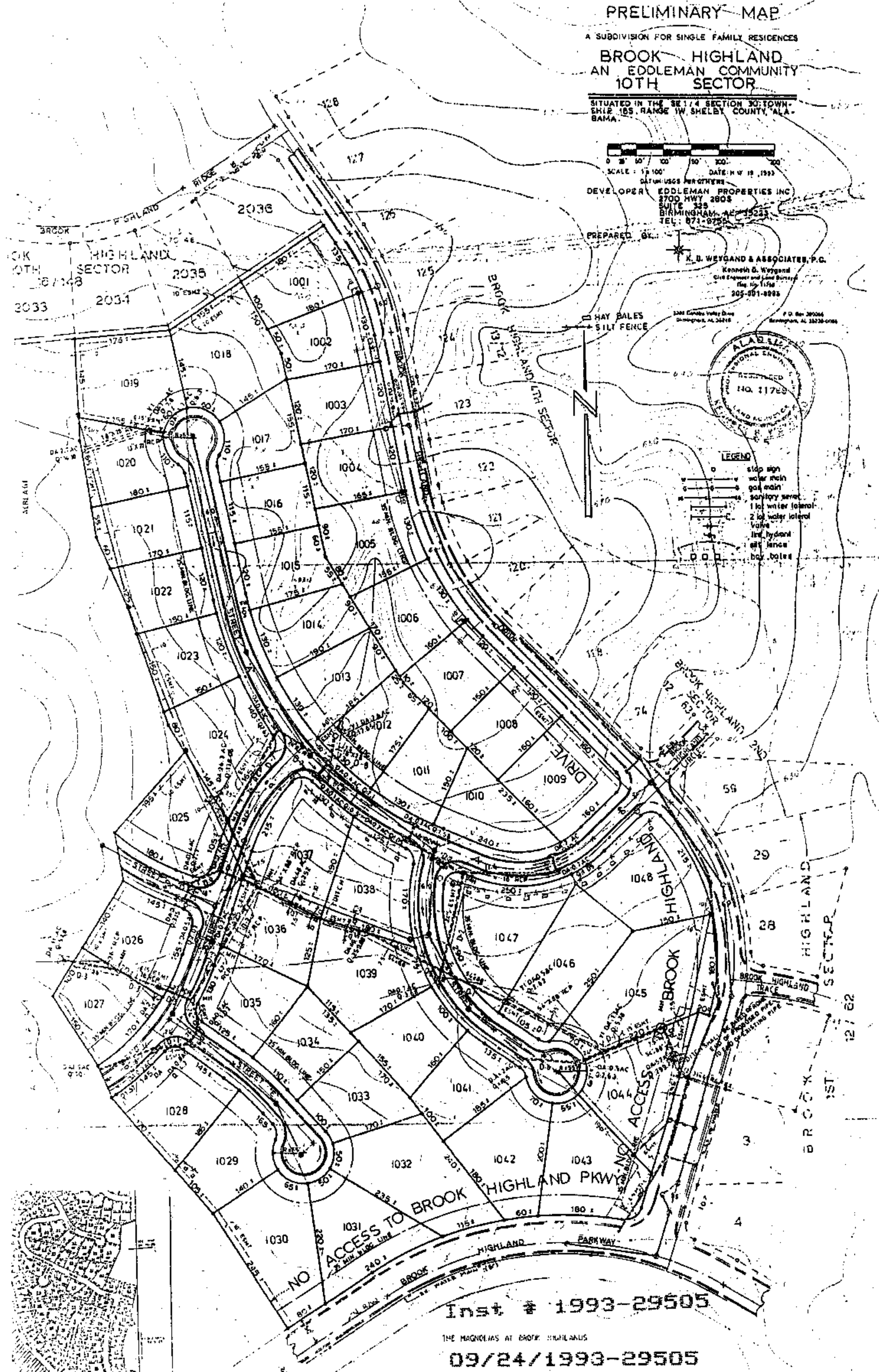
PREPARED BY: K. J. WEYGAND & ASSOCIATES, P.C.

Kenneth B. Weygand
Civil Engineer and Land Surveyor
Reg. No. 11768
305-991-8995

3000 Cahaba Valley Drive
Birmingham, AL 35226-0006
P.O. Box 300066
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- LEGEND**
- stop sign
 - water main
 - gas main
 - sanitary sewer
 - 1" hot water lateral
 - 2" hot water lateral
 - valve
 - fire hydrant
 - gate fence
 - hay bales



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THE MAGNETIC AT BROOK HIGHLAND

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10:56 AM CERTIFIED

EXHIBIT B
SHELBY COUNTY JUDGE OF PROBATE
DOB MCD 26.00