

STATE OF ALABAMA     )

COUNTY OF SHELBY     )

**QUITCLAIM DEED WITH RESERVATION OF RIGHTS**

THIS QUITCLAIM DEED WITH RESERVATION OF RIGHTS is executed and delivered on this 31st day of January, 1994 by DANIEL U.S. PROPERTIES LIMITED PARTNERSHIP II, an Alabama limited partnership ("Grantor"), in favor of DANIEL PROPERTIES XV LIMITED PARTNERSHIP, a Virginia limited partnership formerly known as Daniel Properties XV ("Grantee").

**RECITALS:**

Daniel U.S. Properties Limited Partnership, a Virginia limited partnership formerly known as Daniel U.S. Properties, Ltd. ("DUSP"), and Grantee have heretofore entered into a Sewer Line Easement and Connection Agreement dated as of September 23, 1985, as recorded in Real Record 43, Page 611 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"), which has been modified by First Amendment thereto dated August 14, 1986 and recorded in Real Record 086, Page 355 in the Probate Office (collectively, the "Morning Sun Sewer Easement"). Pursuant to the Morning Sun Sewer Easement, Grantee constructed and installed the "Sewer Lines", as defined in the Morning Sun Sewer Easement (the "Morning Sun Sewer Lines"), on the "Easement Property", as defined in the Morning Sun Sewer Easement (the "Morning Sun Easement Property").

DUSP and South Jefferson Co., Inc. have heretofore entered into a Sewer Line Easement and Connection Agreement dated as of September 23, 1985 (the "South Jefferson Sewer Easement"), as recorded in Real Record 058, Page 365 in the Probate Office. Pursuant to the South Jefferson Sewer Easement, DUSP and Grantee constructed and installed the "Sewer Lines", as defined in the South Jefferson Sewer Easement (the "South Jefferson Sewer Lines"), on the "Easement Property", as defined in the South Jefferson Sewer Easement (the "South Jefferson Easement Property").

DUSP and Grantee have extended the Morning Sun Sewer Lines and the South Jefferson Sewer Lines to U.S. Highway 280 by constructing and installing sewer taps, trunk lines, pipes, sewer lines, drains, conduits and lift stations necessary for sanitary sewer lines (collectively, the "ROW Sewer Lines") either within (a) the right-of-way of Meadow Brook Road, a public roadway ("Meadow Brook Road"), situated in the City of Hoover, Shelby County, Alabama or (b) the "Easement Areas" (the "MBCP Easement Area"), as defined in the Declaration of Covenants, Conditions and Restrictions for Meadow Brook Corporate Park dated October 17, 1984, as recorded in Book 005, Page 772 in the Probate Office, as the same has been amended from time to time (collectively,

the "Declaration").

As a result of the foregoing, sanitary sewer service for the apartment complex commonly known as "Morning Sun Villas" ("Morning Sun Villas"), which is currently owned by Grantee, is provided through the Morning Sun Sewer Lines, the South Jefferson Sewer Lines and the ROW Sewer Lines (collectively, the "Combined Sewer Lines") over, across, through and upon the Morning Sun Easement Property, the South Jefferson Easement Property, Meadow Brook Road and the MBCP Easement Area (the "Combined Easement Property") and the Combined Sewer Lines are connected to the sewer trunk line of The Water Works and Sewer Board of the City of Birmingham, as successor in interest to Cahaba Water Renovation Systems, Inc. ("BWVB"), which provides sanitary sewage disposal services for Morning Sun Villas through its sewer trunk line situated in the right-of-way of U.S. Highway 280. Exhibit A attached hereto and incorporated herein by reference indicates the approximate locations of the Morning Sun Easement Property (upon which the Morning Sun Sewer Lines have been constructed), the South Jefferson Sewer Easement Property (upon which the South Jefferson Sewer Lines have been constructed), Meadow Brook Road and the MBCP Easement Area (upon which the ROW Sewer Lines have been constructed).

Grantor is the successor in interest to DUSP, having acquired all right, title and interest of DUSP under (a) the Morning Sun Sewer Easement pursuant to Statutory Warranty Deed dated as of December 31, 1992 executed by DUSP in favor of Grantor, as recorded as Instrument No. 1993-11093 in the Probate Office, (b) the South Jefferson Sewer Easement pursuant to Quitclaim Deed dated as of January 17, 1994 executed by DUSP in favor of Grantor, as recorded as Instrument No. 1994-03405 in the Probate Office and (c) the MBCP Easement Area pursuant to Assignment of Rights as Developer for Meadow Brook Corporate Park dated December 31, 1992 from DUSP to Grantor, as recorded as Instrument No. 1993-11095 in the Probate Office.

Subject to the rights and easements reserved herein by Grantor, Grantor desires to convey and quitclaim to Grantee all of Grantor's right, title and interest in and to the (a) Morning Sun Sewer Easement, the South Jefferson Sewer Easement and the MBCP Easement Area (collectively, the "Combined Sewer Easements") and (b) the Combined Sewer Lines.

### I. Conveyance

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid by Grantee to Grantor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, but subject to the rights and easements reserved by Grantor as described below, Grantor does by these presents, REMISE, RELEASE,



QUITCLAIM, SELL and CONVEY unto Grantee the following:

(a) All of Grantor's right, title and interest in and to the Combined Sewer Easements and the Combined Easement Property; and

(b) All of Grantor's right, title and interest in and to the Combined Sewer Lines, whether installed by Grantor, Grantee, DUSP or any third parties in, on, upon or under the Combined Easement Property.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns, forever, subject to the rights reserved by Grantor as set forth below.

## **II. Reservation of Rights**

1. Grantor, for itself and its successors and assigns, does hereby establish and reserve (a) the permanent, perpetual and irrevocable right and easement to exercise in common with Grantee, its successors and assigns, all of the rights and privileges set forth in the Declaration with respect to the MBCP Easement Area and (b) subject to the provisions of Paragraph 2 below of this Section II, the permanent, perpetual and irrevocable right and easement (the "Reserved Connection Rights") to (i) install, construct, operate, maintain, repair and replace within any of the Combined Easement Property any and all sewer taps, trunk lines, sewer lines, pipes, drains, conduits, meters and lift stations (collectively, the "Grantor's Future Sewer Lines") and (ii) connect any of Grantor's Future Sewer Lines to (or tap onto) the Combined Sewer Lines and otherwise use the Combined Sewer Lines for the discharge of sewage from any real property owned by Grantor, its successors and assigns, which may be situated adjacent to or in close proximity with the Combined Easement Property.

2. To the extent Grantor, its successors and assigns, exercises the Reserved Connection Rights, then the following terms and provisions shall be applicable to Grantor, its successors and assigns:

(a) The Grantor's Future Sewer Lines shall be installed, constructed, operated, maintained, repaired and replaced by Grantor, its successors and assigns, at their sole cost and expense, and in accordance with all rules, regulations and requirements of the applicable governmental authorities and BWWB, its successors and assigns;

(b) Grantor, its successors and assigns, shall at all times be responsible for paying any and all reservation/impact fees, demand and use charges and all other costs levied, assessed or charged by BWWB, its successors and assigns, for any sewage discharge treatment services provided by BWWB to Grantor, its

successors and assigns, through the use of any of the Combined Sewer Lines;

(c) The Reserved Connection Rights shall be used by Grantor, its successors and assigns, in common with Grantee, its successors and assigns, and subject to the rights of all other parties having any interests therein; and

(d) At such time as Grantor or any of its successors and assigns begin discharging sewage into the Combined Sewer Lines, Grantor or its successors and assigns shall pay to Grantee, its successors and assigns, the "Grantor's Prorata Share" (as hereinafter defined) of the reasonable costs incurred by Grantee in maintaining the Combined Sewer Lines. As used herein, the term "Grantor's Prorata Share" shall mean the product obtained by multiplying the total costs and expenses incurred by Grantee, its successors and assigns, in maintaining the Combined Sewer Lines from and after the exercise of the Reserved Connections Rights by Grantor by a fraction, the numerator of which shall be the gallons per day of sewage discharged by Grantor or its successors and assigns into the Combined Sewer Lines and the denominator of which shall be the combined total gallons per day of sewage discharged into the Combined Sewer Lines by (i) Grantee, its successors and assigns, (ii) Grantor, its successors and assigns, and (iii) any other third parties who have the right to discharge sewage into the Combined Sewer Lines and who have either verbally or by written agreement agreed to pay a pro rata portion of the costs to maintain the Combined Sewer Lines. To the extent Grantor exercises the Reserved Connection Rights, Grantee shall provide to Grantor (or its successors and assigns) copies of all bills, invoices and other data reasonably requested with respect to any such costs; provided, however, that (1) Grantee shall not incur any expense which would exceed \$2,500.00 in any monthly period without first obtaining the prior written approval of Grantor (or its successors and assigns), which approval shall not be unreasonably withheld or delayed, and (2) Grantee shall incur only such costs and expenses in maintaining the Combined Sewer Lines which are reasonable and rendered by independent third parties. If BWWB or its successors and assigns, any governmental agency or any other entity providing sewage discharge services for any of the real property served by the Combined Sewer Lines assumes any maintenance obligations with respect to the Combined Sewer Lines, then the obligation of Grantor (or Grantor's successors and assigns) to pay Grantor's Prorata Share shall automatically cease and terminate and the provisions of this Paragraph 1(d) of Section II shall be deemed null and void. If Grantor, its successors or assigns, do not exercise the Reserved Connection Rights, then neither Grantor nor its successors or assigns shall have any obligation to pay any maintenance or other costs relating to the maintenance of the Combined Sewer Lines.



3. Grantee, by its acceptance of this Quitclaim Deed, for itself and its successors and assigns, does hereby accept the foregoing conveyance and covenant and agree to assume all responsibility with respect to the maintenance, repair and operation of the Combined Sewer Lines and to maintain the Combined Sewer Lines in good condition and repair at all times.

4. The terms and provisions of Paragraphs 1 through 3 of this Section II shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of Grantor and Grantee and their respective successors and assigns.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Quitclaim Deed with Reservation of Rights to be executed as of the day and year first above written.

**GRANTOR:**

**DANIEL U.S. PROPERTIES LIMITED  
PARTNERSHIP II**, an Alabama limited  
partnership


By: Daniel Realty Investment Corporation,  
a Virginia corporation,  
Its General Partner

By:   
Its: Senior Vice President

**GRANTEE:**

**DANIEL PROPERTIES XV LIMITED  
PARTNERSHIP**, a Virginia limited  
partnership

By: The Fifteenth Daniel Realty  
Investment Corporation, a Virginia  
corporation  
Its General Partner

By:   
Its: Senior Vice President

STATE OF ALABAMA )

COUNTY OF SHELBY )

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Stephen R. Monk whose name as Sr. Vice President of DANIEL REALTY INVESTMENT CORPORATION, a Virginia corporation, as General Partner of DANIEL U.S. PROPERTIES LIMITED PARTNERSHIP II, an Alabama limited partnership, 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 instruments, he, as such officer and with full authority, executed the same voluntarily, for and as the act of said corporation, in its capacity as General Partner as aforesaid.

Given under my hand and official seal, this the 31st day of January, 1994.

Shirley H. Ellis  
Notary Public  
My Commission Expires: 2/26/94

STATE OF ALABAMA )

COUNTY OF SHELBY )

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Stephen R. Monk whose name as Sr. Vice President of THE FIFTEENTH DANIEL REALTY INVESTMENT CORPORATION, a Virginia corporation, as General Partner of DANIEL PROPERTIES XV LIMITED PARTNERSHIP, a Virginia limited partnership, formerly known as Daniel Properties XV, 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 instruments, he, as such officer and with full authority, executed the same voluntarily, for and as the act of said corporation, in its capacity as General Partner as aforesaid.

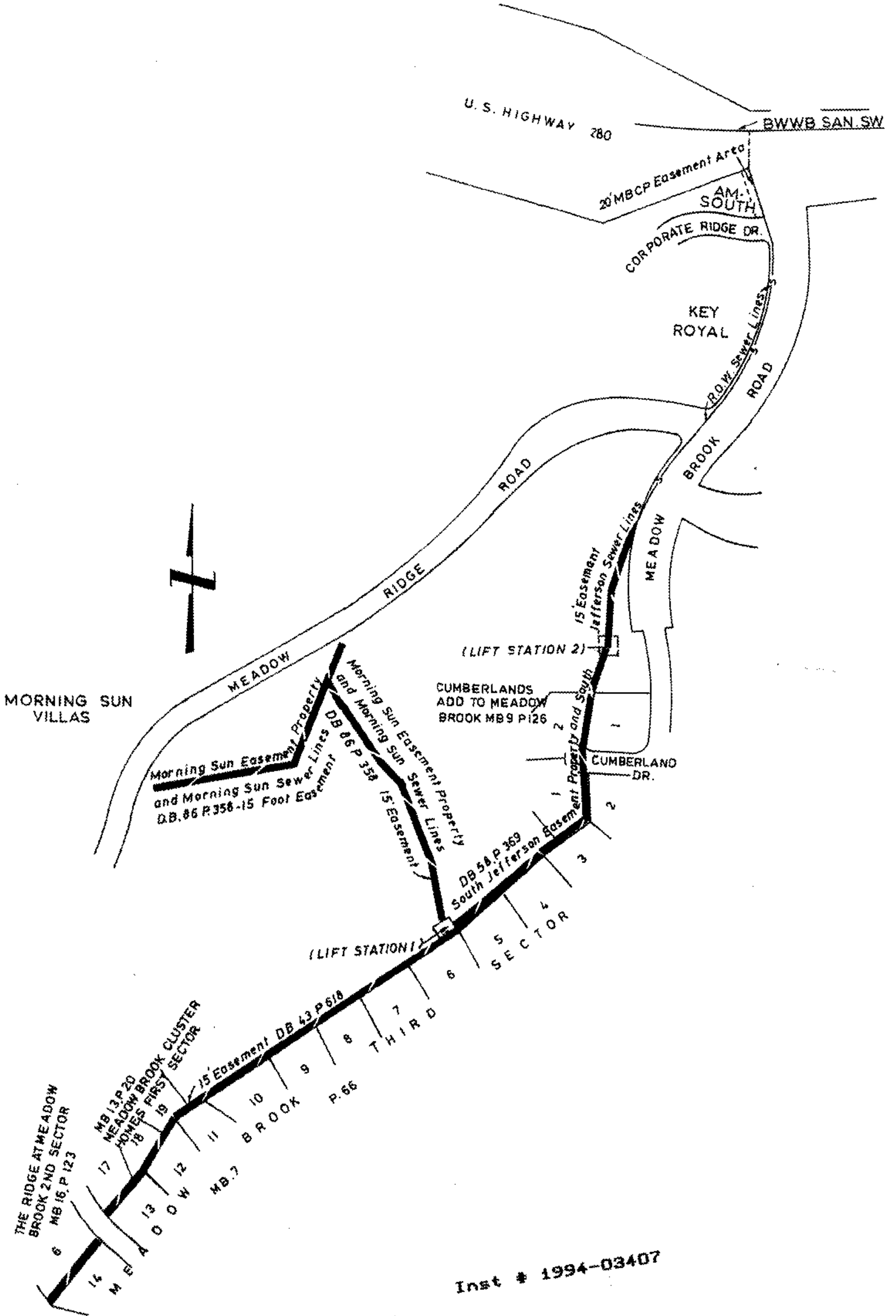
Given under my hand and official seal, this the 31st day of January, 1994.

Shirley H. Ellis  
Notary Public  
My Commission Expires: 2/26/94

This instrument prepared by  
and upon recording should be  
returned to:

Stephen R. Monk, Esq.  
Daniel Realty Corporation  
1200 Corporate Drive  
Meadow Brook Corporate Park  
Birmingham, Alabama 35242

Exhibit A



Inst # 1994-03407

02/01/1994-03407  
03:24 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
007 HCD 25.50