

STATE OF ALABAMA     )  
                                      )  
SHELBY COUNTY         )

**VACATION OF RIGHTS-OF-WAY**

18<sup>th</sup> THIS VACATION OF RIGHT-OF-WAY is made and entered into as of this day of March, 1996 by and between THE WATER WORKS AND SEWER BOARD OF THE CITY OF BIRMINGHAM, a public corporation ("BWWB"), REGIONS BANK OF LOUISIANA - BIRMINGHAM, formerly known as Secor Bank, a federal savings bank ("Regions Bank"), TAYLOR PROPERTIES, L.L.C., an Alabama limited liability company, formerly known as School House Properties, an Alabama general partnership ("Taylor"), TYROL, INC., an Alabama corporation ("Tyrol") and DANIEL OAK MOUNTAIN LIMITED PARTNERSHIP, an Alabama limited partnership ("Daniel").

**R E C I T A L S:**

**WHEREAS**, on or about July 15, 1993, Secor Bank, a federal savings bank ("Secor") and School House Properties, an Alabama general partnership ("School House") granted and conveyed to BWWB a thirty foot (30') right-of-way for the purpose of laying, constructing, installing, maintaining, operating, renewing, repairing, changing the size of, relocating, removing and/or replacing at will one or more pipelines and such appurtenances, appliances, fixtures and equipment deemed necessary or useful by BWWB in connection with the transportation, distribution and sale of water. Said conveyance was recorded on July 16, 1993 as Instrument #1993-20844 in the Office of the Judge of Probate of Shelby County, Alabama (the "Secor/School House Right-of-Way"); and

**WHEREAS**, on or about July 12, 1993, Secor and Daniel granted and conveyed to BWWB a thirty foot (30') right-of-way identical in purpose and description and covering the same real property as the Secor/School House Right-of-Way (the "Secor/Daniel Right-of-Way")(collectively with the Secor/School House Right-of-Way, the "Rights-of-Way"). The Secor/Daniel Right-of-Way is unrecorded on the public records but is attached hereto as Exhibit A; and

**WHEREAS**, at the time of the conveyance of the Rights-of-Way to BWWB in July 1993, the parcels of real property described in the Rights-of-Way were owned by Secor and School House and Daniel had no ownership interest therein. Regions Bank is successor in title to the Secor portion of the real property described in the Rights-of-Way and Taylor and Tyrol are successors in title to the School House portions of the real property described in the Rights-of-Way; and

**WHEREAS**, BWWB has never utilized the Rights-of-Way and desires to vacate, release, annul and terminate such Rights-of-Way.

05/29/1996-17256  
10:42 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
011 MCD 33.50

Inst # 1996-17256


**NOW, THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BWWB, Regions Bank, Taylor, Tyrol and Daniel hereby agree as follows:

BWWB hereby vacates, releases, annuls, terminates and quitclaims unto Regions Bank, Taylor, Tyrol and Daniel, as their respective interests may appear, any and all right, title and interest granted to BWWB pursuant to the Secor/School House Right-of-Way and the Secor/Daniel Right-of-Way over, upon and under the real property described in said Rights-of-Way.

**IN WITNESS WHEREOF**, BWWB, Regions Bank, Taylor, Tyrol and Daniel have effected this Vacation of Right-of-Way as of the day and year first above written.

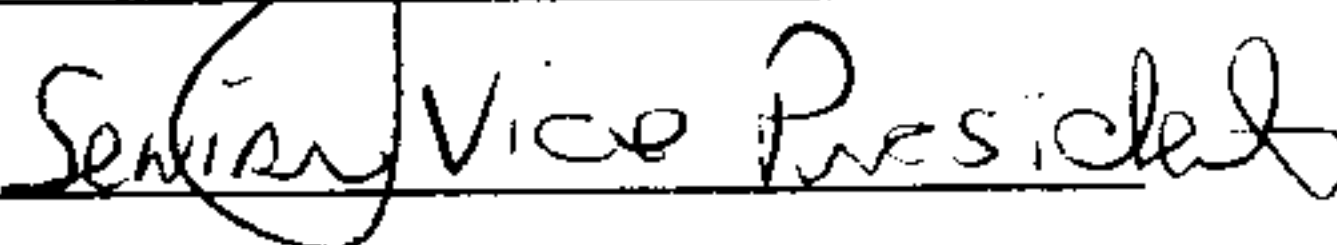
THE WATER WORKS AND SEWER  
BOARD OF THE CITY OF BIRMINGHAM,  
a public corporation

By: 

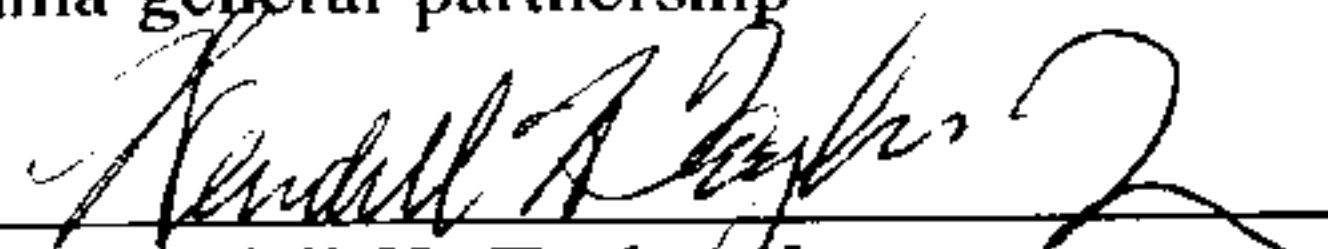
Its: 

REGIONS BANK OF LOUISIANA -  
BIRMINGHAM, formerly known as SECOR  
BANK, a federal savings bank

By: 

Its: 

TAYLOR PROPERTIES, L.L.C., an  
Alabama limited liability company, formerly  
known as School House Properties, an  
Alabama general partnership

By: 

Wendell H. Taylor, Jr.

Its Member

TYROL, INC., an Alabama corporation

By: [Signature]  
Its [Signature]

DANIEL OAK MOUNTAIN LIMITED  
PARTNERSHIP, an Alabama limited  
partnership

BY: DANIEL REALTY INVESTMENT  
CORPORATION - OAK MOUNTAIN, an  
Alabama corporation, Its General Partner

By: [Signature]  
Its: Sr. Vice President

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State,  
hereby certify that GENE R. HANSON, whose name as Ass't Gen Mgr.  
of The Water Works and Sewer Board of the City of Birmingham, a public 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 such instrument, he, as such officer and  
with full authority, executed the same voluntarily for and as the act of said public  
corporation.

Given under my hand and seal, this 18<sup>th</sup> day of March, 1996.

[Signature]  
Notary Public

[SEAL]

My commission expires:

9-22-96

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that STANLEY E. WEIR, whose name as SENIOR VICE PRESIDENT of Regions Bank of Louisiana - Birmingham, formerly known as Secor Bank, a federal savings bank, 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 such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said bank.

Given under my hand and seal, this 18TH day of March, 1996.

Marylan D. Livingston  
Notary Public

[SEAL]

My commission expires:  
MY COMMISSION EXPIRES AUGUST 23, 1999

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Wendell H. Taylor, Jr., whose name as Member of Taylor Properties, L.L.C., an Alabama limited liability company, formerly known as School House Properties, an Alabama general 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 such instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal, this 19th day of March, 1996.

Rebecca J. Craithouse  
Notary Public

[SEAL]

My commission expires:

11/4/98



STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Michael D. Fuller, whose name as President of Tyrol, Inc., an Alabama 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 such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal, this 21 day of ~~March~~ <sup>MAY</sup>, 1996.

John D. Sanson  
Notary Public

[SEAL]

My commission expires:

7/26/97

STATE OF ALABAMA     )  
SHELBY COUNTY        )

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 - Oak Mountain, an Alabama corporation, as General Partner of Daniel Oak Mountain Limited Partnership, 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 the instrument, he, in his capacity as such officer and with full authority, executed the same voluntarily, for and as the act of said Daniel Realty Investment Corporation - Oak Mountain, in its capacity as General Partner of Daniel Oak Mountain Limited Partnership.

Given under my hand and seal, this 13th day of ~~March~~ <sup>May</sup>, 1996.

Shirley A. Ellis  
Notary Public

[SEAL]

My commission expires:

2/26/98

**EXHIBIT A**

STATE OF ALABAMA    )  
JEFFERSON COUNTY    )

In consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid to SECOR Bank, Federal Savings Bank and Daniel Oak Mountain Limited Partnership (hereinafter called Grantor, whether one or more), 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 free, uninterrupted and unobstructed right-of-way thirty feet (30') in width, located within the boundaries of a tract of land owned by Grantor situated in the Southwest One-Quarter (SW ¼) and the Southeast One-Quarter (SE ¼) of the Northeast One-Quarter (NE ¼); and the Northeast One-Quarter (NE ¼) of the Southeast One-Quarter (SE ¼) of Section 5, Township 19 South, Range 1 West in unincorporated Shelby County, Alabama as shown in red on the map attached hereto and made a part hereof, being fifteen feet (15') on either side of the center line of the first water pipeline or water main laid or installed in said real estate under the terms of this instrument, 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 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 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 said right-of-way and real estate and over any property which is owned by the Grantor and is adjacent to said 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 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 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, which the Grantee deems to be necessary or useful in connection with the Pipelines.

The rights and privileges herein conveyed are 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 said premises, that they are free from all encumbrances and that it has a good right to grant to the Grantee the right-of-way granted hereby and that it will warrant against all claims, liens and encumbrances, except the lien for current real estate ad valorem taxes which are not delinquent, and any other liens or encumbrances which are approved in writing by the Grantee.

2. The Grantor retains ownership of said property and reserves the right to use said real estate for any purpose and in a manner which will not unreasonably endanger or

interfere with the Pipelines or the use or enjoyment of the rights and estates granted to the Grantee by this instrument. The Grantor further agrees not to construct, cause to be constructed, or permit to be constructed, on said right-of-way any lake or pond or any building or structure of any kind which would prevent ready access to the Pipelines for any of the purposes hereinabove set forth, 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.

3. The Grantee agrees that the water pipeline or pipelines placed within said right-of-way shall be buried so that the top thereof shall be not 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 to be restored as nearly as practicable to its former condition.

4. 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, easement, estate, interests, rights and privileges granted to it by this instrument. The Grantee agrees that should the Grantor at any time following the installation of a water main, convey a road right-of-way to the governing body, along said right of way, the right-of-way granted herein shall expire and cease to exist and become a part of the governing body's public right-of-way.

5. No delay of the Grantee in establishing the location of the right-of-way hereby conveyed, or in the use of any other right or easement 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.



6. This instrument states the entire agreement between the Grantor and the Grantee 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 Grantee.

7. This instrument shall inure to the benefit of, and be binding upon, the Grantor and Grantee and their respective heirs, successors and assigns.

To have and to hold unto the Grantee, its successors and assigns forever.

In witness whereof, the Grantor has executed this instrument on the 12th day of

July, 19 93.

~~SECOR BANK, FEDERAL  
SAVINGS BANK~~

Name Stanley E. Weir

Senior Vice President

Title

STATE OF ALABAMA )  
Jefferson COUNTY )

I, the undersigned authority, in and for said County in said State, hereby certify that Stanley E. Weir, whose name as Senior Vice President of Secor Bank, FSB, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this 12th day of July, 19 93.

Dora W. Jones  
Notary Public

My Commission Expires: 3/26/97

DANIEL OAK MOUNTAIN  
LIMITED PARTNERSHIP

Michael D. Fuller  
Name  
Sen. V. P.  
Title

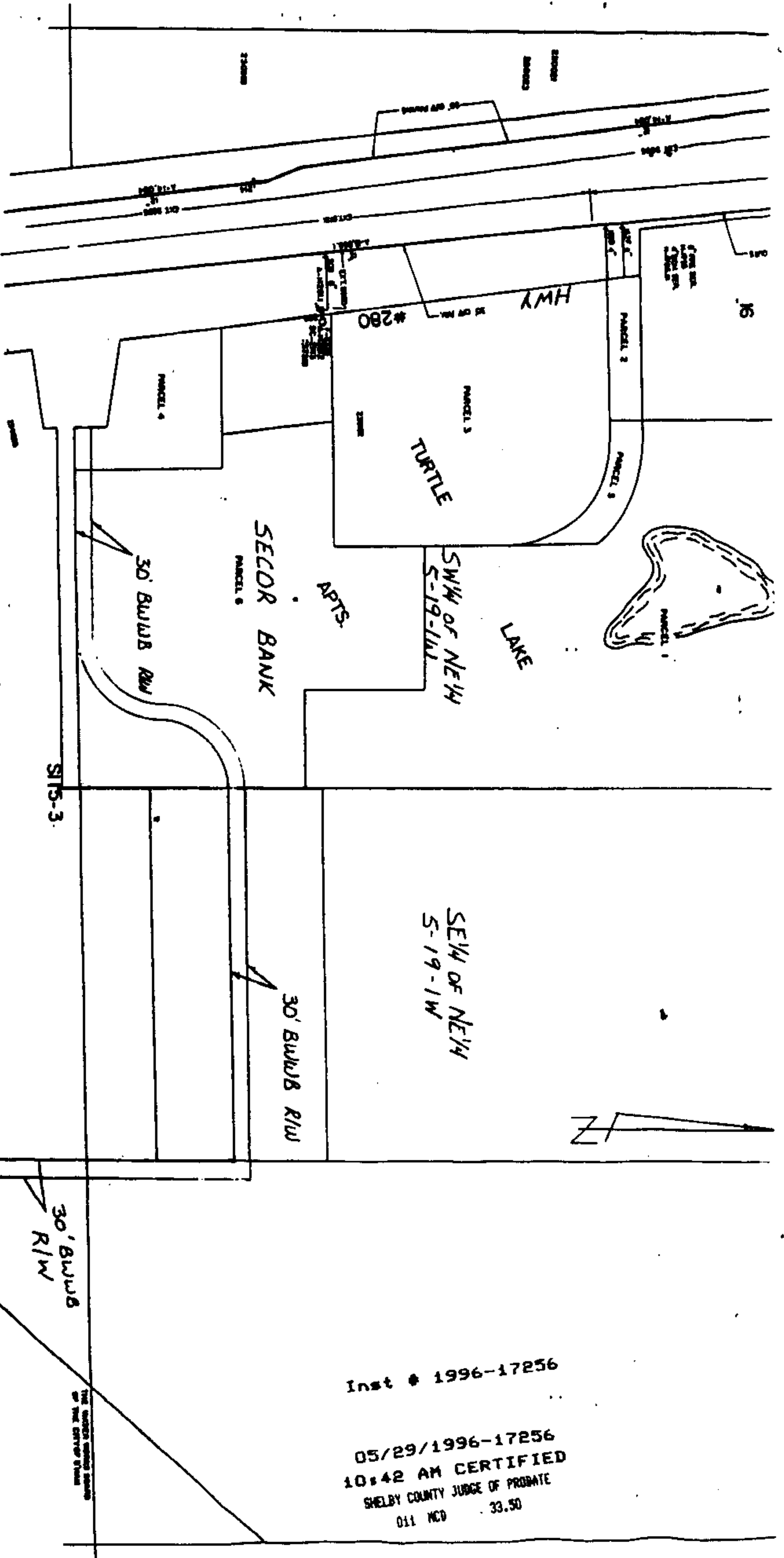
STATE OF ALABAMA )  
Jefferson COUNTY )

I, the undersigned authority, in and for said County in said State, hereby certify that  
Michael D. Fuller, whose name as Senior Vice President  
of Daniel Oak Mountain, Ltd Partnership a corporation, is signed to the foregoing  
conveyance, and who is known to me, acknowledged before me on this day that, being  
informed of the contents of the conveyance, he as such officer and with full authority,  
executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this 12th day of  
July, 1993

Dana W. Jones  
Notary Public

My Commission Expires: 3/26/97



Highland Lake  
Property

Inst # 1996-17256  
05/29/1996-17256  
10:42 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
011 MCD 33.50