

This instrument was prepared by:
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NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AND UTILITIES

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

This NON-EXCLUSIVE INGRESS-EGRESS AND UTILITIES EASEMENT AGREEMENT (this "Agreement") is made and entered into this 13th day of May, 2005, by and between **DOUBLE MOUNTAIN, L.L.C.**, an Alabama limited liability company ("Grantor") and the **CITY OF PELHAM, ALABAMA**, an Alabama municipal corporation ("Grantee").

WHEREAS, Grantor is the owner in fee simple, subject to reservations and exceptions of record in Shelby County of a certain parcel of real property located in Shelby County, Alabama (the "Double Mountain Parcel");

WHEREAS, Grantor has conveyed to Grantee by statutory warranty deed 2.16 acres, more or less, of real property located in Shelby County, Alabama, as more particularly described on Exhibit "A" attached hereto, for future construction of a municipal water tank (the "Water Tank Parcel"); and

WHEREAS, As a part of said conveyance, the parties have agreed to enter into this Agreement to set forth their mutual understandings regarding an access easement for the benefit of the Water Tank Parcel.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid to Grantor, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee hereby declare and agree as follows:

1. Grantor does hereby declare, grant, bargain, establish, and create, for the benefit of Grantee and any successor in title to the Water Tank Parcel or portion thereof, and their employees, guests, licensees, invitees, customers, agents, tenants, subtenants, successors, assigns and mortgagees, a perpetual non-exclusive right-of-way easement, right and privilege of passage and use, both pedestrian and vehicular, for purposes of ingress and egress and access in, to, upon, over and from that portion of

the Double Mountain Parcel as more particularly described as such in Exhibit "B" attached hereto (the "Easement Parcel") to and from the Water Tank Parcel.

2. The easement conveyed by this instrument is for the purpose of constructing, maintaining, operating, altering, repairing, renewing and removing, in whole or in part, a pipeline system together with the fixtures, equipment, structures and appurtenances as may be necessary to serve the municipal water tank that is to be constructed by Grantee or Grantee's agents or assigns on the Water Tank Parcel, together with the right of ingress and egress over and across the Easement Parcel for all purposes specified in this grant of easement, including, but not limited to, access to the Water Tank Parcel.
3. Grantor reserves the right to the full use and enjoyment of the Easement Parcel except as the same may be necessary for the purposes specified in this grant of easement.
4. It is agreed that if the easement granted herein is located in such a way as to interfere with the rights of Grantor or Grantor's successors or assigns to future use of Grantor's Double Mountain Parcel for such purposes as Grantor or Grantor's successors and assigns may determine, Grantee will relocate such easement, at Grantee's sole cost and expense, on such portion of Grantor's Double Mountain Parcel designated by Grantor or Grantor's successors and assigns so as to cause the least possible interference with the rights of Grantor or Grantor's successors and assigns.
5. Grantee, at Grantee's sole cost and expense, shall make and perform all necessary maintenance, repairs and replacements to the improvements constructed by Grantee within the Easement Parcel.
6. Grantor and Grantee further agree that the easement granted herein shall be perpetual and shall run with the land.
7. This Agreement contains the entire agreement between the parties hereto with respect to the matters contained herein, and neither party is bound by any previous representations or agreements of any kind regarding the subject matter of this Agreement except as herein contained.
8. This Agreement shall not be modified or amended in any respect except by a written instrument executed by the parties in the same manner as this Agreement is executed.
9. In the event of the institution of any legal proceedings for any violation or



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Shelby Cnty Judge of Probate, AL
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threatened violation of any of the terms or provisions of this Agreement, or for the collection of any sums due and payable hereunder, the prevailing party shall be entitled to recover all reasonable costs and expenses incurred in connection with such litigation, specifically including, but not limited to reasonable attorneys' fees, which cost and fees shall also include those caused by reason of any appellate proceeding or otherwise, from the non-prevailing party.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first written above.

GRANTOR:

**Double Mountain, L.L.C., an Alabama
limited liability company**

By: Paul B. Shaw Jr.
Its: Member

GRANTEE:

City of Pelham, Alabama

By: Bobby Hayes
Its: Mayor

Attest:

Cress C. Bates
City Clerk

Acknowledgements

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Paul B. Shaw, Jr., whose name as Member of Double

Mountain, L.L.C., a limited liability company, 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 and with full authority, he executed the same voluntarily on the date the same bears date as the act of said Double Mountain, L.L.C.

Given under my hand and official seal, this 13 day of May, 2005.

Connie H. H. H.
Notary Public
My commission expires: 4/08/08

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Bobby Hayes, whose name as Mayor of the City of Pelham, Alabama and _____, whose name as City Clerk of the City of Pelham, Alabama is signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, as such officer and with full authority, executed the same voluntarily for and as the act of the City of Pelham, Alabama.

Given under my hand and official seal, this the 26th day of May, 2005.

Spencer Heath Bragan
Notary Public
My Commission Expires: 11-8-2008



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EXHIBIT "A"

Legal Description of Water Tank Parcel

A parcel of land lying in the North Half of Section 12, Township 20 South, Range 2 West Shelby County, Alabama and being more particularly described as follows:

Beginning at an axle found at the southwest corner of the Northwest Quarter of said Section 12; thence N 00°D22'59" W along the west line of said Section 12 a distance of 845.81 feet to a 5/8" capped rebar set "SMW LS 19753"; thence leaving said west line N 59°D58'16" E a distance of 3 170.73 feet to a 5/8" capped rebar set "SMW LS 19753" on the southerly right-of-way of County Highway 36; thence N 84°D43'13" E along said southerly right-of-way a distance of 92.22 feet to a point; thence leaving said southerly right-of-way S 29°D17'12" E a distance of 150.34 feet to a 5/8" capped rebar set "SMW LS 19753" and the Point of Beginning; thence continue S 29°D17'12" E a distance of 242.28 feet to a 5/8" capped rebar set "SMW LS 19753"; thence with a curve to the left having an arc length of 36.45 feet, a radius of 530.00 feet, and a chord bearing and distance of S 41°D19'42" W for 36.45 feet to a 5/8" capped rebar set "SMW LS 19753"; thence N 50°D38'31" W a distance of 15.43 feet to a 5/8" capped rebar set "SMW LS 19753"; thence S 60°D42'48" W a distance of 350.00 feet to a 5/8" capped rebar set "SMW LS 19753"; thence N 29°D17'12" W a distance of 240.00 feet to a 5/8" capped rebar set "SMW LS 19753"; thence N 60°D42'48" E a distance of 390.00 feet to the Point of Beginning. Said described parcel of land contains 2.16 acres, more or less.

EXHIBIT "B"

Legal Description of Easement Parcel

30' INGRESS/EGRESS & UTILITY EASEMENT:

An Easement lying in the Northeast Quarter of Section 12, Township 20 South, Range 2 West Shelby County, Alabama and being more particularly described as follows:

Beginning at an axle found at the southwest corner of the Northwest Quarter of said Section 12; thence N 00°D22'59" W along the west line of said Section 12 a distance of 845.81 feet to a 5/8" capped rebar set "SMW LS 19753"; thence leaving said west line N 59°D58'16" E a distance of 3170.73 feet to a 5/8" capped rebar set "SMW LS 19753" on the southerly right-of-way of County Highway 36; thence N 84°D43'13" E along said southerly right-of-way a distance of 92.22 feet to a point; thence leaving said southerly right-of-way S 29°D17'12" E a distance of 150.34 feet to a 5/8" capped rebar set "SMW LS 19753"; thence continue S 29°D17'12" E a distance of 65.00 feet to the Point of Beginning of an Ingress/Egress & Utility Easement being 30 feet in width and lying 15 feet each side of the following described centerline; thence N 79°D37'58" E a distance of 551.96 feet to a point; thence N 59°D36'11" E a distance of 184.43 feet to a point; thence N 20°D21'03" E a distance of 54.88 feet, more or less to the Point of Ending on the southerly right-of-way of County Highway 36. Said described easement contains 0.54 acres, more or less.