5020

STATE OF ALABAMA)

COUNTY OF BALDWIN)

KNOW ALL MEN BY THESE PRESENTS: that MAGNOLIA LAND COMPANY, as Principal, and J. B. FOLEY, individually, ~~FIDELITY & CASUALTY COMPANY OF NEW YORK, BY, AS~~ as Surety, are held and firmly bound unto the City of Foley, Alabama, a municipality, in the sum of ONE HUNDRED AND NO/100 ($100.00) DOLLARS - - - - - - - - - - - - - - - - - double the probable cost of the appeal from the November 16, 1959 assessment of a portion of the cost of a certain sanitary sewer against the following property owned by Magnolia Land Company, in Foley, Baldwin County, Alabama, to-wit:

Lot 1, in Block One, of the Town of Foley, Baldwin County, Alabama.

For which payment well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, by these presents. The condition of this obligation is such that whereas the above bounden Magnolia Land Company has taken its appeal from said assessment to the Circuit Court of Baldwin County, Alabama; NOW, if the said Magnolia Land Company shall prosecute said appeal to effect and pay the City of Foley any judgment that the Circuit Court or other Court may render and all damages that any person may suffer by such appeal, then this obligation shall be void, otherwise to remain in full force and effect.

SEALED with our hands this the 5th day of December, 1959.

MAGNOLIA LAND COMPANY

BY: J. B. Foley
AS ITS PRESIDENT

Jury trial demanded.
J. B. Foley

~~FIDELITY & CASUALTY COMPANY OF NEW YORK~~

~~BY:~~ J. B. Foley
~~AS ITS ATTORNEY-IN-FACT~~

TAKEN, APPROVED, AND ORDERED to be recorded this the 7th day of Feb, 1962.

CITY OF FOLEY, ALABAMA

BY: Henry W. Carson
AS ITS MAYOR

FILED
FEB 7 1962
ALICE J. DUCK, CLERK REGISTER

M 5020

NOTICE OF APPEAL

Comes now MAGNOLIA LAND COMPANY, owner of the following described property in Foley, Baldwin County, Alabama, and takes this its appeal from the action of the City Council of Foley, Baldwin County, Alabama, a municipality, at its meeting November 16, 1959, in assessing against said property the sum of $527.58, for improvements in the nature of a sanitary sewer. The property owner reserves unto itself each and every objection to said assessment as originally filed with said City Council. The property against which the assessment has been made and this appeal taken is situated in Foley, Baldwin County, Alabama, to-wit:

Lot 1, in Block One, of the Town of Foley, Baldwin County, Alabama.

Magnolia Land Company demands trial by jury.

DONE this the 5th day of December, 1959.

MAGNOLIA LAND COMPANY

BY: J. B. Foley
AS ITS PRESIDENT

FILED
Feb 7 1962
CLERK
REGISTER

HENRY W. CARSON
MAYOR

J. M. STAPLETON
CLERK

CECIL G. CHASON
CITY ATTORNEY

City of
FOLEY
Foley, Alabama

COUNCIL MEMBERS:
L. W. BRANNAN, JR.
MAX M. FOREMAN
JOHN E. FOSTER M.D.
C. DEAN HANSEN
ARTHUR A. HOLK

February 7, 1962

Mrs. Alice J. Duck
Clerk of Court
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is a transcript of all of the proceedings of the City of Foley relating to the assessment for sanitary sewer so far as the same concerns the property of the Magnolia Land Company, who, I am informed, has appealed from the said assessment.

W. F. Anderson
City Clerk

FILED
FEB 7 1962
ALICE J. DUCK, CLERK REGISTER

CITY OF FOLEY, ALABAMA

MINUTES OF THE ADJOURNED MEETING OF THE
CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA,
APRIL 28, 1958.

* * * * * * * * * * *

Pursuant to the adjournment of the meeting of the City Council of the City of Foley, held at 7:00 o'clock P. M., on April 21, 1958, this meeting was called to order at 4:00 o'clock P. M., April 28, 1958, in the City Hall of Foley, Alabama, the Mayor and all Councilmen being present, namely, Mayor W. Max Griffin, Councilmen L. W. Brannan, Jr., Henry Carson, Arthur Nolk, R. L. Kirkland, Jr., and Robert Thompson. There was also present J. M. Stapleton, City Clerk, and C. G. Chason, City Attorney.

After discussion of the revisions to the proposed sewage expansion in the City of Foley, the plans and specifications as presented by the engineering firm of J. B. Converse and Company, of Mobile, Alabama, were approved for presentation to the citizens of the City of Foley. After discussing this project, the following Ordinance was submitted, in writing, by the Mayor, W. Max Griffin:

ORDINANCE NO. 107

(continued to next page)

ORDINANCE NO. [illegible]

[illegible] FOR THE CONSTRUCTION [illegible] STREETS IN THE CITY OF [illegible] [illegible] PURPOSES

[illegible] by the City Council of the City [illegible] in the State of Alabama [illegible]

Section 1. Construction of Streets and Appurtenances. [illegible] together with the necessary [illegible] vehicles and other equip- [illegible] corporate limits of [illegible] follows:

(a) [illegible] the following described public ways [illegible]:

[illegible] 70 feet north of [illegible] northward to the [illegible] boundary line [illegible] Section 20, Township [illegible] a distance of 1905 feet;

[illegible] Street northward [illegible] line of [illegible] 2,000 feet;

[illegible] intersection with [illegible] with Pine Street, [illegible]

[illegible] intersection with Second [illegible] Pine Street, a dis- [illegible]

[illegible] intersection with [illegible] intersection with Cox [illegible]

[illegible] intersection with Pine [illegible] feet east of the [illegible] a distance of 300 feet;

[illegible] from the intersection with [illegible] Street (Alabama [illegible] 470 feet;

[illegible] STREET (ALABAMA HIGHWAY NO. 59) [illegible] Street, a distance of 400 feet;

MERRIMAC STREET (ALABAMA HIGHWAY NO. 59), on the east side of Merrimac Street from the intersection with Marigold Avenue to a point 54 feet north of the center line of Fig Street, a distance of 1,500 feet;

SEBASTIAN STREET, from its intersection with Pine Street westward to its intersection with Cedar Street a distance of 1,421 feet;

CEDAR STREET, from the intersection with Sebastian Street southward to an unnamed alley which connects Cedar Street and Oak Street and which lies between and parallel with Marigold Avenue and Begonia Avenue, a distance of 327 feet;

SAID UNNAMED ALLEY CONNECTING CEDAR STREET AND OAK STREET AND LYING BETWEEN AND PARALLEL WITH MARIGOLD AVENUE AND BEGONIA AVENUE, from the intersection of said alley with Cedar Street westward for a distance of 537 feet;

BEGONIA AVENUE, from Cedar Street westward for a distance of 1,256 feet;

AN UNNAMED ALLEY BEGINNING AT A POINT ON BEGONIA AVENUE 173 FEET WEST OF THE CENTER LINE OF CEDAR STREET, from Begonia Street southward down said alley and across Marigold and Orchid Avenues to the end of said alley on Magnolia Avenue, a distance of 1,162 feet;

MARIGOLD AVENUE, from said alley last referred to westward for a distance of 1,200 feet;

ORCHID AVENUE, from said alley last referred to westward for a distance of 1,200 feet; and

MAGNOLIA AVENUE, from said alley last referred to westward 1,053 feet.

(b) In the following locations:

Beginning at the intersection of Oak Street and Sebastian Street, and running westward along Sebastian Street for a distance of 545 feet;

Beginning at a point on Sebastian Street 545 feet west of the center line of Oak Street and running northward through unnamed lot 232 and parallel with Oak Street a distance of 330 feet; and

Beginning at a point on Sebastian Street 210 feet east of the center line of Oak Street, and running northward through unnamed lot 232 and parallel with Oak Street a distance of 300 feet.

(e) At the existing Section:

Beginning at the intersection of Ream Street and Pine Street, as Pine Street presently exists, and running westward for 82 feet to the intersection of Ream Street with an extension of Pine Street which has been dedicated as a public street but which has not yet been opened. Thence northerly along said dedicated but unopened portion of Pine Street 20 ; a distance of 170 feet to an angle, thence westerly along said extended Pine Street a distance of 1,037 feet, a total distance of 1,289 feet for the order provided for in this subsection (e).

Section 2. Description of Property to be Treated Service and Benefited. (a) The Sewer Provided for Section (e) The property to be served, serviced and benefited by the sanitary sewer, manholes and other appurtenances thereto provided herein (a) to be constructed in the Section designated in Section 1 hereof, is hereby described, defined and declared to be the property along said sewers and frontage on the following streets, avenues and other public ways hereinafter described:

ALDEN STREET: The property fronting and abutting on both sides of Alden Street from its intersection with Sherman Street northerly to the end of Alden Street, as the same was on January 27th, 1972, in the NE 1/4 of the NE 1/4 of Section 20, Township 7 South, Range 4 East;

REAM STREET: The property fronting and abutting on both sides of Ream Street from its intersection with Alden Street westward to its intersection with Pine Street;

PINE STREET: The property fronting and abutting on both sides of Pine Street from its intersection with Sherman Street to its intersection with Ream Street;

SHERMAN STREET: The property fronting and abutting on both sides of Sherman Street from its intersection with Alden Street to its intersection with Oak Street;

OAK STREET: The property fronting and abutting on both sides of Oak Street from its intersection with Pine Street to its intersection with Cat Street;

CATALPA STREET: The property fronting and abutting on both sides of Catalpa Street from its intersection with Sherman Street to its intersection with Kellogg Street (Alternate Highway No. 59);

[illegible] STREET (ALABAMA STREET NO. 29): The [illegible] and abutting on the west side of Alabama Street (Alabama Street No. 29) from its intersection with Dagmar Street to its intersection with Big Street;

[illegible] (ALABAMA STREET NO. 29): The [illegible] and abutting on the east side of Alabama Street (Alabama Street No. 29) from its intersection with Rosecrans Avenue to a point 20 feet north of its intersection with Big Street;

[illegible]: The property fronting and abutting on both sides of Section Street from [illegible] Street to Cedar Street;

[illegible]: The property fronting and abutting on both sides of Cedar Street from its intersection with Section Street [illegible] to an alley connecting Cedar Street and Cox Street and lying between and parallel with Marigold Avenue and Magnolia Avenue;

[illegible]: The property fronting and abutting on the west side of Cedar Street from its intersection with Magnolia Avenue northward to its intersection with [illegible] Street;

[illegible]: The property fronting and abutting on both sides of Magnolia Avenue from its intersection with Oak Street to its intersection with Cedar Street;

[illegible]: The property fronting and abutting on both sides of Magnolia Avenue from its intersection with Cedar Street to its intersection with Beech Street;

[illegible]: The property fronting and abutting on both sides of Rosecrans Avenue from its intersection with Oak Street to its intersection with Cedar Street;

[illegible]: The property fronting and abutting on both sides of Marigold Avenue from its intersection with an alley 273 feet west of the center line of Cedar Street to the intersection of Marigold Avenue with Beech Street;

[illegible]: The property fronting and abutting on both sides of Orchid Avenue from said alley 273 feet west of Cedar Street to Beech Street; and

[illegible]: The property fronting and abutting on both sides of Magnolia Avenue from said alley 273 feet west of Cedar Street to Beech Street.

(b) The area or boundary to be drained, served and controlled by the sanitary sewers, manholes and other appurtenances thereon, provided herein to be constructed in the ordinance designated in subsection (b) of Section 1 hereof is hereby described, defined and declared to be as follows:

Beginning at the southeast corner of the intersection of Cedar Street and Farm Street (said point of beginning being also the northwest corner of Acreage Lot 235 in the city) and running northerly along the east property line of Cedar Street to a point 187 1/2 feet south of the south line of Sycamore Street; thence northeastwardly parallel with Sycamore Street to Oak Street; thence north along the west property line of Oak Street to Farm Street; thence westerly along the south property line of Farm Street to the point of beginning; the area so described being bounded on the east by Oak Street, on the north by Farm Street, on the west by Cedar Street, and on the south by a line parallel with Sycamore Street and 187 1/2 feet south of the center line of Sycamore Street (said line running from Cedar Street to Oak Street and constituting the center line of Acreage Lot 235 of said city).

(c) The area or boundary to be drained, served and controlled by the sanitary sewers, manholes and other appurtenances thereon, provided herein to be constructed in the ordinance designated in subsection (c) of Section 1 hereof is hereby described, defined, and declared to be as follows:

Beginning at the northwest corner of Acreage Lot 235 (said point being the intersection of the centerline of Cedar Street and the centerline of Farm Street) and running northwardly 269 feet to a point in the easterly prolonged street line of Sycamore Street (said point being 35 feet to a dedicated but presently unplatted street to be designated Fox Street); thence southwardly 210 feet to Fox Street; thence westwardly along Fox Street 40 feet to the intersection of Farm Street & Fox Street (said point being the point of beginning); said area being bounded on the west by Cedar Street, on the north by a dedicated but unplatted street to be designated Fox Street, on the east by the extension of Farm Street, on the east by said dedicated but unplatted street to be designated Fox Street, and on the south by

Section 1. Description Defined. The sanitary [illegible] improvement of [illegible] shall be in accordance with one of the following alternate [illegible]

Alternate No. 1 — Reinforced joints of the type and quality customarily designated by the trade name Orbit super duty reinforced

Alternate No. 2 — Welded coupling of the type and quality customarily designated by the trade name Fro

The Mayor and Council shall select between the aforesaid 2 alternates after receipt of bids by contractors.

[illegible] shall be constructed of [illegible] and rings. The [illegible] and methods pre- [illegible] on the plans and specifications [illegible]

[illegible] Section 2. Notice and Hearing. [illegible] Mayor [illegible] Public Works, [illegible] plans, [illegible] of said sanitary [illegible] Engineer, [illegible] the office of the City [illegible] plans, specifications, [illegible] hereby adopted by the Mayor [illegible] the said Public Works, [illegible] estimates shall remain [illegible] shall be filed with [illegible] 16, [illegible] hearing of said City Council [illegible] provided for, which hearing shall be open to [illegible] by property owners who may be affected by said improvements and by any other interested persons.

Section 3. Assessment of Cost of Improvements. [illegible] of the improvements provided for herein, [illegible] of certain areas, together with the necessary [illegible] and [illegible] improvements, shall be assessed in [illegible] proportion against the [illegible] property, [illegible], served and benefited thereby.

(a) [illegible] of the improvements provided for in Section (b) of Section 2 hereof shall be [illegible] in the proportion against the [illegible] property [illegible] [illegible] by [illegible] [illegible] of the property [illegible] [illegible] 2 being [illegible] in Section 2 hereof.

(b) [illegible] the improvements provided in subsection (a) of Section 1 hereof shall be made in fee simple, free and clear of all liens and encumbrances, within the districts [illegible] and benefited by said improvements, [illegible] or deeds, served and certified before [illegible] as provided in subsection (c) [illegible]

(c) [illegible] of the improvements provided in [illegible] (a) of Section 1 hereof shall be [illegible] fee simple, free and clear of all liens and encumbrances, within the districts described [illegible] improvements, the dis- [illegible] benefited being [illegible] in subsection (b) of Sec- [illegible]

[illegible] any of the improvements pro- [illegible] cost of the improvements, [illegible] increased value of the [illegible] benefits derived from the [illegible]

[illegible] Objections: May 26, 1958, at 7:30 [illegible] shall be and the same is hereby [illegible] at the [illegible] when the mayor and city council [illegible] the city auditorium or [illegible] any [illegible] remonstrances that may be made to said improvements, the manner of making the [illegible] of the material or materials to be [illegible]

[illegible] Publication of this Ordinance: This ordinance [illegible] twice, the first time not less than two consecutive weeks in the [illegible] a newspaper published in the city, and a copy of this ordinance shall also be sent, by U. S. Certified mail, [illegible] of the removal [illegible] which may be assessed for said improvements, [illegible] address of each such person, said notice to be mailed not less than ten days before the [illegible] and copy thereof of the city provided for in the [illegible] of this ordinance.

Adopted and approved this 28th day of April, 1958.

s/ W. Max Griffin
Mayor

s/ J M Stapleton

Thereupon Councilman Holk moved for the immediate consideration of the foregoing Ordinance. Councilman Thompson seconded said motion, and the vote taken thereon resulted as follows: "Ayes": Mayor W. Max Griffin, Councilmen Robert Thompson, Arthur Holk, E. L. Kirkland, Jr., L. W. Brennan, Jr., and Henry Carson. "Nays": None.

Thereupon the Mayor announced that the Ordinance was up for immediate adoption. Whereupon Councilman Carson moved for the adoption of the Ordinance. This motion was seconded by Councilman Kirkland. The vote taken thereon resulted in the following. "Ayes": Mayor W. Max Griffin, Councilmen Henry Carson, E. L. Kirkland, Jr., Robert Thompson, Arthur Holk and L. W. Brennan, Jr. "Nays": None.

There being no further business, the meeting adjourned.

s/ W. Max Griffin
W. Max Griffin, Mayor

ATTEST:

s/ J. M. Stapleton
City Clerk

I, the undersigned, J. M. Shepleton, as City Clerk of the City of Foley (herein called "the city") in the State of Alabama, hereby certify as follows:

(1) On or before May 6, 1958, I remarked by United States Certified Mail, postage prepaid, a copy of the city's Improvement Ordinance No. 107 adopted on April 28, 1958, to each of the persons assessing for city taxation the property which might be affected by the improvements provided for in said Improvement Ordinance No. 107, at the last known address of each such person; and

(2) Details, drawings, plans, specifications, surveys and cost estimates, all of which were prepared by J. B. Converse and Company, Inc., Engineers, Mobile, Alabama, covering the improvements provided for in the said Improvement Ordinance No. 107, were continuously on file in my office from April 28, 1958, until and including May 19, 1958, during which period they were at all times, during business hours, available for inspection by affected property owners and any other interested persons.

WITNESS my signature as said City Clerk, under the seal of said city, this 23 day of June, 1958.

J. M. Shepleton
City Clerk

MINUTES OF A MEETING OF THE
MAYOR AND THE COUNCIL OF
THE CITY OF POLEY HELD ON
MAY 16, 1958

The Mayor and City Council of the City of Poley, Alabama, met in adjourned regular session at the city auditorium on Alison Street in said city on the 16th day of May, 1958, at 7:30 o'clock, P. M., pursuant to adjournment of the regular meeting held on May 5, 1958. The meeting was called to order by the Mayor, who presided as chairman of the meeting; and, upon roll call, the following were found to be present: Mayor W. Max Griffin, and Councilmen [illegible], Jr., Henry Jackson, Arthur Holk, R. L. Kirkland, Jr., and Robert Thompson; absent: none. J. M. Stapleton, the City Clerk, was also present acted as clerk of the meeting. [illegible], the City Attorney, was also present. The Mayor stated that a quorum was present and declared the meeting open for the transaction of business.

The Mayor announced that this was the time and place fixed by Section 6 of the City's Improvement ordinance No. 107 adopted on April 24, 1958, for hearing objections or remonstrances that may be made with respect to the improvements provided for in said improvement ordinance, the manner of making the same, or the character of the material or materials to be used. The Mayor then asked the City Clerk whether any written objections or remonstrances had been filed in his office since adoption of Ordinance No. 107 on April 24, 1958. None had been filed.

The Mayor announced that the meeting was open for the filing or making of protests, objections or remonstrances with respect to the improvement ordinance. Thereupon the following written protest was filed by C. R. Wood. . . "Corner of Elm and Jackson. Object to any assessment on this property by construction on the long side of my lot; that is 235 feet on Jackson. My house is located on both of my lots."

There were no oral protests and no other written pro-

The Mayor thereupon announced that the Council would consider the protest filed at its next regular meeting to be held at the City Hall, the usual place of holding same, at 7 o'clock P. M. on the 19th day of May, 1958, and thereupon Councilman Henry Carson moved that the meeting be adjourned until 7 o'Clock P. M. on May 19, 1958 for the consideration of the protest and for the consideration of any ordinances or resolutions concerning the proposed sewer construction as set out in City Ordinance No. 107. The motion was seconded by Councilman S. L. Kirkland, Jr., the Mayor and all Councilmen voting "Aye", the motion was unanimously adopted and the Mayor declared the meeting adjourned until May 19, 1958 at 7 o'clock P. M. at the City Hall.

Done this the 16th day of May, 1958.

s/ W. Mac Griffin
Mayor

s/ J. M. Stapleton
City Clerk

MINUTES OF THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL
OF THE CITY OF FOLEY, HELD ON
JUNE 2, 1958.

The Mayor and City Council of the City of Foley, Alabama, met in their first monthly regular session at the City Hall of the City of Foley, on the 2nd day of June, 1958, at 7:00 o'clock P. M. The meeting was called to order by the Mayor, who presided as chairman thereof, and upon roll call the following were found to be present: Mayor W. Max Griffin, Councilmen L. W. Brannan, Jr., Henry Carson, Arthur Holk, R. E. Kirkland, Jr., and Robert Thompson. Absent, None. J. M. Stapleton, the City Clerk, was present and acted as Clerk. Attorney C. G. Chason, City Attorney, was also present. The Mayor stated that a quorum was present and declared the meeting open for the transaction of business.

* * * * * * * * * * * * * *

The Mayor then announced that pursuant to the published notice to contractors inviting bids for the sewer system, as set out in Improvement Ordinance No. 107. The bids were to be opened at the City Hall of the City of Foley at 2:00 P. M. on June 6, 1958, therefore, there being no further business to come before the Council at this time, on motion made by Councilman Henry Carson, and seconded by Councilman Arthur Holk, the Mayor and Councilmen voting "Aye", this meeting was adjourned to convene [illegible] P. M., June 6, 1958, in the City Hall.

s/ W. Max Griffin
Mayor

s/ J. M. Stapleton
Clerk

MINUTES OF THE ADJOURNED MEETING
OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF FOLEY HELD ON
JUNE 6, 1958.

Pursuant to the adjournment of the meeting of the City Council of the City of Foley, held at 7:00 o'clock, P. M., on the 2nd day of June, 1958, this meeting was called to order by the Mayor at 2:00 P. M. on Friday, June 6, 1958, at the City Hall of Foley, there being present the Mayor, W. Max Griffin, and Councilmen L. W. Brannan, Jr., Henry Carson, Arthur Holk, S. L. Kirkland, Jr., and Robert Thompson. J. M. Stapleton, City Clerk, was also present, and acted as Clerk.

The Mayor then announced that this was the time and place for opening bids for the performance of the work set out in Improvement Ordinance No. 107, City of Foley, in accordance with the invitation to bid, which has been published in the Onlooker, a newspaper of general circulation, Foley, Alabama, in its issues of May 27, May 29 and June 4, 1958. The Mayor further announced that the City Clerk had received and delivered to him at this time and place, seven (7) envelopes which he presumed to contain bids, and asked if there was anyone present who wished to submit a bid who had not yet done so. No further bids were submitted, and the Mayor then stated that although each bid should contain a total along with an alternate using PVC coupling, that bids were on a lump basis, and that no contract would be awarded on bid accepted until after audit of the bids. He thereupon directed the opening of the bids, and the total for the 7 bids as read, were as follows:-

Mass-Thornton Company, Inc., and Cohron Construction Company, Inc., Mobile, Alabama	$ 73,816.00
Campbell Plumbing and Heating Company, Mobile, Alabama	$ 80, 686.50
H. E. WOOLERY, Fairhope, Alabama	$ 82,807.00
Walker and Turner Construction Company, Daphne, Alabama	$ 87,893.50
W. F. Kirchell, Contractor, Prichard, Alabama	$ 95,876.45
Zaldler Contracting Company, Mobile, Alabama	$ 98,154.50