

STATE OF ALABAMA     )  
COUNTY OF SHELBY    )

**DECLARATION OF EASEMENTS, PROTECTIVE COVENANTS  
AND RESTRICTIONS FOR  
PIONEER LAKE, A RECREATIONAL / RESIDENTIAL SUBDIVISION**

**THIS DECLARATION OF EASEMENTS, PROTECTIVE COVENANTS, AND RESTRICTIONS** (this "Declaration") is made as of this 14 day of April, 2005, by **HOWARD LAKE PROPERTIES LLC**, an Alabama limited liability company ("Developer"), who declares that the real property hereinafter described is and shall be divided, developed, held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth (collectively referred to as the "Protective Covenants").

**WHEREAS**, contemporaneously herewith Developer has acquired certain real property located in Shelby County, Alabama which is more particularly described on Exhibit A attached hereto (the "Property"); and

**WHEREAS**, Developer desires to develop the Property as a recreational/residential community containing up to 18 single family lake-front lots of approximately twenty (20) acres each (the "Lots"), together with common areas initially consisting of an approximately 56 acre private lake, two (2) islands situated within the lake of approximately .15 acres and 2.46 acres each, private roads, and approximately 166.14 acres of undeveloped land which will be used for hunting and other recreational use, all to be as part of a planned community to be known as "Pioneer Lake," all as is shown on the Survey prepared by James A. Riggins, Reg. No. 9428, dated March 7, 1999, a copy of which is attached hereto, the purpose of which is primarily for recreational use by the Owners (as hereafter defined) and their families;

**WHEREAS**, Developer desires to establish and enforce uniform standards of development quality and to provide for the effective preservation of the appearance and value of the Property, which will benefit all owners of the Property and, to this end, desires to subject the Property to these Protective Covenants;

**WHEREAS**, Developer has deemed it desirable for the effective preservation of the appearance, value, and amenities of the Development to create a nonprofit corporation (the "Association") to which should be delegated and assigned the powers of maintaining and administering the Common Areas hereafter described and enforcing these Protective Covenants and of levying, collecting and depositing such charges and assessments as may be authorized in this Declaration for that purpose; and

**WHEREAS**, Developer has incorporated the Association under the laws of the State of Alabama, as a nonprofit corporation, for, among other things, the purposes of exercising the aforesaid functions.

**NOW, THEREFORE**, Developer does hereby declare that all of the Property shall be held, developed, improved, transferred, sold, ground leased, conveyed, occupied and used



subject to the following Protective Covenants, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the Property.

## **ARTICLE I** **DEFINITIONS**

As used throughout this Declaration, the following terms, with initial capital letters, shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

1.1 **"Architectural Control Committee"** shall mean the architectural review committee appointed pursuant to Article VI hereof with the rights and obligations conferred upon such architectural review committee pursuant to this Declaration.

1.2 **"Articles"** shall mean the Articles of Incorporation of the Association, as said Articles may be amended from time to time.

1.3 **"Assessment"** shall mean the Assessments to be assessed against the Owners pursuant to the authority vested in the Association and such term shall include Common Area Assessments and individual assessments where no distinction is required.

1.4 **"Association"** shall mean Pioneer Lake Residential Association, Inc., an Alabama nonprofit corporation, formed or to be formed at or about the time same time as the filing of this Declaration, under the Alabama Nonprofit Corporation Act, as well as its successors or assigns. This Declaration is the Declaration of Protective Covenants to which the Articles of Incorporation and Bylaws of the Association make reference.

1.5 **"Board"** shall mean the Board of Directors of the Association and their duly elected successors as may be provided in the Articles of Incorporation and Bylaws.

1.6 **"Bylaws"** shall mean the bylaws of the Association, as the same may be amended from time to time.

1.7 **"Common Areas"** shall mean and refer to all real and personal property now or hereafter owned or otherwise acquired by lease, easement or otherwise, by the Association for the common use and enjoyment of the Owners, whether located within the Property, adjacent to the Property or in close proximity to the Property. The Common Areas shall include, without limitation, the Common Roads, the Lake, the Islands, and the Wooded Acreage, and any other areas which may hereafter become a Common Area as hereafter provided.

1.8 **"Common Roads"** shall mean all the presently existing roads located on the Property which provide access to each of the Lots, as such roads may be relocated and improved, located within or abutting the Property, including any additions thereto and extensions thereof. The Association reserves the right to improve and relocate the existing Common Roads on the Property so long as convenient ingress and egress is maintained to each Lot at all times. Initially, the Common Roads shall not be dedicated roads, and if dedicated to the public, any portion of the common roads so dedicated shall no longer be a Common Road.



1.9 **"Declaration"** shall mean this Declaration of Easements, Protective Covenants and Restrictions for Pioneer Lake, a Recreational / Residential Subdivision, and all amendments thereto.

1.10 **"Developer"** shall mean Howard Lake Properties LLC, an Alabama limited liability company, its successors or assigns if such successors or assigns acquire any portion of the Property from Developer and are designated as a successor developer by Developer.

1.11 **"Development"** shall mean the Property and all Improvements thereon submitted to the provisions of this Declaration as a Lot or Common Area, together with Improvements thereon.

1.12 **"Dwelling"** shall mean a dwelling constructed on the Property in accordance with the restrictions and conditions set forth in Article VI hereof.

1.13 **"Governmental Authority"** shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Development.

1.14 **"Immediate Family"** shall mean a group of one or more persons related to the other by blood, marriage, or legal adoption, or a group of not more than three persons not all related, who maintain a common household in a dwelling.

1.15 **"Improvements"** shall mean and refer to all Dwellings, any building, structure or device constructed, erected or placed upon any Lot or Common Area which in any way affects the exterior appearance of any Lot, Dwelling, or Common Area. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs and any other artificial or man-made changes or alterations to the natural condition of any Lot or Dwelling.

1.16 **"Islands"** shall mean those two (2) islands situated within the Lake of approximately .15 acres and 2.46 acres each, as is shown on the Survey, which such Islands are leased by the Association pursuant to that certain long term Ground Lease of even date herewith between the Developer, or its successors in interest, and the Association.

1.17 **"Lake"** shall mean and refer to that certain approximately 56 acre private lake which is situated on the Property and which is commonly known as "Pioneer Lake," as is shown on the Survey.

1.18 **"Lot"** shall mean eighteen (18) parcels of approximately twenty (20) acres each, each of which are "Lake front" properties whose eastern or western (as applicable) boundary lines run to the center of the Lake, all as shown on the Survey, which such Lots are intended for use as single-family detached residential housing units. The Lots are not subject to a recorded subdivision plat, and are legally described by metes and bounds. A parcel of land shall be deemed unimproved and thus considered to be Lot rather than a Dwelling, until the Improvements constructed thereon are sufficiently complete to reasonably permit habitation



thereof. Upon such completion, such Lot and the Improvements thereon shall collectively be considered to be a Dwelling for purposes of this Declaration.

1.19 **"Living Space"** shall mean and refer to the enclosed and covered areas within a Dwelling which are heated and cooled by heating, ventilating and air conditioning equipment, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements.

1.20 **"Mortgage"** shall mean and refer to any mortgage, deed of trust or other security device encumbering a any part of the Property or any interest therein and which shall have been duly and properly recorded in the Probate Office of Shelby County, Alabama.

1.21 **"Mortgagee"** shall mean and refer to the holder of any Mortgage.

1.22 **"Occupant"** shall mean and include any Owner (including any member of their respective Immediate Families) and guests, agents, servants, employees or invitees of any Owner and any other person who occupies or uses any Dwelling within the Development. All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Dwelling.

1.22 **"Owner"** shall mean and refer to the record owner of fee simple title to any Lot or Dwelling, whether a corporation, partnership, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot or Dwelling at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any purchaser, contract purchaser or vendor who has an interest in any Lot or Dwelling solely by virtue of a lease, contract, installment contract or other agreement. Notwithstanding the foregoing, in the event that a corporation, partnership, proprietorship, association, or any other entity of any nature (other than a natural person) shall be an Owner as herein defined, such Owner shall designate in writing to the Association, within ten (10) days of taking title to the Lot or Dwelling, the name of one (1) natural person who shall be deemed the "Owner" for all rights, responsibilities, and other purposes of this Declaration, the Bylaws, and the Articles of Incorporation.

1.23 **"Property"** shall mean and refer to that certain real property situated in Shelby County, Alabama which is more particularly described on Exhibit A.

1.24 **"Super-Majority"** shall mean and refer to the vote of at least two-thirds (2/3) of the Owners.

1.25 **"Survey"** means that certain of the proposed Development survey prepared by James A. Riggins, Reg. No. 9428, dated March 7, 1999, a copy of which is attached hereto as Exhibit B and incorporated herein by reference.

1.26 **"Transfer"** shall mean any conveyance or transfer, whatsoever, absolute or for security, whether by deed, bill of sale, mortgage, pledge, assignment, will or intestacy, and whether or not for any consideration or by gift; and the verb "Transfer" means any action taken to accomplish any Transfer.



1.27 **"Transferee"** shall mean any person, firm, corporation or other entity to whom a Transfer is made.

1.28 **"Wooded Acreage"** shall mean that approximately 166.14 acres of undeveloped land which will be used for hunting and other recreational use, in the area shown on the Survey.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THE DECLARATION**

2.1 **General Declaration.** Developer hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Declaration and the Property, any part thereof and each Lot, Dwelling, and all Common Areas included therein shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, occupied, built upon and otherwise used, improved and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of the Association and upon all Owners and Occupants of the Property and any Lot, Dwelling, and Common Area thereof.

2.2 **Mutuality of Benefit and Obligation.** The provisions of this Declaration are made (a) for the mutual and reciprocal benefit of each Lot, Dwelling, and Common Area within the Development and are intended to create mutual, equitable servitudes upon and in favor of each Lot, Dwelling, or Common Area, (b) to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners of any Lot, Dwelling, or Common Area within the Development and (c) to create a privity of contract and estate between Developer, the Owners, their respective heirs, successors and assigns.

## **ARTICLE III**

### **EASEMENTS**

#### **3.1 Grant of Nonexclusive Easements to Owners.**

(a) **Common Areas.** Subject to the terms and conditions of this Declaration and the rules and regulations from time to time established by the Board, Developer does hereby grant to each Owner and Occupant the nonexclusive right, privilege and easement of access to and the use and enjoyment of the Common Areas in common with all other Owners and Occupants. Subject to the provisions of Sections 3.3 below, the easement and rights granted pursuant to this Section 3.1(a) are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot and Dwelling. The easements and rights granted pursuant to this Section 3.1(a) are expressly subject to the rights to restrict access to the Common Roads and the Lake as provided in Sections 3.3 and 3.4 below.

(b) Subject to the terms and provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board, each Owner and Occupant shall have the nonexclusive right, privilege and easement of access to and the use and enjoyment of the recreational areas, facilities and amenities now or hereafter located in the Common Areas. The easement and rights granted herein are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot and Dwelling.



(c) The easements, rights and privileges granted in Sections 3.1 and 3.3 shall pass with each Lot and Dwelling as an appurtenance thereto and may not be severed, transferred, assigned or otherwise alienated separate or apart from a Lot or Dwelling.

**3.2 Grant of Easement to Governmental Authorities.** Subject to the provisions of Sections 3.3(b) and 3.3(c) below, Developer does hereby grant to each branch, bureau, department and agency of the Governmental Authorities and their respective agents, employees and representatives, a permanent, perpetual and nonexclusive easement over, across, through and upon the Common Roads within the Development forming a part of the Common Areas for the purposes of performing such duties and activities related to law enforcement, fire protection, trash and refuse collection, building inspection services, mail and package delivery, medical and emergency services and any other functions or duties to be performed by the Governmental Authorities as shall be required or appropriate from time to time.

**3.3 Reservation of Controlled Access Easement.**

(a) Subject to the terms and conditions set forth in this Declaration, Developer does hereby grant to each Owner and Occupant a nonexclusive easement over and upon, and the right to use for pedestrian and vehicular travel and transportation purposes, the Common Roads, subject to and in common with all other parties having any interest or rights in and to any or all of such Common Roads. The easement and right to use granted pursuant to this Section 3.3(a) shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with the title to each Lot or Dwelling.

(b) Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot or Dwelling does hereby waive all rights of uncontrolled and unlimited access, ingress to and egress from such Lot or Dwelling and acknowledges and agrees that (i) in order to provide a secure and safe environment, access and ingress to and egress from the Development may be controlled, restricted and limited to exclude the general public therefrom, and (ii) access, ingress to and egress from such Owner's Lot or Dwelling shall be limited to the roads, sidewalks, walkways, paths, trails and bicycle and jogging paths and lanes as may be designated from time to time as Common Areas by the Association; provided, however, that, subject to the terms and provisions of the Declaration, vehicular and pedestrian access to and from all Lots and Dwellings shall be provided at all times.

(c) Developer does hereby establish and reserve for the Association and its successors and assigns, the right and privilege, but not the obligation, to maintain guarded or electronically-monitored gates controlling, limiting and restricting vehicular and pedestrian access to and from any portion of the Development.

(d) Developer does hereby establish and reserve for the Association and its successors and assigns, the right to maintain, repair, relocate and replace the Common Roads, including without limitation, sidewalks, streets, entrance ways, parking areas, landscaping, and related improvements located on or about the Common Roads; provided that no gates, fences, walls, curbs or other obstructions shall be constructed which will impair the ingress and egress of vehicles and pedestrians, or the installation of utilities as herein provided, or otherwise unreasonably interfere with the easements herein granted. Developer also reserves for the



Association and its successors and assigns, the exclusive right, but not the obligation, to regulate, control and police the traffic on the Common Roads and from time to time to establish, modify, and enforce reasonable rules and regulations regarding the use of the Common Roads.

**3.4 Grant and Reservation of Easement and Restrictions With Respect to the Lake and Islands.**

(a) Easement to Use the Common Areas. Subject to the limitations and restrictions set forth in Section 3.4(b) below, Developer hereby grants to each Owner, and his or her Immediate Family, and their respective guests and invitees, the nonexclusive right, privilege and easement to use and enjoy the Common Areas for recreational purposes, in common with all other Owners and their respective Immediate Families, guests and invitees. Subject to the provisions of Section 3.4(b) below, the easements and right granted pursuant to this Section 3.4(a) are and shall be permanent and perpetual, and are appurtenant to and shall pass and run with title to each Lot or Dwelling. The easements and rights are expressly subject to the rights reserved to the Association to restrict the use of the Lakes and Islands under Section 3.4(b) below.

(b) Limitation and Restrictions Regarding the Lake and Islands. Each Lot Owner of a Dwelling, by acceptance of a deed or other instrument conveying any interest in a Lot or Dwelling, does hereby agree that the use and enjoyment of the Lake and Islands shall be limited to the rights granted by Developer in this Declaration and any other instrument by which the Association may grant or acquire an interest in, or a right to use, any of the Lake or the Islands. The use and enjoyment of the Lake and the Islands shall also be subject to the following restrictions and limitations.

(i) Watercraft Requirements. The criteria for the approval of boats or other watercraft shall be subject to the following limitations:

(A) Approval of any watercraft shall be in the sole discretion of the Association and shall be evidenced by an emblem or other designation from time to time adopted by the Association attached to both sides of the permitted boat or other watercraft. Failure to affix and maintain said emblems in the manner required by the Association shall result in written notification to the violating Owner of his or her failure to comply with Association regulations. Failure of the violating Owner to comply with the Association's regulations within a period of ten (10) days after receipt of said notification will result in a fine payable by the violating Owner to the Association in the amount of \$50.00 for the first offense, \$100.00 for the second offense, and \$200.00 for the third offense. A continuing offense after the imposition of any fine, or the failure to pay a fine imposed, may result in the revocation of Association approval of **any or all** watercraft owned by the violating Owner or his or her Immediate Family.

(B) No boats or other watercraft having a length of more than sixteen (16) feet shall be permitted, unless a majority of the Owners shall approve, in writing, a longer length.



(C) No "inboard" motor boats, or boats, jet skis, Sea-Doos or other watercraft powered by gasoline or diesel engines shall be permitted.

(D) The presence, use or consumption of alcohol on or around the Lakes is subject to, and must comply with, the laws of the State of Alabama.

(E) No Owner shall be permitted to have more than two boats or other watercraft in or on the Lakes for any purpose at any time, unless otherwise specifically authorized by the Association.

(ii) Piers and Launches. Except for any common launch or pier which may be constructed and maintained by the Association as a Common Area, if any, no piers, jetties, storage facilities, launches or other similar structures shall be constructed unless otherwise approved by the Board.

(iii) Fishing. Fishing shall be permitted subject to rules provided by the Association and the following limitations:

(A) All laws and regulations of the State of Alabama now in effect or hereafter promulgated concerning creel limits are to be adhered to unless otherwise advised by the State Department of Conservation of Auburn University.

(B) No game fish are to be taken by any method other than pole and line or rod and reel.

(C) No Owner shall be permitted to have more than two boats fishing on the Lake at one time.

(D) No Owner shall permit or invite any guests to fish at any time unless the Owner or some member of his or her Immediate Family is present.

(iv) Guests and Family. Subject to the provisions contained herein, the use of the Lake and Islands and all other Common Areas shall be primarily for Owners and their respective Immediate Families.

(v) Maintenance. Owners are responsible for the removal of any trees, bushes, or items of a similar nature which are cut down or fall from their Lot into the Lake.

(vi) Hazardous Materials and/or Use of Poisons. No products that are listed on any current stipulated hazardous or toxic materials list of the Environmental Protection Agency, or the Alabama Department of Environmental Management or any other Governmental Agency shall be stored or used on any Lot, except that gasoline and other petroleum products, pesticides, and fertilizers may be stored and used on a Lot for the purpose of normal and routine maintenance of grounds and the normal routine construction, repair, maintenance and operation of Dwelling and other Improvements located on a Lot, including construction materials which are stored and/or used during construction, if, in the opinion of the Board, such products or items are not stored or used



in quantities or in a manner which are likely to endanger the Lake. Notwithstanding the foregoing, no pesticides or other toxic, hazardous or harmful chemicals shall be used whatsoever within fifty (50) feet of the Lake. Any such chemicals used or applied more than fifty (50) feet from the Lake shall be so used and applied to prevent their spread or dissemination into the Lake.

(c) Liability for Violation of Restrictions. In the event that an Owner or Occupant, guest, or Immediate Family member of a Lot or Dwelling violates any of the restrictions and limitations set forth in subparagraph (b) above, said Owner or Occupant shall be subject to one or more of the following:

(i) If such violation causes damage to the Lake or the fishing condition thereof, such Owner shall be liable to the Association for the cost of curing the damage to the Lake caused by such violation which may include, without limitation, the cost of draining and restocking the Lake if recommended by a professional consultant.

(ii) In the event that any such violation causes personal injury to any person or to the property of any person, the Owner shall indemnify and hold the Association and/or their respective directors, officers, employees, successors and assigns, harmless from and against any liability the Association may have to such person to the extent that insurance proceeds available to the Association, if any, are not sufficient to satisfy any such liability.

(iii) In all events, the Association may impose a fine not to exceed Five-Hundred and 00/100 Dollars (\$500.00) against said Owner or Occupant. All amounts collected by the Association shall be used for the maintenance of the Development.

(d) Duty of the Association. The easements for the use of the Lake, Islands, and other Common Areas granted hereby shall be used solely for non-commercial recreational purposes and the responsibility of the Association and their respective successors and assigns with respect to such Common Areas for liability for injury or damage to persons (including death) or property is intended to be limited by Section 35-15-1 et seq. of the Code of Alabama 1975 (the "Statute"). However, in the event the Statute is deemed inapplicable to the Association and their respective successors and assigns with regard to such Common Areas, any person by his or her use of such Common Areas pursuant to the easement granted hereunder or otherwise, shall be deemed to have constructively agreed that the Association shall have no duty of care to keep such Common Areas safe for entry and use by such persons, or to give any warning of hazardous conditions, use of structures or activities on or about such Common Areas; and the Association and their respective agents, employees, officers and directors and their respective successors and assigns shall have no liability for any injury to persons or property caused by any act or omission of the Association or any other person relating to or arising out of the use of such Common Areas by any person.

3.5 Reservation of General Access Easement. Developer does hereby establish and reserve for the Association, its Board, and the Architectural Control Committee and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, through and upon each Lot or



Dwelling for the purpose of providing ingress to and egress from each Lot and Dwelling for (a) inspecting each Lot and Dwelling and any Improvements thereon in order to determine compliance with the provisions of this Declaration and/or other applicable regulations or covenants, and (b) the performance of the respective duties of the member of the Board and the Association hereunder, including, without limitation, taking any action required or permitted to be taken by the Board and the Association pursuant to any of the terms or provisions of this Declaration and/or other applicable regulations or covenants; provided, however, that upon completion and occupancy of any Dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of such Lot or Dwelling directly affected thereby.

**3.6 Reservation of Easement for Utilities and Maintenance of Common Areas.**

Developer does hereby establish and reserve for the Association and its respective successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all portions of the Common Areas and all Lots which are reasonably necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, security and similar systems and all utilities necessary or convenient for the use of any portion of the Development, including, without limitation, publicly or privately owned and operated electrical, natural gas, telephone, water and sewer services, storm drains and sewers, drainage systems, retention ponds, basins, dams, spillways and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any utility service to any portion of the Development. Said easement is further reserved for the purpose of constructing, maintaining, repairing, or replacing the Lake or any dam. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair, operation and replacement of all such utility services and the systems, equipment and machinery used to provide the same. The rights herein reserved by the Association shall include, without limitation, the right to grant easements to the providers of utilities for the purposes herein established, and each of the Owners hereby appoint the Association, as the case may be, irrevocably, as their attorney in fact, for the purpose of executing such documents as may be necessary and appropriate in connection with the granting of such easements. Notwithstanding anything provided in this Section 3.6 to the contrary, (i) the utilization of any of the easements and rights established and reserved pursuant to this Section 3.6 shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot, and (ii) good faith efforts to attempt to cause any utility company or other supplier or provider of any utility service which may utilize any of the easements and rights reserved and established pursuant to this Section 3.6 to take reasonable action to repair any damage caused by such utility company or other supplier or provider of such utility service during the exercise of any rights established and reserved herein shall be used.

**ARTICLE IV**  
**ASSOCIATION**

**4.1 Ownership.** No Owner may Transfer all or any interest in any Lot owned by such Owner without at the same time Transferring to the Transferee of such Lot a like



membership interest in the Association, and no Owner may Transfer all or any membership interest owned by the Owner without at the same time Transferring to the Transferee of such membership interest a like interest in the Lot. The Association and each Owner shall at all times comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and all rules and regulations which may from time to time be adopted by the Board or the Association.

4.2 **Board.** The Board shall have the rights and duties set forth in the Articles of Incorporation and the Bylaws. The Board shall consist of three (3) persons, each of whom shall be appointed or elected as provided herein.

(a) **Term of the Board.** The regular term of office for each of the members of the Board shall be three (3) years, coinciding with the fiscal year of the Association, except as otherwise provided in the Bylaws. Each Owner, by acceptance of a deed to or other conveyance to a Lot or Dwelling, shall be deemed to ratify the provisions of all sections pertaining to the Board herein.

(b) **Procedure and Meetings.** The Board shall elect a President and s/he, or in his or her absence, the Vice President, shall preside at all meetings of the Board. The Board may meet on a regular basis as well as upon call of the President or Vice President, and all such meetings shall be held at such places as may be designated by the President or Vice President. The affirmative vote of a majority of those present in person or by proxy at a meeting of the Board shall constitute the action of the Board on any matter which comes before it; provided that a majority of the Board may delegate the right to act for and on behalf of all the Board members to one or more Board members.

(c) **Committees.** The Board shall have the right and power to appoint one or more committees and to delegate to such committees various responsibilities of the Board. The members of the committees must be Owners but they need not be members of the Board. Each committee shall have the right from time to time to adopt and establish rules and regulations as may be necessary concerning the procedure and conduct of the business of the committee. All decisions of a committee shall be subject to the approval of the Board. Any Owner may appeal any decision of a committee, and the decision of the Board may be overturned or affirmed by the Super-Majority, and the decision resulting from such vote be final with respect to such appeals.

4.3 **Voting Rights.** Each Owner shall be entitled to vote such number of votes as is equal to his or her membership interest in the Association. Each Owner shall cast all his votes either in favor of, in opposition to, or in abstention of any matter subjected to a vote of the members of the Association.

4.4 **Duties and Powers of Association.** In addition to the rights, duties, responsibilities and obligations of the Association otherwise set forth in this Declaration, the Association shall have the power to do, cause to be done and otherwise perform or cause to be performed any of the duties and powers set forth in the Articles of Incorporation and the Bylaws. The Association may exercise any other right or privilege granted to it expressly by this Declaration, or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. In the event of any conflict, ambiguity or inconsistency between the



Code of Alabama 1975, this Declaration, the Articles of Incorporation, the Bylaws or any rules and regulations adopted from time to time by the Association, then the provisions of the Code of Alabama 1975, this Declaration, the Articles of Incorporation, the Bylaws, and any rules and regulations adopted by the Association, in that order, shall prevail. Except as otherwise specifically provided to the contrary herein, in the Articles of Incorporation or in the Bylaws, the powers and authority granted to the Association may be exercised by the Board without further consent or action on the part of the members of the Association.

## **ARTICLE V**

### **RESPONSIBILITIES OF THE ASSOCIATION**

5.1 **Maintenance of Common Areas.** Except as may be otherwise provided herein to the contrary, the Association shall, to the extent it has received sufficient sums from the Owners through Common Area Assessments, maintain and keep in good repair and condition all portions of the Common Areas, which responsibility shall include, without limitation, the maintenance, repair and replacement of all Common Roads within the Development, and other improvements made by the Association within any of the Common Areas or within any of the easements encumbering the Lots or Dwellings. The Association shall not be liable for injuries or damage to any person or property (1) caused by the elements, acts of God or any Owner, Occupant or other person, (2) resulting from any surface or subsurface conditions which may at any time affect any portion of the Property caused by rain or other surface water which may leak or flow from any portion of the Common Area and/or a Lake onto a Lot or Dwelling, or (3) resulting from theft, burglary or other illegal entry into the Development, any Lot or Dwelling thereof. No diminution or abatement of Common Area Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken by or performed by the Association hereunder or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association or from any action taken by the Association to comply with any requirements of the Governmental Authorities.

5.2 **Rules and Regulations.** The Association, either through the Board or the Super-Majority, may establish and enforce reasonable rules and regulations governing the use of all Lots and Common Areas. Copies of such rules and regulations shall be binding upon all Owners and Occupants until and unless such rule or regulation is specifically overruled, cancelled or modified by the Board or Super-Majority.

5.3 **Hunting and Fishing Restrictions.** The Association, either through the Board, committees established by the Board, or the Super-Majority shall establish and enforce reasonable rules and regulations governing and restricting hunting and fishing, seasons for same, the use of firearms on the Property, the maximum number of guests utilizing any area designated for hunting or fishing, which shall be permitted within the Development. All such rules and regulations must comply with any hunting, fishing, and firearm laws or regulations promulgated by any Governmental Authorities.



## ARTICLE VI ARCHITECTURAL STANDARDS

6.1 **Architectural Standards.** The Board and the Association are each hereby authorized to promulgate and amend or modify from time to time written Architectural Standards governing policies, guidelines and minimum requirements to be satisfied with respect to the construction, location, landscaping and design of all Dwellings and other Improvements on any Lot, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Dwelling or other Improvements on a Lot are to be submitted to and approved by the Architectural Control Committee and any other matters affecting the construction, repair or maintenance of any Dwelling or other Improvements on any Lot. The Architectural Standards adopted by the Board and the Association shall be in addition to the provisions and requirements set forth in this Declaration and shall be binding upon and enforceable against all Owners.

6.2 **Approval of Plans and Specifications.**

(a) The Board is hereby authorized and empowered to approve all plans and specifications and the construction of all Dwellings and other Improvements on any Lot or Dwelling within the Property, and, should the Board so elect in its discretion, to delegate such authority to an Architectural Control Committee. Prior to the commencement of construction of any Dwelling or other Improvements on any Lot or Dwelling, the Owner thereof shall submit to the Board (or the Architectural Control Committee, as the case may be) plans and specifications and related data for all such Improvements, which shall include the following:

(i) A copy of an accurately drawn and dimensioned site development plan indicating the location of any and all Improvements, including, specifically, the Dwelling to be constructed on said Lot, the location of all driveways, walkways, decks, terraces, patios and outbuildings and the relationship of the same to any set-back requirements applicable to the Lot or Dwelling. The site plan shall reflect the location of the proposed Improvements as such location relates to the recommended Dwelling site.

(ii) A copy of floor plans and exterior elevation drawings of the front of the Dwelling to be constructed on the Lot.

(iii) A copy of written specifications and, if requested by the Board (or the Architectural Control Committee, as the case may be), samples indicating the nature, color, type, shape, height and location of all exterior materials to be used in the construction of the Dwelling on such Lot or any other Improvements thereto.

(b) The copies submitted in accordance with Section 6.2(a) above shall be returned to the Owner submitting the same marked "approved," "approved as noted" or "disapproved."

6.3 **Construction Without Approval.** If (a) any Improvements are initiated, installed, maintained, altered, replaced or relocated on any Lot or Dwelling without approval by the Board (or the Architectural Control Committee, as the case may be) of the plans and specifications for the same, or (b) the Board (or the Architectural Control Committee, as the case may be) and/or the Association shall determine that any approved plans and specifications for



any Improvements for any Lot or Dwelling are not being complied with, then, in either event, the Owner of such Lot or Dwelling shall be deemed to have violated this Declaration and the Board, Architectural Control Committee, or the Association shall have the right to exercise any of the rights and remedies set forth in herein.

6.4 **Limitation of Liability.** Notwithstanding anything provided herein to the contrary, neither the Board, the Architectural Control Committee (if applicable), the Association, nor any agent, employee, representative, member, shareholder, partner, officer or director of any of them, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Owner on account of (a) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article VI, (b) any defects, structural or otherwise, in any work done according to such plans and specifications, (c) the failure to approve or the disapproval of any plans, drawings, specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article VI, (d) the construction or performance of any work related to such plans, drawings and specifications, (e) bodily injuries (including death) to any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or Occupant, or any damage to any Dwellings, Improvements or the personal property of any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or Occupant, which may be caused by, or arise as a result of, any defect, structural or otherwise, in any Dwellings or Improvements or the plans and specifications therefore or any past, present or future soil and/or subsurface conditions, known or unknown (including, without limitation, sinkholes, underground mines, tunnels and water channels and limestone formations on or under any Lot or Dwelling) and any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Lot or Dwelling or any Improvements situated thereon.

## **ARTICLE VII**

### **USE AND DEVELOPMENT RESTRICTIONS**

7.1 **Use Restrictions.** Except as otherwise provided to the contrary herein, each Lot and Dwelling shall be used for single-family residential purposes only and no trade or business of any kind may be carried on in or from any Lot or Dwelling.

7.2 **Board and Association Approval.** No Dwellings or other Improvements of any nature whatsoever shall be constructed on any Lot or Dwelling unless such Dwelling and/or Improvements have been approved in accordance with Article VI above. Mobile, modular and/or fabricated homes are completely prohibited.

7.3 **Building Sites.**

(a) Prior to commencing any construction related activities on a Lot (including grading and clearing), the location of the Dwelling to be constructed thereon shall be set forth on the site development plan submitted to the Board (or the Architectural Control Committee, as the case may be) in accordance with Article VI above. All eaves, steps, porches, terraces, decks and



patios shall be deemed a part of the Dwelling for purposes of locating the Dwelling on the site development plan.

(b) Construction of any Dwelling or Improvement shall be subject to the minimum building set back lines which may from time to time be imposed by Governmental Authorities having jurisdiction over the Property, and, in all events, construction of any Dwelling or Improvements must be set back at least one hundred (100) feet from the natural water edge.

(c) Only one primary residence Dwelling may be constructed on a twenty (20) acre parcel; the foregoing shall not prohibit guest houses.

7.4 **Living Space.** The Board (or the Architectural Control Committee, as the case may be) may set forth the guidelines for the Living Space (which may vary within the Development) with respect to Dwellings to be constructed on Lots within the Property subject to the requirement that each Dwelling must have within its interior at least one bedroom and one bathroom.

7.5 **Roofing.** The Board (or the Architectural Control Committee, as the case may be) or the Association shall have the right to establish specific requirements for any roof and the type of roofing materials which may be utilized for any Dwelling, subject to the requirement that every roof must have at least an eight (8) and twelve (12) pitch.

7.6 **Exterior Materials and Finishes.** Approved exterior building material finishes for any Dwelling shall be limited to that of natural stone or wood.

7.7 **Fences.**

(a) The type of materials utilized for (including the color thereof) and the location of all fences must be approved by the Board (or the Architectural Control Committee, as the case may be), subject to the requirement that all fences which may be viewed from the Lake are to be constructed of natural wood. Chain-link fencing is completely prohibited.

(b) Notwithstanding subparagraph (a) above, no fence constructed on any Lot shall exceed the maximum height imposed by any Governmental Authority. No fence shall be constructed over or upon any portion of any easement granted by the Association herein.

7.8 **Trash, Rubbish and Nuisances.** Each Owner or Occupant is responsible for disposing of his or her own trash, garbage, or any other refuse or waste. No such refuse shall be retained or deposited in any Common Area. Trash, garbage and any other refuse or waste shall not be kept on any Lot or Dwelling except temporarily in sanitary containers or garbage compactor units prior to disposal.

7.9 **Recreational Vehicles and Machinery and Equipment.** Subject to the terms and conditions of the this Declaration, the Association shall have the right at any time and from time to time to adopt rules and regulations with respect to the keeping, storage, parking, operation, use or maintenance of, tractors, equipment, machinery, trailers (with or without wheels), trucks (other than pick-up trucks), commercial vehicles of any type, campers, motorized



campers or trailers, boats or other watercraft, boat trailers, motorcycles, motorized bicycles, all-terrain vehicles, motorized go-carts and other forms of transportation.

7.10 **Signage.** All signs, billboards or advertising structures of any kind are prohibited, including any real estate signs posted on the premises, Common Roads or entrance area from the main road. The Board and the Association shall have the right to enter any of the Property for the purpose of removing and destroying any unauthorized signs without recourse from any Owner or builder.

7.11 **Septic Tank.** Each Owner shall be responsible for causing to be installed a septic tank and field lines for with respect to his, her, or its Lot.

7.12 **Subdivision and Interval Ownership.** No Lot may be subdivided or resubdivided. No Lot or Dwelling shall be sold or owned under any time-sharing, time-interval or similar right-to-use programs.

7.13 **Variances.** The Association, in its sole and absolute discretion, shall have the exclusive right to grant variances with respect to the provisions of Article VI above and this Article VII with respect to any Lot or Dwelling. Any variance request submitted to the Association shall be in writing and, upon approval of the same by the Association, shall be evidenced by a written variance executed by the Board.

## **ARTICLE VIII** **ASSESSMENTS**

8.1 **Purpose of Assessments.** The annual Common Area Assessments provided for herein shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Development and otherwise for the general upkeep and maintenance of the Development, including, specifically, the Common Areas and any Improvements thereto, all as may be more specifically authorized from time to time by the Super-Majority.

8.2 **Assessments.** Each Owner of a Lot or Dwelling, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association annual Common Area Assessments and individual assessments against any particular Lot or Dwelling which are established or assessed pursuant to the terms of this Declaration including, but not limited to, any fines as may be levied or imposed against such Lot or Dwelling in accordance with the provisions of this Declaration. Each Owner shall be personally liable for the payment of all Assessments coming due while he is the Owner of a Lot or Dwelling. All Assessments, together with late charges, court costs and attorneys' fees incurred with respect thereto by the Association, shall also be a personal obligation of the person who was the Owner of the Lot or Dwelling at the time such Assessments and other costs and charges were assessed or incurred. Assessments shall be paid in such manner, such amount and on such dates as may be fixed by the Super-Majority, subject to the limitation that the first Assessment shall be in the amount of One Thousand and 00/100 Dollars (\$1,000.00) per annum, per Lot or Dwelling. All Assessments shall be payable in all events without offset, diminution or



abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot, Dwelling, Common Area, or any other portion of the Development or any other cause or reason of any nature. In the event that Assessments approved by the Super-Majority are not sufficient to pay local property taxes and related taxes on the Property, the Board shall have the right, but not the obligation, to require the Owners to pay additional Assessments in an amount necessary to fund the payment of the aforesaid taxes.

8.3 **Individual Assessments.** Any expenses of the Association to repair any damage occasioned by the conduct of less than all of the Owners or by any Owner or Occupant, or the respective family members, agents, guests, servants, employees, invitees or contractors of any Owner or Occupant, shall be specially assessed against such Owners and their respective Lots or Dwellings.

## **ARTICLE IX**

### **CASUALTY, CONDEMNATION AND INSURANCE**

#### **9.1 Insurance.**

(a) The Board shall have the authority to obtain and maintain at all times adequate property and casualty insurance in such form as the Board deem appropriate for the benefit of the Association insuring all insurable Improvements in and to the Common Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and malicious mischief, which coverage shall be in an amount, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may determine.

(b) The Board shall have the authority to obtain and maintain in effect at all times such public liability insurance coverage covering all of the Common Areas and the Lake and any damage or injury caused by the negligence of the Association, and the Board, and all members, directors, officers, partners, agents and employees thereof, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may deem necessary or desirable.

(c) The Board shall have the right and authority to obtain workman's compensation insurance, employer's liability insurance and all other types of insurance required by law, including, without limitation, errors and omissions and directors and officers liability insurance coverage, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may determine.

(d) All insurance coverage authorized hereunder shall be written in the name of the Association. To the extent the same may be obtained at a nominal cost, all such policies shall contain a waiver of subrogation clause pursuant to which the insurer waives any claims against the Board, the Association, and the Owners and the family members, servants, agents, and guests of the Owners.

(e) Each Owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to his Lot and



Dwelling. The Board may require all Owners to carry public liability insurance with respect to their respective Lots and Dwellings and to furnish copies or certificates thereof to the Association. Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot or Dwelling, does hereby waive and release the Board and the Association and their respective agents, employees, representatives, partners, shareholders, members, officers and directors, from any and all liabilities or damage covered by (or which should be covered by) fire and casualty (e.g., homeowner's and/or builder's risk) insurance and general liability insurance which any Owner maintains, even if such loss or damage has been caused by the fault or negligence of any of the foregoing persons or parties.

## **ARTICLE X**

### **TERM AND AMENDMENTS**

10.1 **Term.** The terms, covenants, conditions and restrictions set forth in this Declaration shall run with and bind all of the Property, shall inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, personal representatives, administrators, successors and assigns, and shall be and remain in effect for a period of twenty-one (21) years from and after the death of the last survivor of the now living descendants of Developer, after which time this Declaration shall be automatically renewed and extended for successive and continuous periods of ten (10) years each, unless, at any time after twenty-one (21) years from the date hereof, an agreement executed by the Super-Majority agreeing to terminate or modify this Declaration has been recorded in the Probate Office of Shelby County, Alabama, provided, however, that the rights of way and easements established, granted and reserved in Article III hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

10.2 [Intentionally Deleted]

10.3 **Amendment By Association.**

(a) Amendments to this Declaration may be proposed by either the Board, or by the affirmative vote of the Super-Majority. Upon an amendment's proposal, a special meeting of the Board shall be called pursuant to the Bylaws. Subject to the provisions of Sections 10.3(b) and 10.4, the affirmative vote of the Board shall be required in order for the proposed amendment(s) to become effective. After an amendment has been duly adopted, the amendment shall be transcribed and certified by the President and the Secretary of the Association as having been duly adopted, and the executed amendment shall be recorded in the Office of the Judge of Probate of Shelby County within twenty (20) days from the date on which the same became effective. Thereafter, a copy of the amendment(s) shall be delivered to all of the Owners, but mailing a copy of the amendment(s) shall not be a prerequisite to the effectiveness of the same.

(b) Notwithstanding the provisions of this Article X, no amendment to this Declaration shall abridge, limit, amend or alter the rights, privileges, powers or options of the Developer as set forth in this Declaration, without the prior written consent of the Developer.

10.4 **Restrictions on Amendment.**



(a) No amendment shall materially adversely affect the rights of any Owner, unless such Owner so adversely affected shall consent thereto. For example, no amendment shall alter the basis for apportionment of Assessments in any manner or place more burdensome restrictions on any lot which would materially adversely affect any Owner, as opposed to other Owners, unless the Owner so adversely affected shall consent thereto.

(b) No amendment shall be made to this Declaration so long as Developer owns any portion of the Lots, unless Developer shall consent thereto. Such consent shall not be unreasonably withheld.

(c) Notwithstanding the foregoing amendment provisions, any scrivener's error or omission may be corrected by the filing of an amendment to this Declaration consented to by the Board and any Owners or Mortgagees of record directly affected by the amendment. No other Owner is required to consent to any such amendment. If there appears to be any other omissions or errors in this Declaration, scrivener's or otherwise, and such error or omission does not materially adversely affect the rights and interests of any other party, then such error or omission may be corrected by the filing of an amendment to this Declaration executed by the Board without the consent of any other party.

## **ARTICLE XI** **ENFORCEMENT**

11.1 **Authority and Enforcement.** In the event any Owner or Occupant or their respective agents, contractors or invitees, violates any of the provisions of this Declaration, or the Architectural Standards promulgated hereunder, the Articles of Incorporation, the Bylaws or any rules and regulations adopted by the Board from time to time, the Board shall have the power to (i) impose reasonable monetary fines which shall constitute a personal obligation of such Owner which is guilty of such violation, or (ii) suspend an Owner's or Occupant's right (and the right of such Owner's or Occupant's family members, and guests) to use any of the recreational facilities located in or upon the Common Areas, and the Board shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension of rights may be for the duration of the infraction.

11.2 **Procedure.** In the event any of the terms or provisions of this Declaration and the Architectural Standards promulgated hereunder, the Articles of Incorporation, the Bylaws or any rules and regulations of the Association are violated by any Owner or Occupant, or the respective agents, contractors or invitees of any Owner or Occupant, the Board shall not impose a fine, or infringe upon or suspend any other rights pursuant to Section 11.1 above unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations which demand shall specify:

- (i) The alleged violation;
- (ii) The action required to abate such violation; and
- (iii) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one or if the violation is not a continuing one, a statement that any further violation of the same



provision of this Declaration or the Architectural Standards promulgated hereunder, the Articles of Incorporation, the Bylaws or any of the rules and regulations of the Association may result in the imposition of sanctions. The foregoing procedure shall only be applicable to the enforcement rights specified in Section 11.1 above and shall not apply to the exercise of any of the rights and remedies specified in any other section or provision of this Declaration.

11.3 **Nonexclusive Remedies.** Notwithstanding anything provided to the contrary in this Declaration, the authority, enforcement and procedural rights set forth in this Article XI are in addition to and shall not be deemed to limit the other rights and remedies set forth in this Declaration or which the Association, acting through the Board, would have the right to exercise at law or in equity.

## **ARTICLE XII**

### **MISCELLANEOUS PROVISIONS**

12.1 **Legal Expenses.** In addition to the rights and remedies set forth hereinabove, in the event either the Board, or the Association, through its respective agents and representatives, undertake any legal or equitable action which any of them deem necessary to remedy any violation of this Declaration, then all costs and expenses incurred by any of them, including, without limitation, attorneys' fees and court costs, shall be paid for by the Owner against whom such action was initiated.

12.2 **Severability.** If any provision of this Declaration or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Declaration or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

12.3 **Captions and Headings.** The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration. The table of contents, cover page and any index to this Declaration are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.

12.4 **Pronouns and Plurals.** All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

12.5 **Binding Effect.** The terms and provisions of this Declaration shall be binding upon each Owner, Occupant and Mortgagee and the respective heirs, executors, administrators, personal representatives, successors and assigns of each Owner, Occupant and Mortgagee, and shall inure to the benefit of Developer, the Association, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

12.6 **Conflict or Ambiguity.** In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction against one party as a result



of that party having drafted this Declaration are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein.

12.7 **No Reverter.** No restriction or provision hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of the Association nor shall any provision be deemed to vest any reversionary interest in the Association.

12.8 **Interpretation.** In all cases, the provisions set forth and provided for in this Declaration shall be construed together and give that interpretation or construction which, in the opinion of the Board, will best effect the intent of the general plan of development for the Property. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date hereof. This Declaration shall be construed under and in accordance with the laws of the State of Alabama.

12.9 **Rights of Third Parties.** This Declaration shall be recorded for the benefit of the Association, the Owners and their respective Mortgagees and by such recording, no other adjoining property owner or third party shall have any right, title or interest whatsoever in the Development of its operation and continuation, in the enforcement of any of the provisions of this Declaration or the right to consent to or approve any amendment or modification to this Declaration.

12.10 **No Trespass.** Whenever the Association, the Board and their respective agents, employees, representatives, successors and assigns, are permitted by this Declaration to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot or Dwelling, the entering thereon and the taking of such action shall not be deemed a trespass.

12.11 **No Partition.** Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Development.

12.12 **Standards for Review.** Whenever in this Declaration the Association or the Board (or any committee established by Board) has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of the Association or the Board (or any committee established by the Board), as the case may be.

12.13 **Oral Statements.** Oral statements or representations by the Association, the Board or any of their respective employees, agents, representatives, successors or assigns, shall not be binding on the Association or the Board.

12.14 **Notices.** Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association or, if no such



address has been so designated, at the address of such Owner's respective Lot or Dwelling within the Development. All notices to the Association or to the Board shall be delivered or sent in care of the Association to the following address:

Pioneer Lake Residential Association, Inc.  
2236 Cahaba Valley Drive, Suite 208  
Birmingham, Alabama 35242

or to such other address as the Association or the Board may from time to time specify in a notice to the Owners.

12.15 **Further Assurances.** Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformity or otherwise, which may be reasonably requested by the Association or the Board for the purpose of or in connection with clarifying, amending or otherwise consummating any of the transactions and matters herein.

12.16 **No Waiver.** All rights, remedies and privileges granted to the Association and the Board pursuant to the terms and provisions of this Declaration shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

12.17 **Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Developer.

[REMAINDER OF PAGE INTENTIONALLY DELETED]



**IN WITNESS WHEREOF**, Developer has caused this Declaration to be duly executed as of the day and year first above written.

**DEVELOPER:**

**HOWARD LAKE PROPERTIES LLC**

an Alabama limited partnership

BY: C. Doug Howard  
C. Doug Howard  
Its Sole Member

STATE OF ALABAMA      )

COUNTY OF JEFFERSON    )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that C. Doug Howard, a sole member of Howard Lake Properties LLC, an Alabama limited liability company, whose name is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such sole 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 14 day of April, 2005.

Gail Livingston Mills

NOTARY PUBLIC

My Commission Expires: 2-26-06

This Instrument Prepared By: Gail Livingston Mills, Esq., Burr & Forman LLP, 420 North 20<sup>th</sup> Street, Suite 3100, Birmingham, Alabama 35203.



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

Section 19:

The S.E.  $\frac{1}{4}$  lying East of Pumpkin Swamp Road.

Section 20:

The W.  $\frac{1}{2}$  of the S.W.  $\frac{1}{4}$ .

Section 29:

The N.  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$ .

The W.  $\frac{1}{2}$  of the N.W.  $\frac{1}{4}$  lying North of the Central of Georgia Railway.

Part of the N.E.  $\frac{1}{4}$  of the S.W.  $\frac{1}{4}$ .

Part of the E.  $\frac{1}{2}$  of the N.W.  $\frac{1}{4}$ ,

Section 30:

Part of the N.E.  $\frac{1}{4}$ .

All being in Township 18 South, Range 2 East, described as follows:

Beginning at the N.E. Corner of Section 29 go South 89 degrees 27 minutes 53 seconds West along the North Boundary of said Section for 3862.17 feet to the S.E. corner of the W.  $\frac{1}{2}$  of the S.W.  $\frac{1}{4}$  of Section 20; thence North 01 Degrees 52 Minutes 08 Seconds West along the East Boundary of said W.  $\frac{1}{2}$  of the S.W.  $\frac{1}{4}$  for 2671.12 feet to the N.E. Corner of said W.  $\frac{1}{2}$  of the S.W.  $\frac{1}{4}$ ; thence South 89 Degrees 39 Minutes 17 Seconds West along the North Boundary of said W.  $\frac{1}{2}$  of the S.W.  $\frac{1}{4}$  for 1303.61 feet to the N.E. Corner of the S.E.  $\frac{1}{4}$  of Section 19; thence South 89 Degrees 50 Minutes 27 Seconds West along the North Boundary of said S.E.  $\frac{1}{4}$  for 661.29 feet to an existing iron pin; thence continue South 89 Degrees 47 Minutes 49 Seconds West along the North Boundary of said S.E.  $\frac{1}{4}$  for 1102.74 feet to a point on a curve to the right on the East Boundary of Shelby County Highway No. 55, said curve having a Central Angle of 08 Degrees 25 Minutes 51 Seconds and a radius of 210.00 feet; thence Westerly along said curve for 30.90 feet to the center line of Pumpkin Swamp Road; thence sixteen (16) courses along the center line of said road as follows: go South 30 Degrees 37 Minutes 51 Seconds West for 355.43 feet; thence South 20 Degrees 59 Minutes 00 Seconds West for 197.67 feet; thence South 14 Degrees 07 Minutes 00 Seconds West for 142.94 feet; thence South 02 Degrees 15 Minutes 20 Seconds West for 186.26 feet; thence South 06 Degrees 13 Minutes 20 Seconds West for 348.37 feet; thence South 00 Degrees 06 Minutes 50 Seconds West for 160.85 feet; thence South 01 Degrees 23 Minutes 30 Seconds West for 233.79 feet; thence South 12 Degrees 22 Minutes 00 Seconds West for 287.38 feet; thence South 17 Degrees 10 Minutes 30 Seconds East for 183.46 feet; thence South 04 Degrees 32 Minutes 20 Seconds West for 149.21 feet; thence South 02



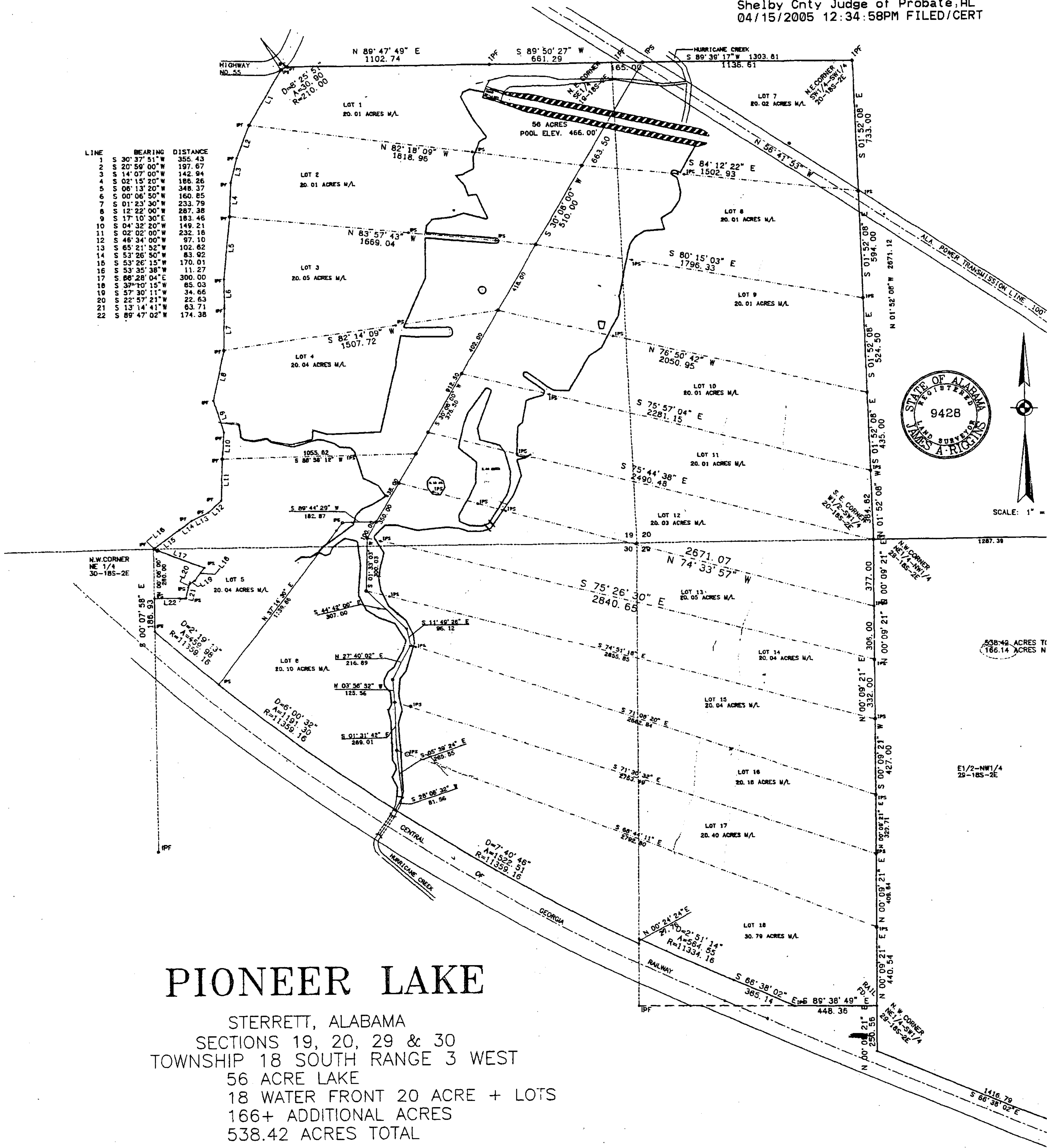
Degrees 02 Minutes 00 Seconds West for 232.16 feet; thence South 46 Degrees 34 Minutes 00 Seconds West for 97.10 feet; thence South 65 Degrees 21 Minutes 52 Seconds West for 102.62 feet; thence South 53 Degrees 26 Minutes 50 Seconds West for 83.92 feet; thence South 53 Degrees 26 Minutes 15 Seconds West for 170.01 feet; thence South 53 Degrees 35 Minutes 38 Seconds West for 11.27 feet to the S.W. Corner of the S.E.  $\frac{1}{4}$  of Section 19; thence South 68 Degrees 28 Minutes 04 Seconds East for 300.00 feet to the center of a branch; thence four (4) courses along said branch as follows: go South 37 Degrees 10 Minutes 15 Seconds West for 85.03 feet; thence South 57 Degrees 30 Minutes 11 Seconds West for 34.66 feet; thence South 22 Degrees 57 Minutes 21 Seconds West for 22.63 feet; thence South 13 Degrees 14 Minutes 41 Seconds West for 63.71 feet; thence South 89 Degrees 47 Minutes 02 Seconds West for 174.38 feet to the West Boundary of the N.E.  $\frac{1}{4}$  of the N.E.  $\frac{1}{4}$  of Section 30; thence South 00 Degrees 08 Minutes 00 Seconds East along said West Boundary for 186.93 feet to a point on a curve on the Northerly Boundary of the Central of Georgia Railway, said curve having a central Angle of 16 Degrees 00 Minutes 31 Seconds and a radius of 11359.16 feet; thence Easterly along said curve for 3173.79 feet to the West Boundary of the N.W.  $\frac{1}{4}$  of Section 29; thence North 00 Degrees 24 Minutes 24 Seconds East along said West Boundary for 27.76 feet to a point on a curve on the Northerly Boundary of the Central of Georgia Railway, said curve having a central angle of 02 Degrees 51 Minutes 14 Seconds and a radius of 11334.16 feet; thence Easterly along said curve for 564.55 feet to the Point of Tangent; thence South 66 Degrees 38 Minutes 02 Seconds East for 365.15 feet to the South Boundary of the W.  $\frac{1}{2}$  of the N.W.  $\frac{1}{4}$  of Section 29; thence South 89 Degrees 38 Minutes 49 Seconds East along said South Boundary for 448.36 feet to the N.W. Corner of the N.E.  $\frac{1}{4}$  of the S.W.  $\frac{1}{4}$  of Section 29; thence South 00 Degrees 09 Minutes 21 Seconds West along the West Boundary of said N.E.  $\frac{1}{4}$  of the S.W.  $\frac{1}{4}$  for 250.56 feet to the Northerly Boundary of the Central of Georgia Railway; thence South 66 Degrees 38 Minutes 02 Seconds East along said Northerly Boundary for 1416.79 feet to the East Boundary of the N.E.  $\frac{1}{4}$  of the S.W.  $\frac{1}{4}$  of Section 29; thence North 05 Degrees 32 Minutes 06 Seconds West for 2146.70 feet to a point on the South Boundary of the N.E.  $\frac{1}{4}$  of the N.W.  $\frac{1}{4}$  of Section 29; thence North 89 Degrees 26 Minutes 15 Seconds East along said South Boundary for 203.68 feet to the S.W. Corner of the N.  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$  of Section 29; thence North 89 Degrees 26 Minutes 15 Seconds East along the South Boundary of said N.  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$  for 2576.21 feet to the S.E. Corner of the N.  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$  of Section 29; thence North 00 Degrees 09 Minutes 12 Seconds West along the East Boundary of said N.  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$  for 1306.46 feet to the Point of Beginning, containing 538.42 Acres, more or less.





20050415000178500 26/27 \$89.00  
Shelby Cnty Judge of Probate, AL  
04/15/2005 12:34:58PM FILED/CERT

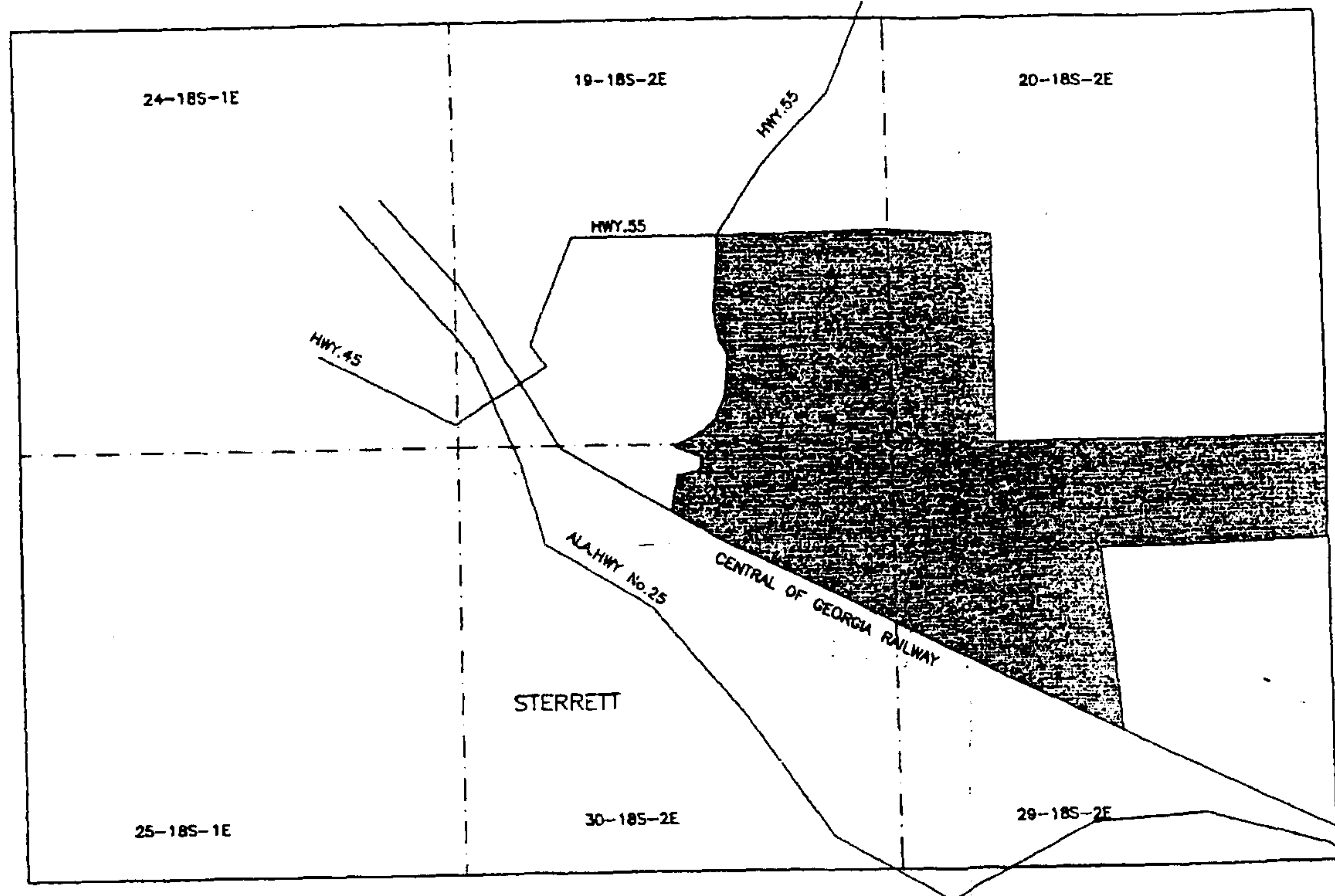
LINE	BEARING	DISTANCE
1	S 30° 37' 51" W	355.43
2	S 20° 59' 00" W	197.67
3	S 14° 07' 00" W	142.94
4	S 02° 15' 20" W	186.26
5	S 06° 13' 20" W	348.37
6	S 00° 06' 50" W	160.85
7	S 01° 23' 30" W	233.79
8	S 12° 22' 00" W	287.38
9	S 17° 10' 30" E	183.46
10	S 04° 32' 20" W	149.21
11	S 02° 02' 00" W	232.18
12	S 46° 34' 00" W	97.10
13	S 65° 21' 52" W	102.62
14	S 53° 26' 50" W	83.92
15	S 53° 26' 15" W	170.01
16	S 53° 35' 38" W	11.27
17	S 66° 28' 04" E	300.00
18	S 37° 10' 15" W	85.03
19	S 57° 30' 11" W	34.66
20	S 22° 57' 21" W	22.63
21	S 13° 14' 41" W	83.71
22	S 89° 47' 02" W	174.38



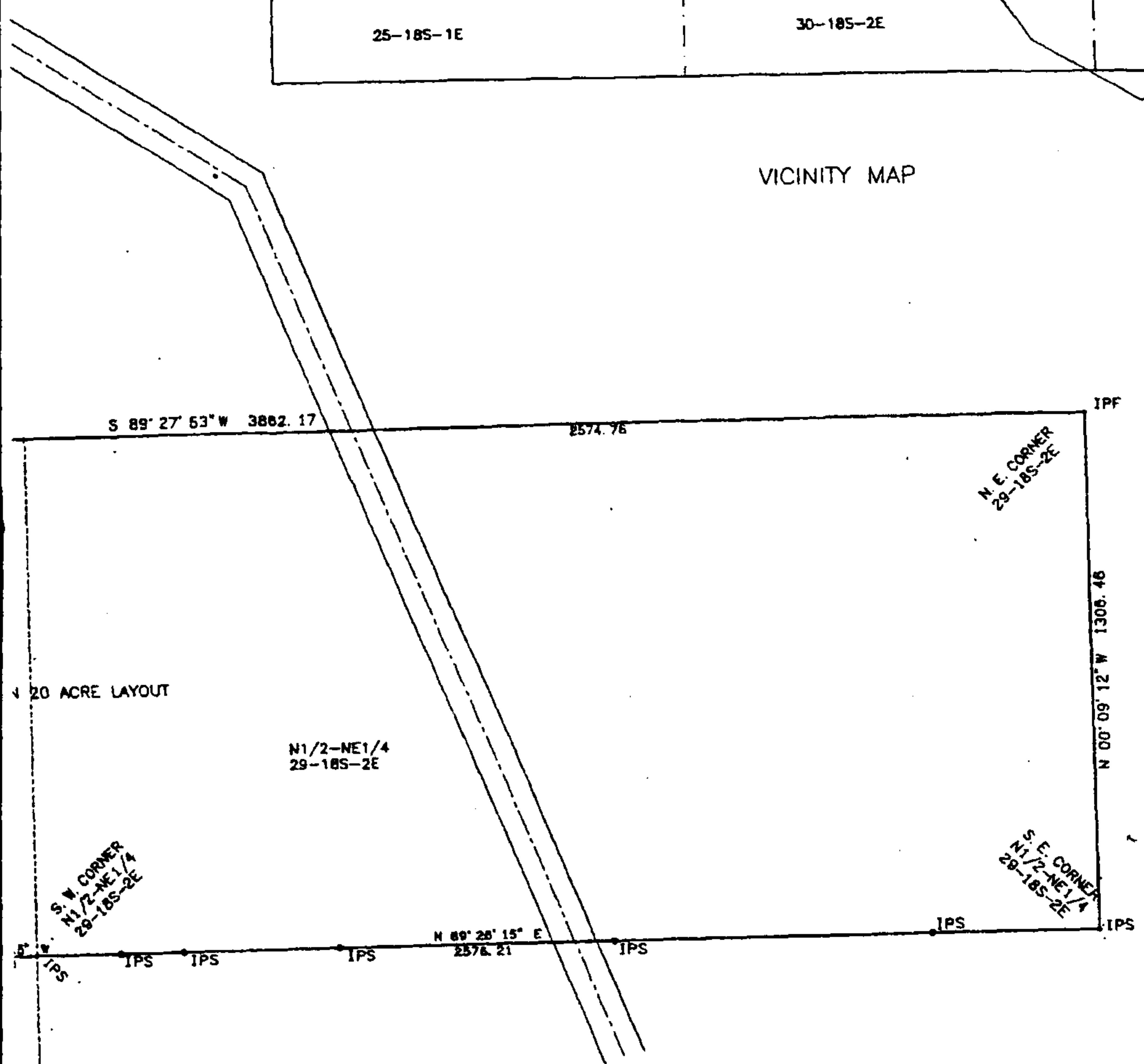




20050415000178500 27/27 \$89.00  
Shelby Cnty Judge of Probate, AL  
04/15/2005 12:34:58PM FILED/CERT



VICINITY MAP



STATE of ALABAMA:  
COUNTY of SHELBY:  
I, James A. Riggins, a registered Land Surveyor in the State of Alabama,  
hereby certify that the foregoing is a true and correct map of:  
SECTION 19:  
The S.E. 1/4 lying East of Pumpkin Swamp Road.  
SECTION 20:  
The W. 1/2 of the S.W. 1/4.  
SECTION 29:  
The N. 1/2 of the N.E. 1/4.  
The W. 1/2 of the N.W. 1/4 lying North of the Central of Georgia Railway.  
Part of the N.E. 1/4 of the S.W. 1/4.  
Part of the E. 1/2 of the N.W. 1/4.  
SECTION 30:  
Part of the N.E. 1/4.

All being in Township 18 South, Range 2 East, described as follows:  
Beginning at the N.E. Corner of Section 29 go South 89 Degrees 27 Minutes 53 Seconds West along the North Boundary of said Section for 3862.17 feet to the S.E. Corner of the W. 1/2 of the S.W. 1/4 of Section 20; thence North 01 Degrees 52 Minutes 08 Seconds West along the East Boundary of said W. 1/2 of the S.W. 1/4 of the 2671.12 feet to the N.E. Corner of said W. 1/2 of the S.W. 1/4; thence South 89 Degrees 59 Minutes 17 Seconds West along the North Boundary of said S.E. 1/4 S.W. 1/4 for 1303.61 feet to the N.E. Corner of the S.E. 1/4 of Section 19; thence South 89 Degrees 50 Minutes 27 Seconds West along the North Boundary of said S.E. 1/4 S.W. 1/4 for 661.29 feet to an existing iron pin; thence continue South 89 Degrees 47 Minutes 49 Seconds West along the North Boundary of said S.E. 1/4 S.W. 1/4 and a point on a curve to the right on the East Boundary of Shelby County Highway No. 55, said curve having a Central Angle of 08 Degrees 25 Minutes 51 Seconds and a radius of 210.00 feet; thence West along said curve for 30.80 feet to the center line of Pumpkin Swamp Road; thence sixteen (16) courses along the center line of said road as follows: go South 30 Degrees 37 Minutes 51 Seconds West for 355.43 feet; thence South 20 Degrees 59 Minutes 00 Seconds West for 186.26 feet; thence South 01 Degrees 00 Minutes 00 Seconds West for 187.67 feet; thence South 14 Degrees 07 Minutes 00 Seconds West for 142.94 feet; thence South 02 Degrees 15 Minutes 20 Seconds West for 186.26 feet; thence South 06 Degrees 13 Minutes 00 Seconds West for 348.37 feet; thence South 00 Degrees 08 Minutes 50 Seconds West for 160.85 feet; thence South 01 Degrees 23 Minutes 30 Seconds West for 233.79 feet; thence South 12 Degrees 22 Minutes 00 Seconds West for 287.38 feet; thence South 17 Degrees 10 Minutes 30 Seconds East for 183.48 feet; thence South 04 Degrees 32 Minutes 20 Seconds West for 149.21 feet; thence South 02 Degrees 02 Minutes 00 Seconds West for 232.18 feet; thence South 53 Degrees 28 Minutes 50 Seconds West for 83.02 feet; thence South 53 Degrees 28 Minutes 15 Seconds West for 170.01 feet; thence South 53 Degrees 35 Minutes 38 Seconds West for 11.27 feet to the S.W. Corner of the S.E. 1/4 of Section 19; thence South 68 Degrees 28 Minutes 04 Seconds East for 300.00 feet to the center of a branch; thence four (4) courses along said branch as follows: go South 37 Degrees 10 Minutes 15 Seconds West for 85.03 feet; thence South 57 Degrees 30 Minutes 11 Seconds West for 34.06 feet; thence South 22 Degrees 57 Minutes 21 Seconds West for 22.63 feet; thence South 13 Degrees 14 Minutes 41 Seconds West for 63.71 feet; thence South 89 Degrees 47 Minutes 02 Seconds West for 186.93 feet to the West Boundary of the N.E. 1/4 of the S.W. 1/4 of Section 30; thence South 00 Degrees 08 Minutes 00 Seconds East along said West Boundary for 174.38 feet to the West Boundary of the N.E. 1/4 of the S.W. 1/4 of the Central of Georgia Railway, said curve having a Central Angle of 15 Degrees 00 Minutes 24 Seconds and a radius of 11355.18 feet; thence Easterly along said curve for 3173.70 feet to the West Boundary of the N.W. 1/4 of Section 29; thence North 00 Degrees 24 Minutes 24 Seconds East along said West Boundary for 27.76 feet to a point on a curve on the Northerly Boundary of the Central of Georgia Railway, said curve having a central angle of 02 Degrees 51 Minutes 14 Seconds and a radius of 11334.16 feet; thence Easterly along said curve for 564.65 feet to the Point of Tangency; thence South 86 Degrees 38 Minutes 02 Seconds East for 385.15 feet to the South Boundary of the W. 1/2 of the N.W. 1/4 of Section 29; thence South 00 Degrees 09 Minutes 21 Seconds East along said South Boundary for 448.36 feet to the N.W. Corner of the N.E. 1/4 of the S.W. 1/4 of Section 29; thence South 66 Degrees 38 Minutes 02 Seconds East along said Northerly Boundary for 1416.79 feet to the East Boundary of the N.E. 1/4 of the S.W. 1/4 of Section 29; thence North 05 Degrees 32 Minutes 02 Seconds East along said South Boundary for 2148.70 feet to a point on the South Boundary of the N.E. 1/4 of the S.W. 1/4 of Section 29; thence North 89 Degrees 26 Minutes 15 Seconds East along said South Boundary for 203.68 feet to the S.W. Corner of the N.E. 1/4 of the S.W. 1/4 of Section 29; thence North 89 Degrees 26 Minutes 15 Seconds East along the South Boundary of said N.E. 1/4 of the S.W. 1/4 for 2576.21 feet to the S.E. Corner of the N.E. 1/4 of the S.W. 1/4 of Section 29; thence North 00 Degrees 09 Minutes 12 Seconds West along the East Boundary of said N.E. 1/4 of the S.W. 1/4 for 1306.46 feet to the Point of Beginning, containing 538.42 Acres, more or less.

DATE: MARCH 7, 1999

SIGNED:

*James A. Riggins*  
James A. Riggins, Reg. No. 9428  
22556 Roseer Lane  
McCollis, Alabama 35111  
Phone (205) 938-3000