

1329

WILLOWCREEK

State of Alabama)
)
Shelby County)

Partnership Agreement

This Partnership Agreement is executed on the 15th day of May 1985, hereby reducing to writing an oral understanding of the parties effective April 1, 1985, by and between Roy Martin Construction Inc. and Bama Builders, Inc. both corporations organized under the laws of the State of Alabama.

WHEREAS:

(A) The parties have been and are conducting a business as a general partnership under the name of Willowcreek, pursuant to an oral agreement made and entered into as of April 1, 1985.

(B) The parties desire to continue said business and said partnership under the same name, to redefine the terms of said partnership, and to commit the same to writing.

NOW, THEREFORE, the parties hereto hereby agree to continue the aforesaid partnership under the following terms and conditions:

1. The partnership shall operate under the firm name of Willowcreek.

2. The partnership commenced on April 1, 1985 and shall continue until dissolved by mutual agreement or as hereinafter otherwise provided.

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3. The purpose of the partnership shall be to engage in the business of buying, selling, developing and otherwise dealing in real estate, in contracting for, building and selling single and/or multi-family dwellings, and such other business as the partners from time to time may agree.

4. The offices of the partnership shall be located in Pelham, Alabama, and such other locations as may be agreed upon by the partners from time to time.

5. The initial capital of the partnership shall total \$1,000.00, and is contributed by the respective partners as follows:

(a) Roy Martin Construction, Inc. --- 50%

(b) Bama Builders, Inc. --- 50%

6. The capital accounts and the drawing accounts of the partners shall be maintained in the following manner:

(a) An individual capital account shall be maintained for each partner. The capital interest of each partner shall consist of its original contribution to capital, increased by additional capital contributions and any credit balances transferred from its drawing account to its capital account and decreased by distributions in reduction of partnership capital and its share of partnership losses, if charged to the capital accounts of the partners.

(b) An individual drawing account shall be maintained for each partner. All withdrawals by a partner shall be charged to its drawing account. Each partner's share of any partnership net loss shall be charged to its drawing account unless the partners agree to charge such loss to the capital accounts of the

partners. Each partner's share of partnership profit shall be credited to its drawing account. The partners may agree to transfer to the partnership capital all or any part of the credit balances in the respective drawing accounts of the partners.

(c) The net profits or net losses of the partnership, specifically including but not limited to gains and losses on the sale or exchange of capital assets or property used in the trade or business, shall be credited or charged to the partners in the following ratios:

(1) Roy Martin Construction, Inc. -- 50%

(2) Bama Builders, Inc. -- 50%

(d) A credit balance in a partner's drawing account shall constitute a liability of the partnership to that partner, it shall not constitute a part of that partner's interest in the capital of the partnership. A debit balance in a partner's drawing account, whether occasioned by drawing in excess of its share of partnership profits or by charging it for a share of partnership loss, shall constitute an obligation of that partner to the partnership and shall not reduce its interest in the capital of the partnership. Payment of the amount so owed to the partnership shall be made in a manner as the partners shall determine.

(e) The net profits or net losses of the partnership shall be determined in accordance with generally accepted accounting principles on the accrual method of accounting (regardless of the method of accounting selected for tax purposes) as soon as practicable after the close of the calendar

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year. Each partner's share of the net profit or net loss shall be credited or charged to its individual drawing account. The drawings of the partners during the calendar year of the partnership shall be charged to their respective drawing accounts. The amount that each partner may withdraw during the year shall be limited to such amounts as the partners shall determine from time to time. Following the close of the calendar year of the partnership, when the profit or loss has been determined, each partner shall be entitled to withdraw the full credit balance, if any, in its drawing account.

7. The partnership shall reimburse each partner for reasonable travel, transportation, and entertainment expenses and the like incurred on behalf of the partnership.

8. Both partners shall have primary responsibility for overall job planning, bidding, and general financial management for the partnership. Both partners shall have primary responsibility for on-job supervision for the partnership.

9. One or more partnership bank accounts shall be established and checks on such accounts shall be signed by either partner.

10. No partner without the consent of the other shall:

- (a) Borrow or lend money on behalf of the partnership;
- (b) Execute any mortgage, bond, or lease with respect to any assets of the partnership;

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(c) Make a contract to sell or execute a bill of sale or similar instrument of or to any part of the partnership assets;

(d) Assign, transfer, or pledge any debt due the partnership or release any such debts due except upon payment in full;

(e) Compromise any claim due to the partnership, or submit to arbitration any dispute or controversy involving the partnership;

(f) Sell, assign, pledge or mortgage its interest in the partnership, except as hereinafter provided.

11. The partnership may be terminated and dissolved upon the election of either partner upon ninety (90) days written notice at any time. In the event of such dissolution, a full accounting shall be made to the effective date of the dissolution. The profits of the partnership shall be determined to such date and transferred to the drawing accounts of the partners. The assets of the partnership shall then be applied or distributed in the following order of priorities:

(a) In payment of debts of the partnership to creditors other than partners;

(b) In payment of loans to the partnership by the partners, other than amounts reflected in the partners' drawing accounts;

(c) In payment of the amounts due to the partners as reflected in their drawing accounts;

(d) In cancellation of the capital accounts of the partners.

12. This agreement is executed in multiple counterparts, each of which shall inure to the benefit of the parties hereto their heirs, successors, personal representatives and assigns.

This instrument contains the entire agreement of the parties in the premises, and may be amended only by instrument in writing of equal formality herewith.

IN WITNESS WHEREOF, Roy L. Martin as President of Roy Martin Construction, Inc. and Michael Wood as President of Bama Builders, Inc. have hereunto set their respective hands and seals this 15th day of May 1985.

Roy Martin Construction, Inc.

By: Roy L. Martin
Its President

Bama Builders, Inc.

By: Michael L. Wood
Its President

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1985 JUL 25 PM 12:42

Thomas A. Linder, Jr.
JUDGE OF PROBATE

Rec. 1500
Ind. 100
1600