

PRIVATE SUBDIVISION AGREEMENT

THIS PRIVATE SUBDIVISION AGREEMENT (the "Agreement") is made and entered into this the 4th day of October, 1992, by and among **LAKE HEATHER DEVELOPMENT CO., INC.**, an Alabama corporation (the "Developer") and the **CITY OF HOOVER**, a municipal corporation ("Hoover").

WITNESSETH:

WHEREAS, the Developer acquired fee simple title to the real property described on the attached Exhibit "A" (the "Subdivision") by statutory warranty deed dated August 24, 1991 and recorded at Instrument No. 1992-18226, in the Office of the Judge of Probate of Shelby County, Alabama. The Subdivision is part of the Inverness Community and is located within the corporate limits of Hoover; and

WHEREAS, the Developer plans to develop the Subdivision as a "private subdivision" consistent with and in accordance with the covenants (the "Covenants") for the Subdivision which were filed for record as an exhibit to the statutory warranty deed; and

WHEREAS, Hoover and the Developer have agreed that the foregoing terms and conditions shall be supplemental to the Covenants, and shall run with the land just as if the same had been part of the original Covenants recorded as an attachment to the statutory warranty deed.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained herein, be it agreed as follows:

1. Streets, Roadways and the Access Easements.

(a) Provided there has been compliance with the provisions hereof, and if requested by either the Developer or the Association, and upon compliance by the Developer, the Lot Owners and the Association with the Covenants, Hoover agrees to accept the Subdivision to a public subdivision and the conversion of the private roadways to public streets shall be effected by a declaration filed for record by Hoover and the Developer or Association, as the case may be. Such acceptance shall be subject to the following: (1) all roadways shall have been constructed in accordance with all Governmental Requirements of Hoover, as modified or excepted by the terms of this Agreement and (2) at the time of dedication, such roadways are in good repair and condition. The Developer agrees that the initial construction of any streets, roadways or thoroughfares or the extension of any roadways on or within the Access Easement shall be subject to all applicable Governmental Requirements of Hoover, including, without limitation, the requirement that bonds, letters of credit or other deposits be placed with Hoover pending completion of any such streets, roadways or thoroughfares. The foregoing covenants and agreements of Hoover shall continue for fifty years.

(b) Hoover agrees that Developer, in its sole discretion, but subject to the terms of the Covenants, shall have the right and option to (i) designate and declare any streets and roadways constructed in the Access Easements to be private roadways so long as such streets and roadways are constructed in substantial accordance with the Governmental Requirements of Hoover, as modified or excepted by the terms of this Agreement and (ii) in

accordance with the Covenants to construct, operate and maintain guardhouses, gates, security systems and other controlled access measures to limit, restrict, control and deny public access to the Subdivision so long as such secured access facilities are constructed in substantial accordance with any applicable requirements of the Governmental Requirements of Hoover, as modified or excepted by the terms of this Agreement.

2. Improvements to Access Easements

(a) In furtherance of the unique development plans contemplated for the Subdivision, as described above, Hoover agrees that, notwithstanding anything provided herein or in any of the Governmental Requirements to the contrary, Developer shall have the right and option to install, construct and maintain within the Access Easements irrigation systems, landscaped areas (including medians), entranceways, gates, guardhouses, security systems and devices and, with respect to any private roadways within the Subdivision, shall have the right to limit, control, restrict and deny public access thereon. Hoover shall have no obligation to maintain landscaping, shrubbery, flowers and other plant life installed by Developer within the Access Easements.

(b) Upon the dedication of any streets or roadways within the Subdivision to Hoover as public roadways, Hoover agrees to enforce traffic and other regulations applicable to all such roadways and shall provide for all repairs, street cleaning, refuse collection and other maintenance thereon, including, where applicable, patching, repaving or restriping any such roadways. Until such dedication, Developer or the Association for the Subdivision shall be responsible for enforcing traffic and other regulations and maintaining, repairing, cleaning, patching, repaving and restriping any of the Access Easements but trash and refuse collection shall be provided by Hoover irrespective of whether such roadways are public or private.

(c) All gates or barriers proposed to be constructed across the Access Easements must be approved by Hoover prior to installation. All such devices shall facilitate access by public safety vehicles and shall incorporate a means by which to open the gate or barrier during power failures and when the normal means of opening the gate or barrier fail. All mechanisms and devices for emergency override of the normal operation of the gate or barrier shall be approved by Hoover.

3. Municipal Services.

(a) Developer does herewith grant, bargain, sell and assign to Hoover and its agents, officers, representatives and designees, a permanent nonexclusive easements over, across, through and upon the Access Easements and Lots within the Subdivision for the purpose of providing fire, safety, police, medical and other services to the Subdivision and the residents thereof, including, without limitation, fire and police protection, medical and other emergency services, garbage and trash pick-up and collection and other similar governmental services to be performed by Hoover for the benefit of the Subdivision and Lot Owners therein. Hoover agrees that all municipal services, rights and privileges afforded to residents of the properties within the corporate limits of Hoover and the Subdivision, including, without limitation, fire and police protection and garbage and trash pick-up and removal services, shall be extended and provided to the Subdivision on the same basis as such services are provided to all other residents and other properties within the corporate limits of Hoover.

4. **Covenants Run With the Land.** Each and every one of the covenants, restrictions and conditions contained herein are declared for the use and benefit of each and every Lot within the Subdivision, and shall run with each Lot just as if expressed in full in any conveyance of same.

5. **Successors and Assigns.** The restrictions, covenants and agreements contained herein shall be binding upon the successors and assigns of the Developer and the successors to Hoover.

6. **Capitalized Terms.** The capitalized terms used herein shall have the same meaning ascribed to each as set forth in the Covenants.

7. **Effective Date.** This Agreement shall become effective when it has been recorded in the Office of the Judge of Probate of Shelby County, Alabama.

IN WITNESS WHEREOF, the Developer and Hoover by their duly authorized officers have set their respective signatures and seals this the 24 day of Nov, 1992.

"Developer"

LAKE HEATHER DEVELOPMENT CO., INC.,
an Alabama corporation

By: C.S.S.
Its PRESIDENT

Date of Execution: 11-4-92

"Hoover"

CITY OF HOOVER, a municipal corporation

By: [Signature]
Its Mayor

Date of Execution: 11-6-92

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles S. Givianpour, whose name as President of **LAKE HEATHER DEVELOPMENT CO., INC.**, an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily as the act of said corporation.

GIVEN under my hand and official seal of office, this 4th day of November, 1992.

[NOTARIAL SEAL]

Leslie A. Lathan
Notary Public

My Commission Expires: MY TERM EXPIRES FEBRUARY 22, 1993

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Frank S. Skinner Jr, whose name as Mayor of the **CITY OF HOOVER**, a municipal corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily as the act of said municipal corporation.

GIVEN under my hand and official seal of office, this 6th day of November, 1992.

[NOTARIAL SEAL]

Frank H. Cunningham
Notary Public

My Commission Expires: 12-23-93

This Instrument Prepared By:

Howard Donovan, Esq.
1 Independence Plaza
Suite 510
Birmingham, Alabama 35209

EXHIBIT A

Inst # 1992-26077

11/06/1992-26077

03:32 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

DDA KJS 14.00

Part of the Southeast 1/4 of the Southeast 1/4 of Section 35, and the Southwest 1/4 of Section 36, Township 18 South, Range 2 West, also the Northeast 1/4 of the Northeast 1/4 of Section 2 and the Northwest 1/4 of Section 1, Township 19 South, Range 2 West, all being in Shelby County, Alabama, and being more particularly described as follows: Commence at the Southeast corner of the Southwest 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama and run West along the South line of same 1256.51 feet to a point; thence an angle left of 48 deg. 57 min. 40 sec. and run Southwesterly 50.54 feet to the point of beginning of the herein described tract; thence continue along last described course 532.12 feet to a point; thence an angle to the left of 12 deg. 56 min. 51 sec. and continue Southwesterly a distance of 415.00 feet to a point on the boundary of Lake Heather, said boundary being at a normal pool elevation of 495.00 MSL; thence turning to the right and running Southwesterly along the meanderings of the said boundary of Lake Heather a total distance of 10,250 feet, more or less, to a point; thence in a Southeasterly direction 590.00 feet to a point; thence an angle right of 28 deg. 30 min. and run in a Southwesterly direction 210.0 feet to a point; thence angle left 45.0 deg. and run in a Southeasterly direction a distance of 210.00 feet to the point of beginning; closing angle being 97 deg. 58 min. 15 sec.; being situated in Shelby County, Alabama.

Along with: All easements benefitting or serving the above property.

Subject To: i) 1993 Ad Valorem Taxes; ii) Title to all minerals within and underlying the Premises, together with all mining rights and other rights privileges and immunities relating thereto, including rights set out in Deed Book 5, Page 355, Deed Book 4, Page 442, and Deed Book 48, Page 427 in the Probate Office of Shelby County, Alabama, which are not owned by Mortgagor; and iii) Declaration of Protective Covenants recorded at Instrument No. 1992-18226 in the Office of the Judge Of Probate of Shelby County, Alabama.