Inst # 1998-20485

STATE OF ALABAMA)

SHELBY COUNTY)

DECLARATION OF COVENANTS AND RESTRICTIONS;
QUITCLAIM DEED;
AND AGREEMENTS

THIS AGREEMENT is made this 2d day of June, ~~1997~~ 1998, by and between Hollybrook Lake Corporation, a corporation ("HLC"); Sidney W. Smyer, Jr., a married man ("SWS,Jr."), Astrid M. Smyer, a married woman, Harald L. Smyer, a married man, Mary T. Smyer, a married woman, Ingrid Frances Smyer, an unmarried woman, and Sidney W. Smyer, III, an unmarried man ("SWS,III"), (hereinafter collectively referred to as the "Smyers"); and Ann J. Shaw, John E. Guess and SouthTrust Bank ~~of Alabama,~~ N.A., as Trustees under the Will of Henry P. Johnson, deceased ("Shaw").

JCB
PZM

RECITALS:

WHEREAS, HLC is the owner of certain real estate situated in **Sections 13 and 24, Township 18, Range 1 West, and Sections 18 and 19, Township 18, Range 1 East, Shelby County, Alabama**, which is flooded by virtue of a dam forming a reservoir depicted in the Survey of Hollybrook Lake, as recorded in Map Book 4, Page 74, in the Probate Court of Shelby County, Alabama (which reservoir and the real estate underlying it are hereinafter collectively referred to as "Hollybrook Lake" or "the Lake");

WHEREAS, Hollybrook Lake is the primary amenity benefiting an exclusive residential development of certain estate lots that surround and adjoin the Lake (the "Hollybrook Development"), the owners of which are shareholders in HLC, which extends to those shareholders the right to the use and enjoyment of Hollybrook Lake;

WHEREAS, the Smyers are the owners (either jointly, individually, or as beneficiaries of trust(s)) of three parcels of real estate adjoining Hollybrook Lake, each of which contain between six (6) to ten (10) acres of land, more or less, and which are roughly identified as Parcels I, II & III on the drawing attached hereto as Exhibit "A". None of these Parcels are presently included within the Hollybrook Development, and none of the owners thereof are, by virtue of such ownership, entitled to the use and enjoyment of Hollybrook Lake. The Smyers are also the owners (either jointly, individually, or as beneficiaries of trust(s)) of certain acreage situated to the east and south of Hollybrook Lake and situated in **Sections 13 and 24, Township 18, Range 1 West, and Sections 18 and 19, Township 18, Range 1 East, Shelby County, Alabama**;

WHEREAS, Shaw is the owner of two parcels of real estate of approximately twenty (20) acres and ten acres, more or less, adjoining Hollybrook Lake, which are roughly identified as Parcels IV and VI on Exhibit "A" hereto. Neither of these Parcels is presently included within the

06/03/1998-20485
02:15 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
026 MCD 78.00

Hollybrook Development, and the owners thereof are not, by virtue of such ownership, entitled to the use and enjoyment of Hollybrook Lake;

WHEREAS, the value of the Parcels owned by the Smyers and Parcel IV owned by Shaw shall be substantially increased if those owners are extended the right to the use and enjoyment of Hollybrook Lake, and such right and value shall inure to the benefit of the successive owners of Parcels I, II, III and IV; and

WHEREAS, HLC desires to grant to the Smyers, and to Shaw, their respective successors and assigns, a right of access to and use of Hollybrook Lake with respect to Parcels I, II, III and IV, under the terms and conditions, and subject to the express conditions precedent, as are hereinafter set forth.

(Please Note: None of the Real Estate Herein Conveyed Or Described Constitutes The Homestead Of Any Of The Parties Hereto Or That Of Their Spouses.)

NOW, THEREFORE, in consideration of the premises, the mutual promises and obligations contained herein, and other good and valuable consideration in hand paid by the undersigned to each other, the receipt and sufficiency of which is separately and severally acknowledged, the undersigned agree as follows:

1. **NATURE OF COVENANTS, RESTRICTIONS AND EASEMENTS.** The parties hereby declare that the real property owned by HLC, the Smyers and Shaw situated in **Sections 13 and 24, Township 18, Range 1 West, and Sections 18 and 19, Township 18, Range 1 East, Shelby County, Alabama** which is described and referenced herein shall be held, developed, sold, conveyed, leased, occupied and used subject to the easements, covenants, conditions, restrictions, charges, and liens set forth herein which shall be deemed to be covenants running with the land, binding upon and inure to the benefit of the owners thereof, their respective heirs, personal representatives, executors, successors and assigns, forever.

2. **THE HOLLYBROOK LAKE ROAD.** Presently, there exists a macadam and asphalt single-lane road (the "Hollybrook Lake Road") providing the means of ingress to and egress from the lots contained in the residential development depicted in the Survey of Hollybrook Lake, as recorded in Map Book 4, page 74, in the Probate Court of Shelby County, Alabama (the "Hollybrook Survey"). The Hollybrook Lake Road runs from its intersection with Shelby County Highway 41 southerly, in two branches, the most northerly of which terminates to the rear of Lot 11, Hollybrook Survey, and the most southerly, at Lot 15, Hollybrook Survey.

A. <u>CONVEYANCE OF HOLLYBROOK LAKE ROAD</u>. SWS,III agrees to convey to HLC, by general warranty deed free and clear of all mortgages and encumbrances, all of SWS,III's right, title and interest in and to the strip of real property constituting the Hollybrook Lake Road, the center line of which shall be the center line of the existing roadway. The Hollybrook

Lake Road to be conveyed by SWS,III to HLC runs from its inception at the intersection with Shelby County Highway 41 to the the southernmost boundary of SWS,III's property at or near the Hollybrook Lake spillway. SWS,III is currently relocating a segment of the existing roadway of Hollybrook Lake Road as it meanders to the north and east of Lot 2, Hollybrook Survey, and the conveyance to HLC of the Hollybrook Lake Road shall be of the relocated segment of the roadway. With respect to such conveyance, the Smyers agree to provide to HLC, at the Smyers' expense, an accurate survey and legal description of the land to be conveyed, and to cause all owners of any title interest therein to join in the conveyance to HLC of a fee simple title thereto.. The Smyers agree to further provide to HLC, at the Smyers' expense, a title search, and not title insurance, for the purpose of identifying the record owners of the land involved in said conveyance of the Hollybrook Lake Road so that HLC shall have a fee simple title to all of the land to be conveyed to it pursuant to this paragraph, subject only to easements, reservations and restrictions of record reasonably acceptable to HLC. SWS, Jr. and SWS,III agree that the mortgage given by SWS,III to SWS,Jr. encumbering the property constituting the Hollybrook Lake Road shall be satisfied and released prior to or at the time of SWS,III's conveyance of such property to HLC.

B. USE OF HOLLYBROOK LAKE ROAD. Subject to Section 2.C below, it is the express mutual agreement of the parties hereto that the Hollybrook Lake Road shall be used only for the purposes of: a) ingress to and egress from Lots 1 through 20, inclusive, Hollybrook Survey; b) ingress to and egress from Parcels I, III, IV, V, VI and VII by shareholders of HLC; and c) for no other, further or different purposes.

C. GRANT OF EASEMENT TO OTHERS FOR USE OF HOLLYBROOK LAKE ROAD. HLC shall grant and convey a permanent, non-exclusive easement for the use of Hollybrook Lake Road for ingress to and egress from real estate situated to the south and east of Hollybrook Lake to the following persons and subject to the following terms and conditions:

(1) To the record owners of Parcel III AND PARCEL VI who are not shareholders of HLC and the record owners of the Adjacent Acreage, as defined in Section 9 below, subject to the following restrictions: (i) that the use of Hollybrook Lake Road by such record owners of Parcel III AND PARCEL VI and of the Adjacent Acreage shall be for non-commercial purposes and not for purposes of accommodating the commercial development, subdivision or commercial improvement of Parcel III AND PARCEL VI or the Adjacent Acreage, and (ii) that the record owners of Parcel III AND PARCEL VI and the Adjacent Acreage shall not improve or upgrade or cause the improvement or upgrade of Hollybrook Lake Road. AGS DCB PZM

(2) To the record owner (or such record owner's tenant) of the Swamp House, which is situated within the Duck Swamp on the southeastern side of the Hollybrook Lake Dam. SWS,Jr. is the current record owner of the Swamp House and is a shareholder in HLC with a Lake Right exercised by means of the patio and pier he constructed on an area of land lying adjacent to and extending 100 feet southeasterly from Lot 1, Hollybrook Survey, and lying between Hollybrook Lake and Hollybrook Lake Road ("SWS,Jr.'s Patio and Pier Property"). The easement to be conveyed shall be for ingress to and egress from such Swamp House and SWS,Jr.'s Patio and Pier Property and shall run with the ownership of such properties so long as the owner is a shareholder in HLC.

(3) To the record owner of that certain triangular parcel of land bounded on the east by the Hollybrook Lake Road, on the south by the spillway of Hollybrook Lake, and on the north and west by the real estate presently owned by John N. Randolph and Virginia S. Randolph ("SWS,III's Triangle") provided that no structure or permanent improvement will be constructed within SWS,III's Triangle without the prior approval of HLC.

(4) To the record owner of the property immediately east of the Hollybrook Development which is currently owned by SWS,III as a farm, provided that such easement shall be only for the purpose of completing and maintaining the wooden fence SWS,III has constructed or will be constructing to the east of Hollybrook Lake Road and for the purpose of constructing and maintaining the pedestrian gate and vehicle gate in such wooden fence at locations mutually agreeable to SWS,III and HLC.

D. GRANT OF LICENSE TO SWS,III. HLC hereby grants and conveys to SWS,III a license, personal to him and not transferable or assignable without the express written consent of HLC, for the use of Hollybrook Lake Road for vehicular access to the Adjacent Acreage owned by the Smyers; provided however that such access shall not be allowed for accommodating the commercial development, subdivision or improvement of the Adjacent Acreage or for any other commercial purpose.

E. COMPLETION OF RELOCATION OF ROADWAY. SWS,III hereby agrees that $25,000 of the proceeds from the sale of Parcel I to an Acceptable Owner, as defined in Section 8.B(1) below, shall be held in an escrow suitable to HLC for the purpose of insuring the payment of and paying for the improvement of that portion of relocated Hollybrook Lake Road lying east of Lot 2, Hollybrook Survey, and adjacent to the property of John N. Randolph. SWS,III agrees to have such relocated portion of Hollybrook Lake Road paved to at least the standards of Smyer Lake Road and that such work shall be completed within sixty (60) days of the closing of SWS,III's sale of Parcel I to any Acceptable Owner.

3. ESTABLISHMENT OF BUFFER. SWS,III hereby agrees to convey unto HLC a permanent, non-exclusive easement over, across and upon the real estate running the entire length of the Hollybrook Lake Road and extending from the center line thereof "outwardly" (which is hereby defined to mean the direction opposite to Hollybrook Lake, as the same is depicted in the Hollybrook Survey) a distance of seventy-five (75) feet, for use by HLC as a "greenbelt" or buffer against development upon the Smyers' lands. The easement granted by this paragraph is herein referred to as the "Buffer". SWS,III agrees to execute the Easement Agreement attached hereto as Exhibit "B" establishing a permanent easement for the Buffer running from the inception of the Hollybrook Lake Road at its intersection with Shelby County Highway 41 to the southern most boundary of SWS,III's property at or near the Hollybrook Lake spillway. Except as expressly provided in this Section 3, the Buffer shall be maintained in a natural or landscaped state, with no residential, commercial, farming or ranching facility, building, outbuilding, barn, shed or roadway erected therein. HLC shall have the right to perform such plantings, fencing and landscaping within the Buffer as it shall, in its sole discretion and at its expense, determine; provided, however, that nothing contained herein shall be construed so as to prevent the Smyers from constructing and

maintaining the wooden fence and gardens presently existing or under construction by them within the Buffer. The Smyers agree to obtain and provide to HLC a title search for the Buffer, and not title insurance, for the purpose of identifying the record owners of the land involved in the Buffer; provided however that the parties hereto acknowledge that a portion of the land involved in said Buffer overlaps certain lots in the Hollybrook Survey, and, consequently, the Smyers will be under no obligation to obtain a conveyance of the Buffer easement across those lots. HLC agrees that SWS,III may reserve and retain from the conveyance of the Buffer the right to encroach into that part of the Buffer east of SWS,III's wooden fence for purposes of construction and maintenance of the New Access Road described in Section 9 below; provided however that upon the Smyers' substantial completion of construction of the New Access Road, the Smyers agree to replant the plantings and landscaping in the Buffer damaged or destroyed during such construction except for that area of the Buffer paved for the New Access Road.

4. ACKNOWLEDGMENTS AND QUITCLAIM. It is the express mutual agreement of all of parties hereto that HLC is the sole and lawful owner of Hollybrook Lake, with all right to control access to and use of Hollybrook Lake, including the right to enforce the terms of this Agreement and Declaration by all lawful means. In furtherance of this agreement, the Smyers and Shaw, and their respective spouses, do hereby separately and severally remise, release, quitclaim and convey unto Hollybrook Corporation all of their right, title and interest in and to Hollybrook Lake, as described in that certain deed given by S. W. Smyer, Jr. and wife, Ingrid L. Smyer, to HLC, as recorded in Book 222, page 171, in the Probate Court of Shelby County, Alabama, and in and to the Hollybrook Lake Road and the Hollybrook Lake dam and spillway, as the same are depicted upon the Survey of Hollybrook Lake, as recorded in Map Book 4, Page 74, in said Probate Court (which survey is hereinafter referred to as the "Hollybrook Survey"); provided, however there is excepted from this conveyance SWS,Jr's Patio and Pier Property and SWS,III's Triangle; and provided further that the part of the spillway made the subject of this quitclaim is that part east of the Lake to the easternmost footings of the spillway bridge and not beyond such footings. The Smyers and Shaw do hereby acknowledge and agree that no real estate owned by them except those parcels specifically granted Lake Rights by HLC, either prior to or as a result of this Agreement, shall have any right of access to, or right to the use of Hollybrook Lake.

5. ACCESS TO AND USE OF OLD PORTION OF HOLLYBROOK LAKE ROAD. A segment of the Hollybrook Lake Road lying to the east of Lot 2, Hollybrook Survey, is presently being relocated. The Smyers agree to pay all costs of such relocation. HLC is the grantee of a permanent easement for the use of that old segment (the "Old Easement") by virtue of instruments recorded in Book 326, Pages 427 and 428, in the Probate Court of Shelby County, Alabama, and, in fact, public utility water lines serving several lots in the Hollybrook Survey run under the Old Easement. The parties agree that HLC and its shareholders shall continue to have the right of reasonable access to the Old Easement for the purpose of maintaining the water lines. Further, the Smyers agree to do nothing to impair, damage or destroy those water lines, and to pay all costs of repairing any damage thereto resulting from their relocation activities, or the activities of their lessees, licensees, agents, employees and invitees, in the Old Easement. If, however, the Water Works Board of the City of Birmingham requires that the water lines running through the Old Easement be relocated because of the relocation of Hollybrook Lake Road, the Smyers agree to pay

all costs of such relocation, including the cost of repairing any damage to Hollybrook Lake Road resulting from such relocation.

6. AGREEMENTS REGARDING PARCEL V, THE SPILLWAY STRIP AND THE HIGHWAY 41 ACREAGE.

A. PARCELS TO BE CONVEYED TO HLC. The Smyers agree to convey by general warranty deed to HLC fee simple title to a parcel of real estate containing approximately 1.5 acres, bounded on the north by Shelby County Highway 41, on the west and south by the Hollybrook Lake Road, and roughly depicted as Parcel V on Exhibit "A" attached hereto; together with a parcel of real estate lying within SWS,III's Triangle, as defined in Section 2.C(3) above, and described as follows:

> A strip of land extending fifty (50) feet eastwardly from the eastern shore of Hollybrook Lake, and bounded on the south by the spillway of Hollybrook Lake, and on the north by real estate conveyed to John N. and Virginia S. Randolph by instrument recorded as Instrument # 1996-09015 in the Probate Court of Shelby County, Alabama (the "Spillway Strip").

With respect to such conveyances, the Smyers agree to provide to HLC, at the Smyers' expense, an accurate survey and legal description of Parcel V, to cause all owners of any title interest therein to join in the conveyance of a fee simple title thereto to HLC free and clear of any mortgages or other encumbrances, and to further provide to HLC, at the Smyers' expense, an owner's policy of title insurance for such value as shall be mutually agreeable to the parties hereto (which agreement shall not be unreasonably withheld), insuring that HLC shall have a fee simple title to Parcel V, subject only to easements, reservations and restrictions of record reasonably acceptable to HLC; provided however that Parcel V shall be conveyed subject to a lease with the present occupants of the gatekeeper's home located thereon, containing terms and conditions satisfactory to HLC. With respect to the Spillway Strip, the Smyers agree to provide to HLC, at the Smyers'expense, an accurate survey and legal description of the Spillway Strip, to cause all owners of any title interest therein to join in the conveyance of this property to HLC, and to further provide to HLC, at the Smyers'expense, a title search, and not title insurance, for the purpose of identifying the record owners of the Spillway Strip and for identifying all encumbrances, mortgages or other liens against such property. The Smyers agree to cause any mortgagee or lienholder so identified, including but not limited to SWS,Jr., to satisfy and release any mortgage or lien against the Spillway Strip prior to or at the time of the conveyance of the Spillway Strip to HLC.

B. RESTRICTIONS ON USE OF SWS,III's HIGHWAY 41 ACREAGE. SWS,III owns certain acreage fronting Shelby County Highway 41 which is bounded on the west by Parcel V to be conveyed to HLC under Section 6.A above, on the south by the Hollybrook Lake Road, and on the east by the wooden fence constructed by SWS,III, and which is depicted as the "Highway 41 Acreage" on Exhibit "A" attached hereto. With respect to the Highway 41 Acreage, SWS,III agrees to provide to HLC, at SWS,III's expense, an accurate survey and legal description

of the Highway 41 Acreage, to cause all owners of any title interest therein to join in the following restrictions to be placed upon this property, and to further provide to HLC, at SWS,III's expense, a title search, and not title insurance, for the purpose of identifying the record owners of the Highway 41 Acreage and for identifying all encumbrances, mortgages or other liens against such property. SWS,III agrees to cause any mortgagee or lienholder so identified, including but not limited to SWS,Jr., to consent to the restrictions to be placed upon the property and to subordinate their mortgage or lien to the terms and operation of the restrictions with respect to such property. In further consideration for the granting of Lake Rights to the Smyers' Parcels, SWS,III hereby covenants that the Highway 41 Acreage shall be subject to the following restrictions:

(1) The Highway 41 Acreage shall be subdivided into no more than two lots restricted to single family residential use only, each of which may be improved with a residence containing a minimum of 2,000 heated square feet, except that SWS,III shall retain the right to use any such residence located on the easterly lot to operate as his farm or real estate office through May, 2012;

(2) Neither of said lots comprising the Highway 41 Acreage shall have access to or from Hollybrook Lake Road; and

(3) Neither of said lots comprising the Highway 41 Acreage may be subdivided without the express written consent of HLC.

7. **AGREEMENTS REGARDING SHAW'S PARCEL VI**. Shaw agrees to convey by general warranty deed to HLC fee simple title to a parcel of real estate containing approximately ten (10) acres, lying to the rear of Lots 18, 19 and 20, Hollybrook Survey, and roughly depicted as Parcel VI on Exhibit "A", attached hereto. With respect to such conveyance, Shaw agrees to provide to HLC at Shaw's expense, an accurate survey and legal description of Parcel VI, and to cause all owners of any title interest therein to join in the conveyance of a fee simple title thereto to HLC; and to further provide to HLC at Shaw's expense, an owners policy of title insurance for such value as shall be mutually agreeable to the parties to such conveyance (which agreement shall not be unreasonably withheld), insuring that HLC shall have fee simple title to Parcel VI, subject only to easements, reservations and restrictions of record reasonably acceptable to HLC. In the event HLC reconveys Parcel VI to a third party, including but not limited to any shareholder of HLC, any consideration payable to HLC for the conveyance of Parcel VI shall be instead paid into the "New Access Road Construction Fund" described in Section 9 below.

DCB
PZM

8. **LAKE RIGHTS FOR PARCELS I, II, III AND IV.**

A. <u>CONDITIONS PRECEDENT TO THE ASSIGNMENT OF STOCK AND LAKE RIGHTS.</u> HLC agrees that Parcels I, II, III and IV shall have a single right of access to, and to the use of, Hollybrook Lake (which right shall be the property of the owners of each of said Parcels, their respective heirs, personal representatives, successors and assigns, transferable as hereinafter provided, and which shall be hereinafter referred to as a "Lake Right"), upon the express condition precedent that each of the following conditions shall have been first fully performed, it

being the intention of the parties that none of said Parcels shall be entitled to a Lake Right until all of the following conditions are fully met:

(1) Conveyance of Hollybrook Lake Road. SWS,III shall have conveyed to HLC all of his right, title and interest in Hollybrook Lake Road as provided in Section 2 above and satisfied all terms and conditions required in Section 2 for such conveyance.

(2) Establishment of Buffer. SWS,III shall have conveyed to HLC a permanent, non-exclusive easement for a Buffer as provided in Section 3 above and satisfied all terms and conditions required in Section 3 for such conveyance.

(3) Quitclaim of Hollybrook Lake Road, Dam and Spillway. The Smyers and Shaw shall have quitclaimed unto HLC any and all right, title and interest they may have in the Hollybrook Lake Road, dam and spillway as provided in Section 4 above and satisfied all terms and conditions required in Section 4 above for such conveyances.

(4) Conveyance of Parcel V and the Spillway Strip. The Smyers shall have conveyed to HLC all of their right, title and interest in Parcel V and the Spillway Strip as provided in Section 6.A above and satisfied all terms and conditions required in Section 6.A for such conveyance.

(5) Restrictions on Highway 41 Acreage. SWS, III shall have subjected the Highway 41 Acreage to the restrictions set forth in Section 6.B above and satisfied all terms and conditions required in Section 6.B for such restrictions.

JCB
PZM
ags

~~**(6) Conveyance of Parcel VI**. Shaw shall have conveyed to HLC all of their right, title and interest in Parcel VI as provided in Section 7 above and satisfied all terms and conditions required in Section 7 for such conveyance.~~

(7) Imposition of Restrictions by Smyers. The Smyers agree to deliver to HLC with respect to each separate Parcel I, II and III, a "Declaration of Covenants and Restrictions" containing all of the provisions, as to Parcel II and III, of the form attached hereto as Exhibit "C", and as to Parcel I of the form attached hereto as Exhibit "D", executed by all record owners of the title to each such Parcel, which shall be placed on public record in the Probate Court of Shelby County, Alabama, and shall constitute permanent restrictions running with the land of Parcels I, II and III. Such restrictions shall include but not be limited to restrictions on access to Parcels I, II and III. Access to Parcel I shall be had only by way of Hollybrook Lake Road. Access to Parcel II shall be from Smyer Lake Road and no access shall be allowed from Hollybrook Lake Road. The parties hereto agree that ingress to and egress from Parcel III may be by way of Hollybrook Lake Road until its conclusion and then access shall be across the Adjacent Acreage or by means of the New Access Road, as described in Section 9 below; provided however, that in the event that any governmental agency having jurisdiction requires that access to Parcel III must be gained by a road of a standard higher than that of the existing Hollybrook Lake Road, then access

to Parcel III cannot be gained by means of Hollybrook Lake Road and alternative access must be obtained.

(8) **Imposition of Restrictions by Shaw**. Shaw agrees to deliver to HLC a "Declaration of Covenants and Restrictions" containing all of the provisions of the form attached hereto as Exhibit "C", executed by all record owners of the title to Parcel IV, which shall be placed on public record in the Probate Court of Shelby County, Alabama, and shall constitute permanent restrictions running with the land. Such restrictions shall include but not be limited to restrictions on access to Parcel IV. The parties hereto agree that ingress to and egress from Parcel IV may be by way of Hollybrook Lake Road; provided however, that in the event that any governmental agency having jurisdiction requires that access to Parcel IV must be gained by a road of a standard higher than that of the existing Hollybrook Lake Road, then access to Parcel IV cannot be gained by means of Hollybrook Lake Road and alternative access must be obtained.

B. ASSIGNMENT OF STOCK AND LAKE RIGHTS. Upon satisfaction of each and every condition precedent set forth in Section 8.A above, HLC shall convey and assign ten shares of stock in HLC and an accompanying Lake Right upon: (i) conveyance or devise of the affected Parcel by the Smyers to a third party, or (ii) commencement of construction of a residence upon the affected Parcel, whichever first occurs. Such conveyance and assignment of stock and Lake Rights is subject to the following terms and conditions:

(1) **Acceptable Owner**. HLC agrees to convey and assign said stock and Lake Right only to an owner of Parcels I, II, III and IV who has been approved as a HLC stockholder pursuant to the HLC By-Laws (an "Acceptable Owner"). The parties hereto acknowledge that SWS,III has entered into a contract for the sale of Parcel I to Scott Young subject to Parcel I being granted a Lake Right. HLC agrees to grant to SWS,III, a Lake Right for the benefit of Parcel I and ten (10) shares of stock in HLC at the time of the closing of the sale by SWS,III, to Young (or such other Acceptable Owner) and SWS,III agrees to immediately assign and convey such Lake Right and stock to Young (or such other Acceptable Owner). HLC agrees to such transfer and approves Scott Young as an Acceptable Owner.

(2) **Surveys and Title Insurance from Smyers**. At the time of application for a Lake Right for Parcels I, II, and III, the Smyers agree to provide to HLC at the Smyers' expense a final survey and legal description of Parcels I, II and III, depicting boundaries that are mutually agreeable to the parties hereto (which agreement shall not be unreasonably withheld), together with an up-to-date title search identifying the record title owners thereof.

(3) **Survey and Title Insurance from Shaw.** Shaw agrees to provide to HLC at Shaw's expense a final survey and legal description of Parcel IV, depicting boundaries that are mutually agreeable to the parties hereto (which agreement shall not be unreasonably withheld), together with an up-to-date title search identifying the record title owners thereof.

(4) **Payment of Release Price**. For each Parcel II, III and IV, the Smyers and Shaw agree to pay to the "New Access Road Construction Fund" to be established by SWS,III

as described in Section 9 below the sum of Thirty-Eight Thousand, Five Hundred and no/100 Dollars ($38,500.00) (the "Release Price") as partial consideration for the Lake Right to be granted to each such Parcels II, III and IV. The Release Price shall be payable prior to the conveyance and assignment of HLC stock and the accompanying Lake Right and by no later than: (1) conveyance or devise of the affected Parcel by the Smyers to a third party, or (2) commencement of construction of a residence upon the affected Parcel, whichever first occurs. The parties agree that the payment of the Release Price is hereby secured by a lien upon Parcels II, III and IV, which shall run with and be a charge upon the land, and be binding upon the Smyers and Shaw, their heirs, executors, personal representatives, successors and assigns, until the Release Price is fully paid. Upon full payment of the Release Price, HLC agrees to cause to be recorded in the Probate Court of Shelby County, Alabama, a properly executed instrument releasing that Parcel from the operation of the lien herein granted.

9. NEW ACCESS ROAD. The Smyers own a large tract of approximately 800 acres lying to the south of the Hollybrook Survey (the"Adjacent Acreage"), partial access to which is presently obtained by means of the Hollybrook Lake Road as it passes to the east of Lot 20, Hollybrook Survey. Except as otherwise specifically provided in Section 2.C above, the parties hereby agree that ingress to and egress from the Adjacent Acreage shall be limited to a "New Access Road" as hereinafter described, and not by means of the Hollybrook Lake Road. The New Access Road shall extend from Shelby County, Highway 41, at a point east of SWS,III's wooden fence and continue in a southerly direction east of said fence toward the Hollybrook spillway and dam. For purposes of the New Access Road, the Smyers retained and except from their conveyance of the Hollybrook spillway to HLC title to that part of the spillway east of and immediately adjacent to the existing spillway bridge upon which right-of-way Smyers, their heirs and assigns, shall have the right to construct, and maintain a new spillway bridge as part of the New Access Road. The Smyers further retain and except from their conveyance of the Hollybrook dam a right-of-way 30 feet in width running across the eastern toe (the lowest elevation of the dam adjacent to the swamp) of Hollybrook dam upon which right-of-way Smyers, their heirs and assigns, shall have the right to construct, and maintain a new road as part of the New Access Road. The New Access Road and its spillway bridge shall be separate and apart from the existing spillway bridge but the Smyers shall be entitled to construct and maintain a new spillway bridge east of and immediately adjacent to the existing spillway bridge so long as the Smyers physically separate the two bridges by means of a fence or other barrier so that access to one bridge is prohibited from the other. To pay for the New Access Road, the Smyers shall establish an escrow account for the "New Access Road Construction Fund" into which the funds described in Sections 7 and 8.B(4) above shall be paid for the benefit of the Smyers. Nothing contained herein shall be construed so as to prevent the Smyers and Shaw from gaining ingress to and egress from Parcels II, III, IV and/or the Adjacent Acreage by means of a roadway constructed entirely upon real estate owned by them and not Hollybrook Lake Road.

10. AGREEMENTS OF HLC. Within a reasonable time after execution of this instrument by all of the parties hereto, HLC shall cause its Articles of Incorporation to be amended so as to authorize the appropriate shares of stock in HLC to be issued to the owners of Parcels I, II, III and IV upon completion of the conditions contained herein, which shares and the Certificates therefor shall be evidence of the Lake Rights herein contemplated. Upon full performance and

completion of all of the conditions precedent contained herein, HLC shall cause such Certificates of Stock to be issued and delivered to the respective owners of Parcels I, II, III & IV, entitling them to all of the privileges and responsibilities of shareholders in HLC, including the right to use and have access to Hollybrook Lake as herein provided, which right shall continue in full force and effect, and shall be transferable pursuant to the terms of the "Rules for Transfer of Stock in Hollybrook Lake Corporation" contained in the ByLaws of HLC, for so long as the Smyers, and Shaw, their respective executors, successors and assigns comply with the terms and conditions of this Agreement and Declaration.

11. MISCELLANEOUS.

A. SEVERABILITY. If any provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement 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.

B. BINDING EFFECT. The terms and provisions of this Agreement shall be binding upon each party hereto and the respective heirs, executors, administrators, personal representatives, successors and assigns of each party hereto, and shall inure to the benefit of HLC and its successors and assigns.

C. INTERPRETATION. This Agreement shall be construed under and in accordance with the laws of the State of Alabama.

D. FURTHER ASSURANCES. Each party hereto 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 any other party hereto for the purpose of or in connection with consummating any of the transactions and matters herein.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals this 2d day of June, ~~1997~~ 1998

Witness:

_____

_____
Sidney W. Smyer, Jr.

Astrid M. Smyer

Sidney W. Smyer, III

Harald L. Smyer

Mary T. Smyer

Ingrid Frances Smyer

Trustees Under the Will of Henry P. Johnson, deceased:

Ann J. Shaw

John E. Guess

SouthTrust Bank ~~of Alabama~~, N.A.
BY: DOUGLAS C. BELL, SR. VICE PRESIDENT

The within instrument is executed by SouthTrust Bank ~~of Alabama~~, N.A. solely in its capacity as an agent or fiduciary and under the powers and authority therein contained, to which reference is made for a description of said powers and authority. It is understood that SouthTrust Bank ~~of Alabama~~, N.A. in its individual or corporate capacity is not a party hereto and shall not be liable hereunder on any account whatsoever.

Hollybrook Lake Corporation

By: Nancy Brower
Nancy Brower
Its President

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Sidney W. Smyer, Jr., a married man, whose name 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 instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 11TH day of June, 1997.

[SEAL]

Mary P. Thornton
Notary Public

My Commission Expires:
5/24/99

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Astrid M. Smyer, a married woman, whose name 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 instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 11TH day of June, 1997.

[SEAL]

Mary P. Thornton
Notary Public

My Commission Expires:
5/24/99

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Sidney W. Smyer, III, an unmarried man, whose name 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 instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 12TH day of June, 1997.

[SEAL]

Mary P. Thornton
Notary Public

My Commission Expires:
5/24/99

STATE OF ~~ALABAMA~~ NEW MEXICO)
Bernalillo COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Harald L. Smyer, a married man, whose name 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 instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 08th day of July, 1997.

[SEAL]

Notary Public

My Commission Expires:
000709

STATE OF ~~ALABAMA~~ NEW MEXICO)
Bernalillo COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Mary T. Smyer, a married woman, whose name 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 instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 08 day of July, 1997.

[SEAL]

Notary Public

My Commission Expires:
000709

STATE OF ~~ALABAMA~~ MASSACHUSETTS)
SUFFOLK COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Ingrid Frances Smyer, an unmarried woman, whose name 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 instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 18 day of July, 1997.

[SEAL]

DAVID GOZALO
Notary Public

My Commission Expires:
David Gozalo, Notary Public
Commonwealth of Massachusetts
My Commission Expires 9/18/2003

STATE OF ~~ALABAMA~~ South Carolina)
Beaufort COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Ann J. Shaw, as Trustee of Trust B created under ITEM THREE (b) of the Will of Henry P. Johnson, deceased, whose name 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 instrument, she

executed the same voluntarily on the day the same bears date, in her capacity as Trustee as aforesaid and with full authority thereto.

Given under my hand and seal of office this 3 day of October, 1997.

[SEAL]

Notary Public

My Commission Expires:
3/20/05

STATE OF ~~ALABAMA~~ South Carolina) Alabama dsk
~~Beaufort~~ COUNTY) Jefferson dsk

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that John E. Guess, as Trustee of Trust B created under ITEM THREE (b) of the Will of Henry P. Johnson, deceased, whose name 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 instrument, he executed the same voluntarily on the day the same bears date, in his capacity as Trustee as aforesaid and with full authority thereto.

Given under my hand and seal of office this 7 day of October, 1997.

[SEAL]

Notary Public

My Commission Expires:
11-4-98

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that DOUGLAS C. BELL, as SR. VICE PRESIDENT of SouthTrust Bank ~~of Alabama,~~ DCB PZM N.A., a banking corporation, acting in its capacity as Trustee of Trust B created under ITEM THREE (b) of the Will of Henry P. Johnson, deceased, whose name 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 instrument, she executed the same voluntarily on the day the same bears date for and as the act of said Bank acting in its capacity as Trustee as aforesaid and with full authority thereto.

PAULA M. MEFFORD NOTARY PUBLIC ALABAMA-STATE

Given under my hand and seal of office this 29th day of OCTOBER, 1997.

[SEAL]

Notary Public

My Commission Expires:
3-14-98

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Nancy Brower, whose name as President of Hollybrook Lake Corporation, 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 instrument, she executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and seal of office this 2d day of June, ~~1997~~ 1998.

Mary P. Thornton
Notary Public

[SEAL]

My Commission Expires:
5/24/99

dfy/41263

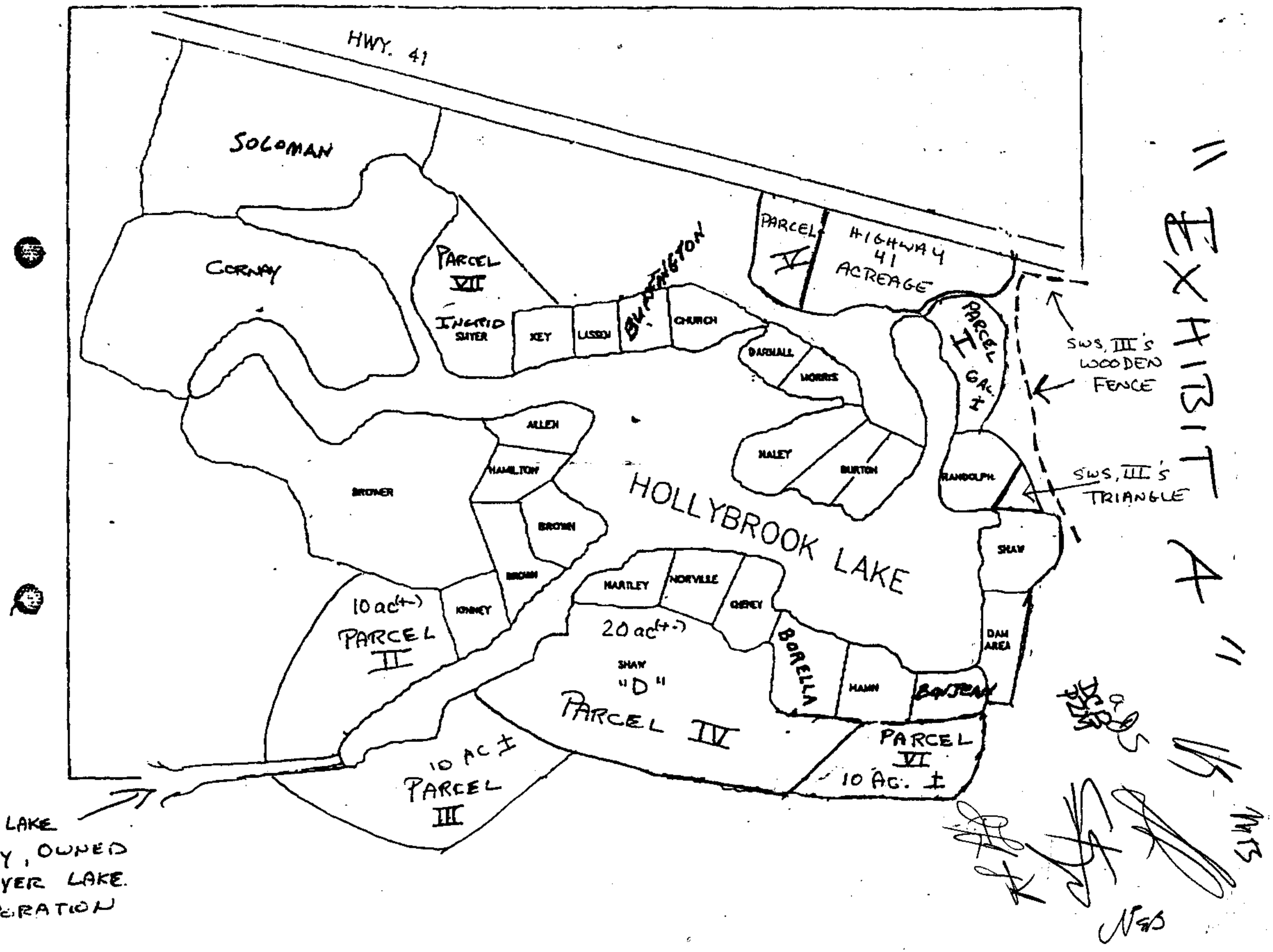
HWY. 41
SOLOMAN
CORNAY
PARCEL VII
INGRID SUTER
KEY
LUSSON
BURLINGTON
CHURCH
PARCEL V
HIGHWAY 41 ACREAGE
PARCEL I 6 AC. ±
SWS, III'S WOODEN FENCE
SWS, III'S TRIANGLE
DARNALL
MORRIS
ALLEN
HALEY
BURTON
HAMILTON
BROWER
BROWN
BROWN
RANDOLPH
HOLLYBROOK LAKE
SHAW
HARTLEY
NORVILLE
GREY
KINNEY
10 ac(+-) PARCEL II
20 ac(+-) SHAW "D" PARCEL IV
BORELLA
HAHN
BARTEAU
DAM AREA
PARCEL VI 10 AC. ±
10 AC ± PARCEL III
SMYER LAKE SPILLWAY, OWNED BY SMYER LAKE CORPORATION

EXHIBIT A

ags MB

EXHIBIT "B"

(Explanation: This instrument is to be executed by Sidney W. Smyer, III and the Hollybrook Lake Corporation pursuant to Section 3 of the Master Agreement.)

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this _____ day of_____, 1997, by and between Sidney W. Smyer, III, an unmarried man (the "Owner") and Hollybrook Lake Corporation (the "Hollybrook Corporation").

Recitals

1. Effective as of _____, 1997, the parties hereto, among others, entered into that certain "Declaration of Covenants and Restrictions; Quitclaim Deed; and Agreements" (the "Master Agreement"), as recorded in Real Volume _____, Page _____, in the Probate Court of Shelby County, Alabama, which provides for the execution of this Easement Agreement, as partial consideration for the grant by the Hollybrook Corporation to the Owner of a right of access to, and the use of, Hollybrook Lake under the conditions contained in the Master Agreement.

2. The value of a certain parcel of real estate owned by the Owner and described in the Master Agreement (the "Property") shall be substantially increased if the Owner is extended the right to the use and enjoyment of Hollybrook Lake, and such right and value shall inure to the benefit of the successive owners of the Property.

3. This Easement is given to induce Hollybrook Corporation to grant to the Owner, his respective successors and assigns, a right of access to and use of Hollybrook Lake with respect to the Property under the terms and conditions of the Master Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual promises and obligations contained herein, and other good and valuable consideration in hand paid by the undersigned to each other, the receipt and sufficiency of which is separately and severally acknowledged, the undersigned agree as follows:

1. Hollybrook Lake Road. Hollybrook Lake Road is an existing macadam and asphalt paved roadway which presently provides the means of ingress to and egress from the lots contained in the residential development depicted in the Survey of Hollybrook Lake, as recorded in Map Book 4, page 74, in the Probate Court of Shelby County, Alabama (the "Hollybrook Survey"). Hollybrook Lake Road begins at the intersection of the aforesaid existing roadway with Shelby County Highway 41 and runs in a southerly, easterly, southerly and westerly direction, following the existing roadway as it meanders past the boundaries of Lots 7, 6, 5, 4, 3, 2, and 1, Hollybrook Survey, and, for purposes of the Buffer conveyed pursuant to Section 2 below, terminates at the southernmost boundary of the Owner's property at or near the Hollybrook Lake

spillway; provided, however, that the Owner is presently relocating a segment of the existing roadway as it meanders to the north and east of Lot 2, Hollybrook Survey, and the Buffer herein granted shall follow the relocated segment in that area, rather than the existing roadway.

2. **The Buffer**. The Owner does hereby grant, bargain, sell and convey unto Hollybrook Corporation a permanent, non-exclusive easement over, across and upon the real estate of the Owner, running for the entire length of the above-described Hollybrook Lake Road and extending from the center line thereof "outwardly" (which is hereby defined to mean the direction opposite to Hollybrook Lake, as the same is depicted in the Hollybrook Survey) a distance of seventy-five (75) feet, for use by Hollybrook Corporation as a "greenbelt" or buffer against development upon the Owner's lands or upon lands owned by other members of Owner's family.

3. **Use of the Hollybrook Lake Road.** It is the express agreement of the parties that the Hollybrook Lake Road shall be used only for the purposes specifically allowed by the terms of the Master Agreement, and for no other, further or different purpose.

4. **Use of the Buffer.** The Buffer shall be maintained in a natural or landscaped state, with no residential, commercial, farming or ranching facility, building, outbuilding, barn, shed or roadway erected therein, it being the intention of the parties that the Buffer shall constitute a "greenbelt" or buffer against future development of the land surrounding it. To this end, Hollybrook Corporation shall have the right to perform such plantings, fencing and landscaping within the Buffer as it shall, in its sole discretion and at its expense, determine; provided, however, that nothing contained herein shall be construed so as to prevent the Owner from maintaining the wooden fence and gardens that presently exist within the Buffer. Owner hereby reserves and retains from this conveyance of the Buffer the right to encroach into that part of the Buffer east of the Owner's wooden fence for purposes of construction and maintenace of the New Access Road, as defined in the Master Agreement; provided, however that upon the Owner's substantial completion of construction of the New Access Road, the Owner shall replant the plantings and landscaping in the Buffer damaged or destroyed during such construction of the New Access Road except for that area of the Buffer paved for the New Access Road.

5. **Term**. The duration of the Buffer herein granted and the agreements concerning the use thereof shall be perpetual, and shall run with the land of the Owner and be binding upon the Owner, his respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of the Hollybrook Corporation, its successors and assigns, forever.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals this ___ day of _____, 199__.

(HERE ENTER THE SIGNATURES AND NOTARY ACKNOWLEDGEMENTS OF THE OWNERS AND THE PROPER OFFICER OF HOLLYBROOK CORPORATION.)

ags

DCB PZM MTS NGB

EXHIBIT "C"

(Explanation: This instrument is to be executed separately by each of the record owners of Parcels II, III and IV pursuant to Sections 8.A(7) and (8) of the Master Agreement.)

Declaration of Covenants and Restrictions

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this ____day of _____, 199___, by and between _____(the "Owners") and Hollybrook Lake Corporation (the "Hollybrook Corporation").

Recitals

1. On _____, 1997, the parties hereto, among others, entered into that certain "Declaration of Covenants and Restrictions; Quitclaim Deed; and Agreements" (the "Master Agreement"), as recorded in Real Volume _____, Page_____, in the Probate Court of Shelby County, Alabama, which provides for the imposition of the following covenants and restrictions against the real estate described below (the "Property"), as partial consideration for the grant by the Hollybrook Corporation to the Owners of a right of access to, and the use of, Hollybrook Lake under the conditions contained in the Master Agreement.

2. The value of the Property shall be substantially increased if the Owners thereof are extended the right to the use and enjoyment of Hollybrook Lake, and such right and value shall inure to the benefit the successive owners of the Property.

3. This Declaration is given to induce Hollybrook Corporation to grant to the Owners, their respective successors and assigns, a right of access to and use of Hollybrook Lake with respect to the Property under the terms and conditions of the Master Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual promises and obligations contained herein, and other good and valuable consideration in hand paid by the undersigned to each other, the receipt and sufficiency of which is separately and severally acknowledged, the undersigned agree as follows:

1. The real estate upon which the provisions of this Declaration is imposed (the "Property") is described as follows:

(Here enter the legal description of Parcel II, III or IV as appropriate, which Parcel designations shall be as defined in the Master Agreement)

(PLEASE NOTE: THE REAL ESTATE HEREIN DESCRIBED IS NOT THE HOMESTEAD OF ANY OF THE

PARTIES HERETO, OR THAT OF THEIR SPOUSES.)

2. The parties agree that the Property shall be, and it hereby is, subjected to each of the following agreements, covenants and restrictions, which shall run with the land and be binding upon the Owners of the Property and their respective successors, assigns, heirs and personal representatives, and shall inure to the benefit of the Hollybrook Corporation, its successors and assigns, for the term hereafter provided:

A. The Property is hereby subjected to all of the provisions contained in those certain Restrictions applicable to the Survey of Hollybrook Lake, as recorded in Real Volume 222, page 175, in the Probate Court of Shelby County, Alabama.

B. The Owners do further hereby subject the Property to those certain "Rules for Development of Lots" and "Rules for Transfer of Stock in Hollybrook Lake Corporation" and the By-Laws of Hollybrook Lake Corporation, or their equivalent, as presently exist and as may be duly adopted by Hollybrook Corporation from time to time.

C. The Property shall be used for single family residential purposes only, upon which only one (1) single family residence may be constructed; and the plans for such residence, its location and appearance must first be approved by Hollybrook Corporation pursuant to its aforesaid Rules and By-laws.

D. The Property may not be subdivided into smaller tracts without the express written consent of Hollybrook Corporation.

E. One single-stall boathouse may be built on the Property, but only concurrently with, or subsequent to, the construction of a residence thereon; and the plans for such boathouse, its location and appearance must first be approved by Hollybrook Corporation pursuant to its aforesaid Rules and By-laws. The Owners of the Property shall be entitled to house and store in the boathouse no more than one boat.

F. All contracts for sale of the Property must be by means of a form provided by Hollybrook Corporation in which the prospective purchasers acknowledge receipt of copies of all of the Covenants and Restrictions applicable to the Property, as well as copies of the Articles of Incorporation, By-Laws and Rules governing the rights and obligations of shareholders adopted by Hollybrook Corporation from time to time.

G. Upon conveyance or devise of the Property, or upon commencement of construction of a residence thereon, whichever first occurs, the Owners agree to pay to the "New Access Road Construction Fund", as defined in the Master Agreement the sum of Thirty-Eight Thousand, Five Hundred and No/100 Dollars ($38,500.00) (the "Release Price"), the payment of which is hereby secured by a lien upon the Property in favor of Hollybrook Corporation, which shall run with and be a charge upon the land, and be binding upon the Owners, their heirs, personal representatives, successors and assigns, until the Release Price is fully paid. Upon full payment

thereof, Hollybrook Corporation agrees to cause to be recorded in the Probate Court of Shelby County, Alabama, a properly executed instrument releasing the Property from the operation of the lien herein granted.

H. The Owners agree that ingress to and egress from Parcel II of the Property shall be limited to Smyer Lake Road and no access shall be allowed from Hollybrook Lake Road, as that term is defined in the Master Agreement. The Owners agree that ingress to and egress from Parcel III of the Property may be by way of Hollybrook Lake Road until its conclusion and then access shall be across the Adjacent Acreage or by means of the New Access Road, as those terms are defined in the Master Agreement; provided, however that in the event that any governmental agency having jurisdiction requires that access to Parcel III must be gained by a road of a standard higher than that of the existing Hollybrook Lake Road, then access to Parcel III cannot be gained by means of Hollybrook Lake Road and alternative access must be obtained by Owners. The Owners agree that ingress to and egress from Parcel IV of the Property may be by way of Hollybrook Lake Road; provided, however that in the event that any governmental agency having jurisdiction requires that access to Parcel IV must be gained by a road of a standard higher than that of the existing Hollybrook Lake Road, then access to Parcel IV cannot be gained by means of Hollybrook Lake Road and alternative access must be obtained by Owners. It is the express agreement of the parties that the Hollybrook Lake Road shall be used only for the purposes specifically allowed by the terms of the Master Agreement, and for no other, further or different purpose. The Owners agree to pay, together with the owners of any other properties entitled under the Master Agreement to ingress to and egress from their properties by means of the Hollybrook Lake Road their prorata share of all necessary expenses in the maintenance and repair of the Hollybrook Lake Road, dam and spillway. All of the agreements of this paragraph shall remain in full force and effect for so long as the Owners, or their successors, employ any part of the existing Hollybrook Lake Road for ingress to or egress from the Property.

2. Upon the full compliance by the Owners of all of the terms and conditions of the Master Agreement, upon proper execution and recordation of this Declaration in the Probate Court of Shelby County, Alabama, and further upon the full and proper compliance by the Owners of the Property with the "Rules for Transfer of Stock of Hollybrook Lake Corporation", the Owners, their personal representatives, successors and assigns shall be entitled to one (1) single family right of access to and use of Hollybrook Lake with respect to the Property, which right shall continue in full force and effect, and shall be transferable pursuant to the terms of the aforesaid "Rules for Transfer of Stock of Hollybrook Lake Corporation" for so long as the Owners, their personal representatives, successors and assigns shall have complied with the terms and conditions of the Master Agreement and of this Declaration, it being the express mutual agreement of the parties that Hollybrook Corporation is the sole and lawful owner of Hollybrook Lake, with all right to control access to and use of Hollybrook Lake, including the right to enforce the terms of this Declaration by all lawful means.

3. All of the covenants, restrictions and agreements contained herein shall remain in full force and effect for a period of fifty (50) years from the date of this instrument. Thereafter, these covenants, restrictions and agreements may be renewed in force for successive fifty (50) year periods by the affirmative vote of a majority of the shareholders of the Hollybrook Corporation,

which renewal shall be evidenced by a certified copy of the minutes of the meeting of shareholders at which such vote was taken, filed for record in the Probate Court of Shelby County, Alabama.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals this ____day of_____, 199__.

(HERE ENTER THE SIGNATURES AND NOTARY ACKNOWLEDGEMENTS OF THE OWNERS AND THE PROPER OFFICER OF HOLLYBROOK CORPORATION.)

ags

MTB

HC

NJB

EXHIBIT "D"

(Explanation: This instrument is to be executed separately by each of the record owners of Parcel I pursuant to Section 8.A(7) of the Master Agreement.)

Declaration of Covenants and Restrictions

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this _____day of _____, 199___, by and between _____(the "Owners") and Hollybrook Lake Corporation (the "Hollybrook Corporation").

Recitals

1. On _____, 1997, the parties hereto, among others, entered into that certain "Declaration of Covenants and Restrictions; Quitclaim Deed; and Agreements" (the "Master Agreement"), as recorded in Real Volume _____, Page _____, in the Probate Court of Shelby County, Alabama, which provides for the imposition of the following covenants and restrictions against the real estate described below (the "Property"), as partial consideration for the grant by the Hollybrook Corporation to the Owners of a right of access to, and the use of, Hollybrook Lake under the conditions contained in the Master Agreement.

2. The value of the Property shall be substantially increased if the owners thereof are extended the right to the use and enjoyment of Hollybrook Lake, and such right and value shall inure to the benefit the successive owners of the Property.

3. This Declaration is given to induce Hollybrook Corporation to grant to the Owners, their respective successors and assigns, a right of access to and use of Hollybrook Lake with respect to the Property under the terms and conditions of the Master Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual promises and obligations contained herein, and other good and valuable consideration in hand paid by the undersigned to each other, the receipt and sufficiency of which is separately and severally acknowledged, the undersigned agree as follows:

1. The real estate upon which the provisions of this Declaration is imposed (the "Property"') is described as follows:

Here enter the legal description of Parcel I as
such Parcel is defined in the Master Agreement

(PLEASE NOTE: THE REAL ESTATE HEREIN DESCRIBED

IS NOT THE HOMESTEAD OF ANY OF THE PARTIES HERETO, OR THAT OF THEIR SPOUSES.)

2. The parties agree that the Property shall be, and it hereby is, subjected to each of the following agreements, covenants and restrictions, which shall run with the land and be binding upon the Owners and their respective successors, assigns, heirs and personal representatives, and shall inure to the benefit of the Hollybrook Corporation, its successors and assigns, for the term hereafter provided:

A. The Property is hereby subjected to all of the provisions contained in those certain Restrictions applicable to the Survey of Hollybrook Lake, as recorded in Real Volume 222, page 175, in the Probate Court of Shelby County, Alabama.

B. The Owners do further hereby subject the Property to those certain "Rules for Development of Lots" and "Rules for Transfer of Stock in Hollybrook Lake Corporation" and the By-Laws of Hollybrook Lake Corporation, or their equivalent, as presently exist and as may be duly adopted by Hollybrook Corporation from time to time.

C. The Property shall be used for single family residential purposes only, upon which only one (1) single family residence may be constructed; and the plans for such residence, its location and appearance must first be approved by Hollybrook Corporation pursuant to its aforesaid Rules and By-laws.

D. The Property may not be subdivided into smaller tracts without the express written consent of Hollybrook Corporation.

E. One single-stall boathouse may be built on the Property, but only concurrently with, or subsequent to, the construction of a residence thereon; and the plans for such boathouse, its location and appearance must first be approved by Hollybrook Corporation pursuant to its aforesaid Rules and By-laws. The Owners shall be entitled to house and store in the boathouse no more than one boat.

F. All contracts for sale of the Property must be by means of a form provided by Hollybrook Corporation in which the prospective purchasers acknowledge receipt of copies of all of the Covenants and Restrictions applicable to the Property, as well as copies of the Articles of Incorporation, By-Laws and Rules governing the rights and obligations of shareholders adopted by Hollybrook Corporation from time to time.

H. Access to the Property shall be had only by way of Hollybrook Lake Road, as that term is defined in the Master Agreement. It is the express agreement of the parties that the Hollybrook Lake Road shall be used only for the purposes specifically allowed by the terms of the Master Agreement, and for no other, further or different purpose. The Owners agree to pay, together with the owners of any other properties entitled under the Master Agreement to ingress to and egress from their properties by means of the Hollybrook Lake Road, their prorata share of all necessary expenses in the maintenance and repair of the Hollybrook Lake Road, dam and spillway.

2. Upon the full compliance by the Owners of all of the terms and conditions of the Master Agreement, upon proper execution and recordation of this Declaration in the Probate Court of Shelby County, Alabama, and further upon the full and proper compliance by the Owners of the Property with the "Rules for Transfer of Stock of Hollybrook Lake Corporation", the Owners, their personal representatives, successors and assigns shall be entitled to one (1) single family right of access to and use of Hollybrook Lake with respect to the Property, which right shall continue in full force and effect, and shall be transferable pursuant to the terms of the aforesaid "Rules for Transfer of Stock of Hollybrook Lake Corporation" for so long as the Owners, their personal representatives, successors and assigns shall have complied with the terms and conditions of the Master Agreement and of this Declaration, it being the express mutual agreement of the parties that Hollybrook Corporation is the sole and lawful owner of Hollybrook Lake, with all right to control access to and use of Hollybrook Lake, including the right to enforce the terms of this Declaration by all lawful means.

3. All of the covenants, restrictions and agreements contained herein shall remain in full force and effect for a period of fifty (50) years from the date of this instrument. Thereafter, these covenants, restrictions and agreements may be renewed in force for successive fifty (50) year periods by the affirmative vote of a majority of the shareholders of the Hollybrook Corporation, which renewal shall be evidenced by a certified copy of the minutes of the meeting of shareholders at which such vote was taken, filed for record in the Probate Court of Shelby County, Alabama.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals this _____day of _____, 199 __ .

(HERE ENTER THE SIGNATURES AND NOTARY ACKNOWLEDGEMENTS OF THE OWNERS AND THE PROPER OFFICER OF HOLLYBROOK CORPORATION.)

Inst # 1998-20485

Inst # 1998-20485

06/03/1998-20485
02:15 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
026 MCD 78.00