

2049331 ✓

PINEHURST LAKE AGREEMENT

THIS AGREEMENT is made and entered into this 8<sup>th</sup> day of July, 1991, by and between the PINEHURST ESTATES HOMES ASSOCIATION, a Kansas corporation, (hereinafter referred to as Pinehurst), and the CITY OF OVERLAND PARK, KANSAS (hereinafter referred to as the City).

WHEREAS, Pinehurst has requested financial aid from the City in order to have performed approximately \$28,000.00 of repair and maintenance to a lake, commonly referred to as Pinehurst Lake, and an additional \$11,000.00 to be allocated by the City for drop inlets and catch basins; and

WHEREAS, on the 15th day of March, 1976, the governing body of the City granted the developer of the Pinehurst subdivision a variance from City storm drainage requirements in order to allow construction of the lake; and

WHEREAS, as a condition of the variance, the minutes of the above-cited council meeting indicated that the storm drainage system which the developer proposed was to remain a private system with sole maintenance responsibility, therefore, upon Pinehurst; and

WHEREAS, the lake has fallen into disrepair and is in need of major maintenance.

IT IS THEREFORE understood and agreed as follows:

1. The City will participate in the maintenance and repair of the Pinehurst Lake in the dollar amount of

STATE OF KANSAS  
COUNTY OF JOHNSON } SS  
FILED FOR RECORD

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SARA F. ULLMANN  
REGISTER OF DEEDS

14<sup>00</sup> ck

14<sup>00</sup>

\$14,000.00, or in 50% of the cost of the maintenance and repair, whichever is less, such money to be spent solely for the purposes outlined above. Pinehurst shall be liable for the balance of the cost of such maintenance and repair.

2. In addition, the City will pay a sum not to exceed \$11,000.00 for the purpose of constructing drop inlets and catch basins between the curbs on the street and the lake. Future sediment control of said capital improvements will be the responsibility of Pinehurst.

3. It is fully understood by and between the parties that the City's financial participation as set forth in paragraphs 1 and 2 is a one-time only contribution and that by allocating this money and joining in the maintenance effort, the City is in no way accepting past, present or on-going maintenance responsibility for the Pinehurst Lake.

4. Pinehurst, in accepting the City's financial contribution, acknowledges that the City has no legal responsibility to maintain or repair the Pinehurst Lake and is aiding in the present effort strictly as a one-time accommodation to Pinehurst.

5. Prior to any money being paid by the City to Pinehurst, Pinehurst shall deliver to the City Attorney a copy of the contract for maintenance and repairs described in paragraph 1, written proof that it has on hand funds sufficient to pay its share of the costs described in

paragraph 1 of this Agreement and a certified copy of the Pinehurst Estates Homes Association Bylaws which shall provide for the following:

A. Pinehurst will levy annual, monthly, or special assessments against all lots within the subdivision, including those lots abutting the lake, in such manner as the Board of Directors determines in its discretion to be appropriate, sufficient to pay for the maintenance of the lake and other homes association needs. A portion of the funds generated by such assessments will be placed into reserve for future maintenance of the lake and any shortfalls will be covered by a mandatory special assessment. The Pinehurst Estates Homes Association will have an enforceable lien on any affected lot in the event the lot owner fails to pay any such assessment.

6. The money allocated by the City shall be paid directly to Pinehurst which shall contract privately for the maintenance and repair and capital improvement work set forth in paragraphs 1 and 2 of this Agreement.

7. Payment will be made by the City to Pinehurst after completion of the work and certification of the same by a licensed professional engineer in the State of Kansas.

8. Pinehurst agrees to defend, indemnify and hold the City, its governing body and employees, harmless from any and all damage, loss or liability of any kind, arising out of this

Agreement or the City's financial participation in the maintenance and repair effort.

9. This agreement shall be filed of record with the Johnson County Register of Deeds and shall run with the land and bind all successors in interest to the agreement.

CITY OF OVERLAND PARK, KANSAS

*Ed Eilert*  
Ed Eilert, Mayor

ATTEST:

*Bernice Cruzzett*  
Bernice Cruzzett  
Finance Director/City Clerk

APPROVED AS TO FORM:

*Jane Neff-Brain*  
Jane Neff-Brain  
Assistant City Attorney

PINEHURST ESTATES HOMES ASSOCIATION

By: *James Douglas Watkins*  
James Douglas Watkins, President

ATTEST:

*Bradley K. Vermeer*  
Secretary, Bradley K. Vermeer  
Pinehurst Estates Homes Association

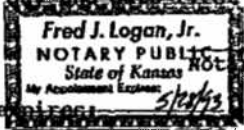
CORPORATE ACKNOWLEDGEMENT

STATE OF KANSAS     )  
                                  )SS  
COUNTY OF JOHNSON    )

BE IT REMEMBERED, that on this 14 day of August, 1991, before me, the undersigned, a notary public, in and for the county and state aforesaid, came James Douglas Watkins, the President of Pinehurst Estates Homes Association, a corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Kansas, and Bradley K. Vermeer,

Secretary of said corporation, who are personally known to me to be the same persons who executed as such officers the above instrument in writing on behalf of said corporation and such persons duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the ~~day and date first~~ written above.



*Fred J. Logan, Jr.*  
\_\_\_\_\_  
Fred J. Logan, Jr.

My appointment expires