

PRIVATE STREET MAINTENANCE AGREEMENT

REAL PROPERTY RECORDS

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This Agreement is made by and among the parties hereto, hereinafter called collectively the "Owners" and individually the "Owner", as the context may require.

WHEREAS, each Owner is the owner of a tract of land (herein "lot") located in the E. Collard Survey, A-7, Montgomery County, Texas, abutting and adjoining that certain private roadway or street being approximately 60 feet in width and 1/2 mile in distance, more fully described in and created by those certain instruments recorded in Volume 898, Page 91, 92, Volume 899 Page 535, Volume 268 Page 82, Volume 816 Page 415, Volume 899 Page 530 and Volume 898 Page 99, of the Deed Records of Montgomery County, Texas, said street easement being more commonly known as Lake Conroe Drive; each lot being more particularly identified by the Property Address on the signature page of this Agreement; and

WHEREAS, it will be mutually advantageous to the Owners to be jointly and severally liable to repair and maintain the private street as said private street provides ingress and egress in and to the Owners' lots and is necessary for the full use and enjoyment of said lots.

NOW, THEREFORE, for and in consideration of the mutual advantages accruing to said Owners by the continued existence of the private street in its present condition for access to the lots, the Owners hereby agree each with the other as follows:

1. No Owner, without the written consent of the other Owners, shall ever alter, change, or do any other act or thing to said private street which would in any way materially adversely affect said private street.
2. Notwithstanding any other provision of this Agreement to the contrary, an Owner who by his negligence or willful act causes the private street to be damaged shall bear the whole cost of repairing said damage.
3. The Owners are hereby jointly and severally obligated to maintain and repair the private street in an condition substantially equivalent to its present condition and usefulness and are jointly and severally obligated to pay the cost of such maintenance and repair.
4. In the event that an Owner, herein the Defaulting Owner, shall fail, refuse or for any reason be unusable to maintain and repair or pay for his share of the cost of the maintenance and repair of the private street, the other Owners, herein the Non-defaulting Owners, shall have, and are each hereby granted, the option to maintain and repair and pay the Defaulting Owner's portion of the cost of the maintenance and repair of the private street, on the condition that the Non-defaulting Owner or Owners shall have delivered to the Defaulting Owner or Owners thirty (30) days prior written notice of intention to exercise such option and that upon the expiration of such notice, the Defaulting Owner shall not have commenced or resumed, as appropriate, or paid his share of the cost of the maintenance and repair of the private street.

5. In each instance where, under the terms of this Agreement, an Owner undertakes to maintain or repair the private street, that Owner (the "Indemnifying Owner") shall indemnify and hold harmless the other Owners (the "Indemnified Owner") from any and all liability (other than any amount for which a Defaulting Owner may be obligated under this Agreement) or damages which the Indemnified Owners may suffer as a result of claims, demands, costs, liens, judgments or awards against the Indemnified Owners arising out of or as a result of the maintenance or repair by the Indemnifying Owner of the maintenance or repair of the private street. This paragraph shall not relieve the Owners from their joint and several liability expressed in paragraph 3 hereof.
6. No Owner shall change the grade or elevation of this private street or erect thereon any barrier or other devise or facility the effect of which would be to prohibit or impair the flow or vehicular or pedestrian traffic over the private street.
7. Nothing in this Agreement shall be interpreted to prohibit the Owners from enjoying the easement estates granted to them in the private street pursuant to the recorded instruments herein above referred to (subject, however, to the limitations to and conditions of such easement estates as set forth in said recorded instruments). Nothing in this Agreement shall ever constitute or be construed as a dedication of any interest herein to the public or give any member of the public any right whatsoever.
8. The provisions of this Agreement, may be enforced by any Owner or by any Mortgagee holding a lien covering all or a portion of any lot; and if any litigation is commenced concerning this Agreement or the rights and duties of an Owner in relation to this Agreement, the party prevailing in such litigation will be entitled, in addition to such other relief as may be granted, to a reasonable sum for attorney's fees in that litigation.
9. If any provision of this Agreement shall, for any reason, be held violative of any applicable law an/or unenforceable, then the invalidity of such specific provision herein shall not be held to invalidate any other provision herein, all of which such other provisions shall remain in full and effect.
10. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas and venue for all purposes shall be in Montgomery County, Texas.
11. Any notice provided for in this Agreement shall be given or served by first class mail, postage pre-paid and addressed to the Owner to be notified, or by delivering the same to such Owner. The notice shall be delivered or mailed to the Property Address of the Owner as set out herein, and notice mailed in the manner hereinabove described shall be deemed to have been delivered and be effective from and after the expiration of four (4) days after it is so mailed. Notice given in any other manner shall be deemed to have been delivered and be effective only if and when received by the Owner to be notified.
12. Any Mortgagee holding a lien covering all or a portion of a lot shall have the same right as any Owner in default hereunder may have under the terms hereof to cure any default by such defaulting Owner; and in the event such Mortgagee shall cure any such default, such curative action shall have the same effect, and such default shall be deemed cured to the same effect, as if such action had been taken by such defaulting Owner; provided, however, notwithstanding the foregoing, no such Mortgagee shall

731-01-1972

have the obligation to cure any default or to be liable for any sums due as a result of such default.

13. This Agreement shall be perpetual and at all times be construed as a covenant running with the land, and the right of any Owner to contribution from the other Owners under this Agreement shall be appurtenant to the land and shall pass to such Owner's successors in title.

14. This Agreement shall bind and inure to the benefit of the Owners and their respective heirs, executors, administrators, successors and assigns.

EXECUTED the day and year indicated by each Owner's name.

DATE:

7-15-91

OWNER:

Name: Joe Carmical
Joe Carmical
Susan Carmical
Susan Carmical
Property Address: 7 Lake Conroe Dr.
Conroe, Texas 77304

DATE:

7-15-91

OWNER:

Name: Walter Coffey
Walter Coffey
Cybil Coffey
Cybil Coffey
Property Address: #8 Lake Conroe Dr.
Conroe, Texas 77304

DATE:

7.12.91

OWNER:

Name: Timothy R. Eby
Timothy R. Eby
Judy Eby
Judy Eby
Property Address: #6 Lake Conroe Dr.
Conroe, Texas 77304

DATE:

7-15-91

OWNER:

Name: Bill D'Amico
Bill D'Amico
Agnes Cecilia D'Amico
Agnes Cecilia D'Amico
Property Address: #11 Lake Conroe Dr.
Conroe, Texas 77304

731-01-1973

DATE:

7-10-91

OWNER:

Name:

Earl F. Williams

Barbara Williams

#4 Lake Conroe Dr.

Conroe, Texas 77304

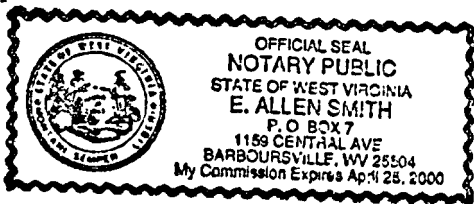
✓ STATE OF WV

\$

COUNTY OF CABell

\$

This instrument was acknowledged before me on the 7-10 day
of July, 1991, by EARL F. WILLIAMS and wife, BARBARA
WILLIAMS.



E Allen Smith
Notary Public, State of ~~Texas~~
WV

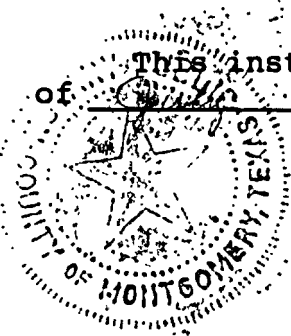
RECORDERS MEMORANDUM
ALL BLACKOUTS, ADDITIONS AND
CHANGES WERE PRESENT AT THE TIME
THE INSTRUMENT WAS FILED AND RE-
CORDED.

731-01-1974

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 15th day of July, 1991, by JOE CARMICAL and wife, SUSAN CARMICAL.

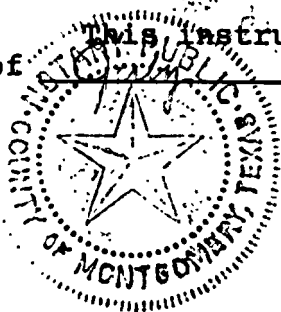


Elizabeth Green
Notary Public, State of Texas
My commission expires
3-1-93.

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 15th day of July, 1991, by WALTER COFFER and wife, CYBIL COFFER.

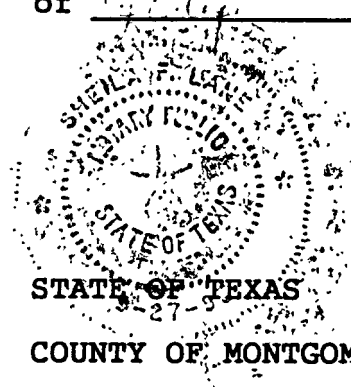


Elizabeth Green
Notary Public, State of Texas
My commission expires
3-1-93.

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 12 day of July, 1991, by TIMOTHY R. EBY and wife, JUDY EBY.



Elizabeth Green
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 15th day of July, 1991, by BILL D'AMICO and wife, AGNES CECILIA D'AMICO.



FILED FOR RECORD
91 JUL 15 AM 9:05
Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS


Elizabeth Green
Notary Public, State of Texas
My commission expires
3-1-93.

ci:\agree\p-street

✓ Hold for pickup
first Surety Title Co.

STATE OF TEXAS)
COUNTY OF MONTGOMERY)
I hereby certify that this instrument was filed
in File Number Sequence on the date and at the
time stamped herein by me and was duly RECORDED
in the official Public Records of Real Property of
Montgomery County, Texas.

JUL 14 1991

 Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS