

ROAD MAINTENANCE AGREEMENT

WITNESSETH

WHEREAS, Jonathan and Sarah Bender desire to create an entity and mechanics for the maintenance of roads and easements within and adjacent to that certain tract of land as shown on the Final Parcel Map for the P.M. No. _____ recorded in the office of the County Recorder, County of San Diego, State of California on the _____ day of _____, 20 __, in Book _____ of _____ at Page _____, and hereinafter referred to as "Development."

WHEREAS, the parties to this instrument are about to sell, dispose of, and convey said parcel of land so owned by them and for the purpose of enhancing the value of said property and deeming it to be to the advantage and best interest of the owners of said real property and impose on said parcel of land and to create thereon a road maintenance agreement.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements hereinafter contained, the undersigned hereby certify and declare that they have established and do hereby establish that there is hereby imposed on said property, covenants, conditions, and restrictions relating to road maintenance hereunto set forth for the period hereinafter mentioned, subject to which all parcels or portions of said property shall be held, used, leased, sold and conveyed all of which are for the benefit of said property and of each and every owner thereof and which shall inure to the benefit of said property and whether said maintenance agreement be set forth in subsequent conveyances or not, said agreement shall nevertheless continue and shall remain in full force during said periods and shall be deemed and treated as covenants running with the land and shall bind the heirs, successors, assignees, and legal representatives of the parties hereunto.

THIS DECLARATION is made on the express conditions subsequent each of which are the essence of the consideration hereof and form a part of the general scheme restricting the use of the above described property for the mutual benefits and advantages of the parties hereto and of the purchasers thereof and are intended to enhance the value of said properties and to increase its desirability for residence purposes and which conditions subsequent are as follows, to wit:

1. It is hereby agreed and declared that each lot within the "Development" shall bear an equal share of any and all costs required for maintenance and repairs of the roads within said "Development" under the terms and conditions as set forth herein:
 - A. General - Said roads described above shall be used by all owners of properties within the development bounding thereon for ingress and egress and/or utilities.
 - B. Right-of-way - the right-of-way created by said easements shall be maintained in a good, passable condition under all traffic and weather conditions.
 - C. Erosion Protection Plan - Erosion within the "Development" shall be controlled by maintenance of the drainage easements as delineated on the "Map." Exceptional care shall be exercised by all "Owners" wherein the drainage easements and/or 100 year flood plain encroach within the "Development" roads and/or slope easements. The maintenance of these areas shall be provided for as hereafter stated.
 - D. Sewer Main - Private Sewer Main within the Road Easement shall be Cleaned, Maintained and Repaired as required and remain in good working order.
 - E. Storm Drainage System - Private Storm System within the Road Easement shall be Cleaned, Maintained and Repaired as required and remain in good working order.
 - F. Retaining Walls and Fencing - Retaining wall and Fencing adjacent to the Easterly and Westerly side of the Road shall be Maintained and Repaired and remain in good working order.
 - G. Painting and Signage the Easement. The easement for emergency vehicle access shown on the map shall be painting and signage to prevent the parking of vehicles in the easement area. Grantees shall maintain the paint and signage as originally placed in its sole expense. The Fire Marshal may require to repaint and/or reinstall new signs in the emergency vehicle access road if, based on his/her judgment, his/her considers that it is necessary in order to prevent the parking of vehicles in the easement area.
 - H. Frequency of Repair - Repairs on the said road, said drainage, said Sewer System and said Walls and Fences shall be required when a majority of the owners of properties reach an agreement that repairs are needed. Pursuant to said agreement such owners shall obtain three bids from reputable licensed contractors and shall accept the lowest of said three bids and shall then initiate the repairs of said street with each owner bearing his prorated share of the costs and expense thereof, regardless of whether such owners shall have concurred in said agreement or not.
 - I. Individual Damages - Every owner of property who shall cause or allow, in any manner, said private roads to be used, traversed, or altered by vehicular traffic or otherwise, thereby causing damage to the surface thereof, as may be determined by a

majority of the owners of properties bounding thereon, shall bear as his responsibility the costs and expense of repairing such damage.

J. Non-Payment – If a dissenting owner shall not pay his pro rata share of costs and expenses immediately upon receiving his bill for the same, the remaining such owners shall be entitled without further notice to institute legal action for the collection of funds advanced in behalf of such dissenting owner in accordance with the provisions of California Civil Code, Section 845, and shall be entitled to recover in such action, in addition to the funds advanced, interest thereon at the current prime rate of interest, until paid, all costs and disbursements of such action, including the sum as and for a reasonable attorney's fee in such amount as the court may fix.

2. Easements

A. Reservations – the following easements over each lot and the right of ingress and egress to the extent reasonably necessary to exercise such easements, are reserved to Declarant and its Licensees:

1. Slope and Drainage – A 15-foot wide easement running along the inside of all lot lines coincident with street right-of-way lines for the purposes of cutting, filling, drainage and maintenance of slopes and drainage courses.
2. Streets – An easement on, over, and under all streets in the “Development” for the purpose of installing, maintaining and operation utilities thereon or thereunder; for the purposes of drainage control; for access to any lot or parcel; and for purposes of maintenance of said streets.
3. Emergency Vehicle Access - The emergency vehicle access, identified on the map, it must be at least twenty feet in width and have no less than a fourteen foot vertical clearance. Grantees requires that the private road consist of an all-weathered road with the ability to support a minimum of seventy-five thousand pounds.
4. Other Easements -- Any other easements shown on the map.

B. Use or Maintenance by Owners – The areas of any lot affected by the easements reserved herein shall be maintained continuously by the owner of such lot, but no structures, plantings, or other material shall be placed or permitted to remain or other activities undertaken thereon which may damage or interfere with the use of said easements for the purposes herein set forth. Improvements within such areas shall be maintained by the owner except those for which a public authority or utility company or district is responsible.

C. Liability for Use of Easements – No owner shall have any claim or cause of action against Declarant or its Licensees arising out of the exercise or nonexercise of any

easement reserved hereunder or shown on the Map except in cases of negligence. The fire departments will have no liability whatsoever for any damage arising from emergency access for fire protection of this property or adjacent property.

3. Remedies

A. Enforcement – Declarant and each person to whose benefit this Declaration inures may proceed at law or in equity to prevent the occurrence, continuation or violation of any provision of this declaration, and the court in such action may award the successful party reasonable expenses in prosecuting such action, including attorney's fees.

B. Cumulative Rights – Remedies specified herein are cumulative and any specifications of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law or in equity. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect of a violation of any provision of this declaration shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of said violation or the occurrence of a different violation.

4. Term

The provisions of this agreement, pertaining to road maintenance conditions and conditions and restrictions and easements shall affect and run with the land and shall exist and be binding upon all parties claiming an interest in the subdivision forever, or until such time as the said private roads are dedicated to and accepted for use as public streets or thoroughfares by municipal government lawfully exercising jurisdiction over said private roads.

5. Grantee's Acceptance – Each grantee or purchaser of any lot or parcel shall, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase hereof, whether from Declarant or a subsequent owner of such lot or parcel, accept such deed or contract upon and subject to each and all of the provisions of this Declaration and to the jurisdiction, rights, powers, privileges, and immunities of Declarant and of the Committee. By such acceptance such grantee or purchaser shall for himself, his heirs, personal representatives, successors and assignees, covenant, consent, and agree to and with Declarant, and to and with the Grantees and subsequent owners of each of the other lots or parcels in the Development to keep, observe, comply with, and perform all of the provisions of this Declaration.

6. Severability – Every provision of this Declaration is hereby declared to be independent of and severable from every other provision hereof. If any provision hereof shall be held by a court of competent jurisdiction to be invalid, or unenforceable, all remaining provisions shall continue unimpaired and in full force and effect.

7. Captions – Paragraph captions in this Declaration are for convenience only and do not in any way limit or amplify the terms of provisions hereof.

8. Term and Amendment – the provisions of this Declaration shall affect and run with the land and shall exist and be binding upon all parties claiming an interest in the Development. This Declaration may be amended or extended by the affirmative vote of two-thirds of the owners of all lots in the Development entitled to vote and thereafter by a majority of said owners by recording an amendment to this Declaration duly executed by the requisite number of such owners required to effect such amendment.

IN WITNESS WHEREOF, Declarants have executed this Declaration the day and year first above written.

[Redacted signature]

[Redacted signature]

NOTARY

[Redacted notary name]

