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AFTER RECORDING RETURN TO:

City Recorder (Leilani Bronson-Crelly)
P.O. Box 3040
Oregon City, Oregon 97045-0304

Map No.: 3-2E-09DD

Tax Lots: 1500 & 1800 LOT 15 & 18

Engineering File: TP99-11 (Carrington Place)

Clackamas County Official Records
Sherry Hall, County Clerk

2005-040403



\$51.00

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05/04/2005 10:47:53 AM

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\$25.00 \$5.00 \$11.00 \$10.00

MAINTENANCE COVENANT AND FIRE & EMERGENCY VEHICLE ACCESS EASEMENT

THIS MAINTENANCE COVENANT ("Agreement") is made this 1 day of April, 2005, between CJ Custom Homes, LLC, Owner of Lot 15 & 18 of Carrington Place, a duly recorded plat, Oregon City, Clackamas County, Oregon and hereby subsequently as "Owner A" and "Owner B (hereinafter referred to as "Owners")", and the CITY OF OREGON CITY, a municipal corporation of the State of Oregon formed pursuant to ORS Chapter 457 (the "City").

RECITALS

A. Owner A and Owner B are owners and developers of certain real properties located in the City of Oregon City, Clackamas County, Oregon, described on Exhibit "A" (Legal Description) attached hereto and commonly known as 19915 Sophia Court (Lot 15 of Carrington Place) ("Development A") and 19925 Sophia Court (Lot 18 of Carrington Place) ("Development B").

B. Said Lot 15 and Lot 18 shall share a private common driveway. Said driveway being common in length as measured from Sophia Court to the extents that it serves said Lot 18.

C. A 20 foot wide Private Access Easement exists over a 60-foot portion of the northerly flag portion of Lot 15 created per Recorder's Document No. 2005-029174.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners agree as follows:

1. **Fire & Emergency Vehicle Access Easement:** The Owners hereby grant a Fire & Emergency Vehicle Access Easement, to the City of Oregon City, over the 20 Foot Private Access Easement on Lot 15 created per Recorder's Document No. 2005-029174.

2. **Covenant to Maintain and Repair.** Owners shall, at their sole expense, themselves or through qualified independent contractors, at all times maintain said common driveway in safe condition and good repair, clear of all debris, and in compliance with all applicable state and local rules, regulations, and guidelines. The Owners hereby agree that no vehicles shall be parked at any time on any pavement area of said common driveway that hinders passage of Fire and Emergency vehicles or safe passage of two private vehicles. The Owners, or their representatives, shall obtain proper permits and approvals and shall notify one another 24 hours prior to any construction or repair activities for compliance with the Owners obligations under this covenant. Furthermore, the Owners hereby agree that the City may maintain said Common Driveway at no cost to the City in the event that the Owners fail to comply with this Covenant and Agreement. This Covenant and Agreement is binding to the Owners, their successors and assigns with respect to the matters described in this Agreement.

3. **Failure to Perform Covenant; Easement.** If the City determines that Owners are not in compliance with the Covenant described in Section 2, except in the case of emergency, the City or its designee shall give the Owners written notice to perform the maintenance and/or repair work specified in the notice. If such work is not performed to the City's satisfaction within thirty (30) days after the date of such notice, the Owners hereby grant to the City, their employees, independent contractors and designees the right to perform any and all work required to bring said Driveway into compliance with Section 2. The City or its designee may perform any emergency repair work, as determined by the City, without prior notice to said Owners and at no cost to the City.

OWNERS, FOR THEMSELVES AND THEIR SUCCESSORS AND ASSIGNS, AGREE THAT NONE OF THE CITY, THEIR EMPLOYEES, INDEPENDENT CONTRACTORS, ASSIGNS AND/OR DESIGNEES SHALL HAVE ANY OBLIGATION TO EXERCISE THEIR RIGHTS UNDER THIS SECTION 2 OR TO PERFORM ANY MAINTENANCE OR REPAIR OF THE DRIVEWAY, AND THAT NONE OF THEM SHALL HAVE ANY LIABILITY TO OWNER'S OR ANY OF THE OWNERS SUCCESSORS OR ASSIGNS IN CONNECTION WITH THE EXERCISE OR NONEXERCISE OF SUCH RIGHTS, THE MAINTENANCE OR REPAIR OF THE DRIVEWAY, OR THE FAILURE TO PERFORM THE SAME.

4. **Reimbursement.** If the City exercises its right to maintain or repair said Driveway pursuant to Section 2 and Section 3, the Owners shall reimburse the City for all of its costs and expenses incurred in connection therewith within thirty (30) days after receipt of an invoice. If any Owner fails to pay the invoiced amount within such period, such amount shall thereafter accrue interest at a per annum rate equal to the prime rate of U.S. Bank (or its successor) plus five percent (5%). Such amount, together with interest, shall be a lien on the Development A and/or Development B (as determined by the City) which may be foreclosed in accordance with ORS Chapter 88. If the Development A and/or Development B is owned by more than one person (i.e., multiple lot owners) then each such owner shall be jointly and severally liable for payment of the amounts provided for in this Section 3.

5X **Indemnification.** Owner A and Owner B agree to indemnify, defend (with legal counsel reasonably acceptable to the City), and hold harmless the City, their employees, independent contractors, assigns and designees harmless from and against any liability, losses, costs, expenses (including reasonable attorney fees), claims or suits arising from the Owners failure to perform its obligations under this Agreements or the exercise of the City, or their employees, independent contractors, assigns or designees of their rights under Section 4.

6X **Run with the Land.** The parties' rights and obligations contained herein shall run with the land and inure to the benefit of, and shall be binding upon, the City and the Owners and their respective successors and assigns (including, without limitation, subsequent owners of Development A and Development B).

7X **Attorney Fees.** If legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and in the appeal therefrom. The term "action" shall be deemed to include action commenced in the bankruptcy courts of the United States and any other court of general or limited jurisdiction.

8X **Authority.** If the Owner is an entity, the individual executing this Agreement on behalf of the Owner represents and warrants to the City that he or she has the full power and authority to do so and that the Owner has full right and authority to enter into this Agreement and perform its obligations under this Agreement.

X SECTION AND

LEGAL DESCRIPTION

DEVELOPMENT A

Lot 15 of Carrington Place, a duly recorded subdivision plat (Clackamas County Plat No. 3880, Book 127, Page 012), City of Oregon City, Clackamas County, Oregon

DEVELOPMENT B

Lot 18 of Carrington Place, a duly recorded subdivision plat (Clackamas County Plat No. 3880, Book 127, Page 012), City of Oregon City, Clackamas County, Oregon

EXHIBIT "A"

IN WITNESS WHEREOF, Owner A AND OWNER B and the City have executed this instrument on the date first written above.

Owner A:

(Signature)

Chad L. Forrester / Member
(printed name)

(Signature)

(printed name)

Owner B:

(Signature)

Chad L. Forrester / Member
(printed name)

(Signature)

(printed name)

THE CITY:

CITY OF OREGON CITY

By:

Name:

Title:

Attest:

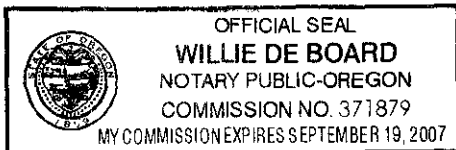
City Recorder

STATE OF OREGON)

) ss.

County of Clackamas)

This instrument was acknowledged before me on 1st of April, 2005
by and Chad L. Forrester, Member of CJ Custom Homes, LLC



Notary Public for Oregon

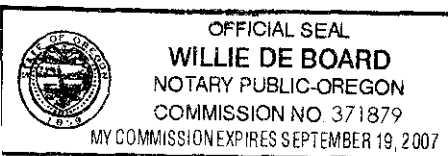
My Commission Expires 9/19/2007

STATE OF OREGON)

) ss.

County of Clackamas)

This instrument was acknowledged before me on 1st of April, 2005
and by Chad L. Forrester, Member of CJ Custom Homes, LLC



Notary Public for Oregon

My Commission Expires 9/19/2007

Pvt. DRIVE MAINTENANCE COVENANT AND
FIRE & EMERGENCY VEHICLE ACCESS EASEMT

3-2E-9DD TL 1500 & 1800

C.J. CUSTOM HOMES LLC
(CARRINGTON PLACE LOTS 15 & 18 TP 99-11)

CLACK CO. Doc. # 2005-040403
5/04/05

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