

9755428

294-00-2434

19

UTILITY EASEMENT

THE STATE OF TEXAS
COUNTY OF MONTGOMERY

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§
§

KNOW ALL PERSONS BY THESE PRESENTS:

That All Seasons Resorts, Inc., a Texas corporation, whose address is 11825 Highway 105 West, Montgomery, Montgomery County, Texas 77356 (the "Grantor"), for Ten and No/100 Dollars (\$10.00), and other good and valuable consideration to the Grantor in hand paid by Montgomery County Utility District No. 4, a body politic and corporate and a governmental agency of the State of Texas organized under the provisions of Article XVI, Section 59, Texas Constitution, whose address is April Wind South, Suite 67-B, Montgomery, Montgomery County, Texas 77356 (the "Grantee"), the receipt and sufficiency of which are hereby acknowledged and confessed, and subject to the terms and provisions set forth hereinbelow, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto the Grantee a non-exclusive right-of-way (the "Easement") for the purpose of maintaining, operating, repairing and reconstructing a sanitary sewer lift station and underground water, sanitary sewer and/or drainage utility lines, subject to the terms and provisions set forth hereinbelow under, across and through that certain 9.06 acre tract of land situated in the William Atkins Survey, A-3, Montgomery County, Texas, belonging to the Grantor, being the same 9.06 acre tract of land referenced in that certain Special Warranty Deed With Vendor's Lien recorded under Clerk's File No. 9611678 of the Official Public Records of Real Property of Montgomery County, Texas (the "Property"), the Easement being more particularly described on Exhibit "A" which is hereto and is fully incorporated herein by reference.

It is expressly provided that the Grantor expressly reserves unto the Grantor, its successors and assigns, all other rights, titles, interests and estates in and to the Property which do not unduly or unreasonably interfere with or prevent the use of the Easement granted and conveyed herein to the Grantee. Although the Easement herein conveyed is primarily an underground easement, it is expressly agreed and provided that the Grantee shall have the right to make reasonable use of the surface of the Property for the placement of surface mounted facilities and equipment appurtenant to the Grantee's sanitary sewer lift station and underground utility lines, and while constructing, installing, maintaining, repairing, altering, protecting, changing the size of, replacing, moving, removing and/or operating the sanitary sewer lift station, underground lines and appurtenances to be installed within the Easement, provided, however, that the placement or location of any such surface mounted facilities and equipment shall be mutually acceptable to both the Grantor and the Grantee. It is additionally provided that any surface mounted facilities and equipment shall be placed or located so as to minimize interference with the use and resort appearance of the surface of the Property by the Grantor, its successors and assigns.

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The Easement hereby granted is non-exclusive, and the Grantor, its successors and assigns, shall have the right from time to time to grant further easements over, across, through and under the Property for any lawful purpose, provided that the holder of any such easement does not unduly or unreasonably interfere with the Easement rights herein granted.

Without limiting the foregoing, the Grantor reserves the right, at its sole cost and expense, to place, construct, lay, maintain, protect, operate, repair, alter, change the size of, substitute, replace, move and remove at anytime and from time to time along, on, over, through, across, above, below or upon the Property as many pipelines, fences, electric light and power poles, gas lines, roads, streets, sidewalks, parking lots, driveways, drainage lines, pipes and passageways, as the Grantor, as the owner of the Property, may desire, provided, however, that such use by the Grantor, its successors and assigns, does not unduly or unreasonably interfere with the Easement rights herein granted.

TO HAVE AND TO HOLD the Easement, together with all and singular the rights and appurtenances thereto in anywise belonging, including all necessary rights of ingress, egress and regress, unto the Grantee, its successors and assigns, forever, and (subject to the Permitted Exceptions (as defined hereinbelow)) the Grantor does hereby bind the Grantor, its successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the Easement unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through and under the Grantor but not otherwise, subject, however, to the terms, provisions, conditions and limitations set forth herein and those certain matters more particularly described on Exhibit "B" which is attached hereto and is fully incorporated herein by reference.

The Grantee, acting herein by and through the President of its Board of Directors, duly and lawfully called and convened, joins in the execution hereof for purposes of evidencing its acceptance of the Easement and its agreement on behalf of itself, its successors and assigns, with all of the terms, provisions, conditions and limitations set forth herein.

Colony Place Co-Owners Association, Inc., a Texas non-profit corporation, as the council of owners for Colony Place, a condominium regime created by that certain Condominium Declaration Colony Place recorded under Clerk's File No. 8309487, Film Code Reference No. 187-01-0809 of the Official Public Records of Real Property of Montgomery County, Texas, as amended, modified, restated and/or supplemented from time to time, hereby joins in this instrument for the sole purpose of (a) consenting to and ratifying the Easement herein granted, and (b) subordinating the foregoing declaration to the Easement herein granted, but not otherwise, there being absolutely no warranties or representations given or made herein by said entity.

BY: *Robert M. Eckhardt*
Name: ROBERT M. ECKHART
Title: ATTORNEY AT LAW

Colony Place Co-Owners Association, Inc.
a Texas non-profit corporation

Consented to by:

BY: *Sharon L. Murphy*
Name: SHARON L. MURPHY
Title: THE PARTNER

All Seasons Resorts, Inc.
a Texas Corporation

GRANTOR:

Executed as of the 19th day of June 1997

This instrument shall be governed by Texas law

This instrument supersedes and replaces that certain conveyance instrument in favor of the grantee recorded under Clerk's file No. 904553 of the Official Public Records of Real Property of Montgomery County, Texas (the "Conveyance Instrument"), to the extent, and only to the extent, the conveyance instrument purports to convey any easement rights in and to the property as contemplated by this instrument, but not otherwise. In all other respects, however, the conveyance instrument is ratified.

being absolutely no warranties or representations being given or made herein by said entity.
declaration to the easement herein granted, but not otherwise, there the easement herein granted, and (b) subordinating the foregoing instrument for the sole purpose of (a) consenting to and ratifying and/or supplemented from time to time, hereby joins in this property of Montgomery County, Texas, as amended, modified, restated Reference No. 162-00-1055 of the Official Public Records of Real On The Lake Resort recorded under Clerk's file No. 9632539, Film Code restrictions for Colony Place Interval Ownership Plan known as Villas regime created by that certain Timeshare Declaration of Covenants and as the council of owners for Villas On The Lake Resort, a timeshare VOL Owners Association, Inc., a Texas non-profit corporation,

294-00-2436

294-00-2437

VOL Owners Association, Inc.,
a Texas non-profit corporation

By: *Robert M. Eckenvoth*
Name: ROBERT M. ECKENVOTH
Title: SECRETARY / TREASURER

Accepted by:

Montgomery County Utility District No. 4

By: *William F. Cohn* **MHA**
Name: William F. Cohn
Title: President, Board of Directors

RECORDER'S MEMORANDUM
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

THE STATE OF ARIZONA TEXAS §
COUNTY OF Montgomery §

This instrument was acknowledged before me on the 19th day of June, 1997, by Assent Murphy, as Vice President of All Seasons Resorts, Inc., a Texas corporation, on behalf of said corporation.



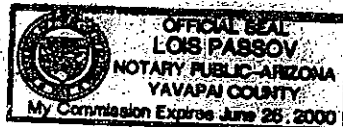
Paula Jean Hargis
Notary Public in and for
The State of ~~Arizona~~ TEXAS

THE STATE OF ARIZONA §
COUNTY OF Yavapai §

This instrument was acknowledged before me on the 20th day of July, 1997, by Robert M. Eckenvoth, as Secretary / Treasurer of Colony Place Co-Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.

Lois Passov
Notary Public in and for
The State of Arizona

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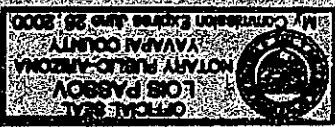
Paula Jean Harbais
Notary Public in and for
The State of Texas



This instrument was acknowledged before me on the 19th day of June, 1997, by William F. Cohn, as President of Montgomery County Utility District No. 4, on behalf of said DISTRICT.

THE STATE OF TEXAS
COUNTY OF Tarrant

Lois Passov
Notary Public in and for
The State of Arizona



This instrument was acknowledged before me on the 20th day of July, 1997, by Robert W. Eckman, as Secretary/Treasurer of VOI Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.

THE STATE OF ARIZONA
COUNTY OF Maricopa

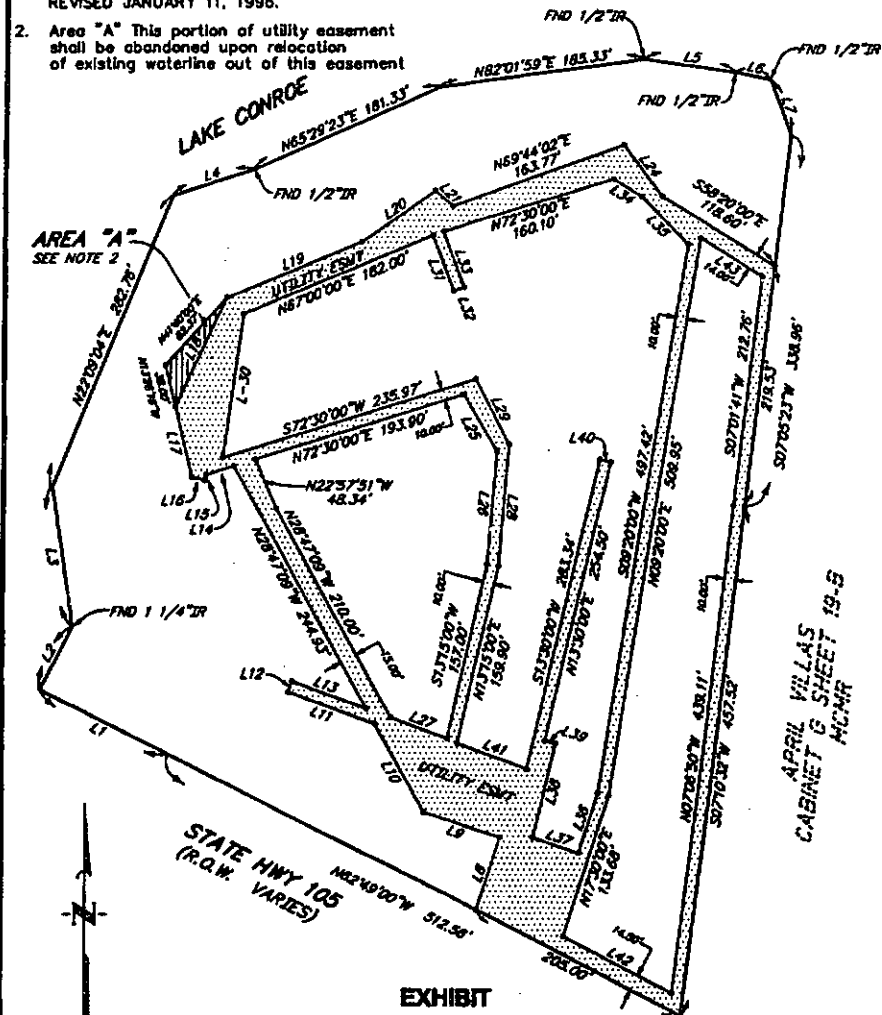
294-00-2438

294-00-2439

NOTE:

- BOUNDARY CALLS BASED ON 9.06 ACRES SURVEY PREPARED BY KEN POWERS, REVISED JANUARY 11, 1996.
- Area "A" This portion of utility easement shall be abandoned upon relocation of existing waterline out of this easement

EXHIBIT "A"
PAGE 1 OF 2



NORTH
SCALE: 1" = 100'

- LEGEND:**
- PFC POINT FOR CORNER
 - BRS BEARS
 - MCMR MONTGOMERY COUNTY MAP RECORDS
 - ROW RIGHT-OF-WAY
 - IR IRON ROD
 - IP IRON PIPE
 - ESMT EASEMENT

EXHIBIT OF COLONY PLACE CONDOMINIUMS UTILITY EASEMENT
BEING PART OF COLONY PLACE RECORDED IN CABINET 1 SHEET 84A OF THE CONDOMINIUM RECORDS OF MONTGOMERY COUNTY WILLIAM ATKINS SURVEY, A-3 MONTGOMERY COUNTY, TEXAS JANUARY 1996

JONES & CARTER, INC.
Consulting Engineers
6200 Colham Dr., Suite 220 Houston, Texas 77051 (713) 777-6227

Revised: July 14, 1997

294-00-2440

EXHIBIT "A"
Page 2 of 2

LINE TABLE

L1	N 63°42'53" W	127.64'
L2	N 27°27'33" E	62.42'
L3	N 08°26'03" W	126.10'
L4	N 71°33'00" E	76.72'
L5	S 81°58'59" E	82.67'
L6	S 79°05'06" E	31.77'
L7	S 19°53'31" E	53.21'
L8	N 17°30'00" E	69.14'
L9	N 71°30'00" W	71.98'
L10	N 28°47'09" W	90.06'
L11	N 70°00'00" W	81.00'
L12	N 20°00'00" E	10.00'
L13	S 70°00'00" E	69.59'
L14	S 72°30'00" W	26.00'
L15	S 13°00'00" W	5.00'
L16	N 77°00'00" W	11.76'
L17	N 13°26'18" W	64.48'
L18	N 25°00'01" E	108.67'
L19	N 67°00'00" E	129.81'
L20	N 64°20'00" E	80.03'
L21	S 48°35'18" E	21.25'
L22		
L23		
L24	S 36°15'42" E	67.66'
L25	S 30°27'36" E	58.99'
L26	S 05°00'00" W	101.78'
L27	N 70°00'00" W	53.21'
L28	N 05°00'00" E	109.34'
L29	N 26°45'00" W	65.85'
L30	N 08°09'09" W	130.89'
L31	S 20°30'00" E	53.46'
L32	N 69°30'00" E	10.00'
L33	N 20°30'00" W	53.66'
L34	S 68°20'00" E	30.00'
L35	S 44°00'00" E	59.47'
L36	S 17°30'00" W	58.88'
L37	N 71°15'00" W	43.26'
L38	N 13°30'00" E	87.00'
L39	N 76°30'00" W	10.00'
L40	N 76°30'00" W	10.00'
L41	N 70°00'00" W	66.01'
L42	N 62°49'00" W	109.00'
L43	S 58°20'00" E	64.00'

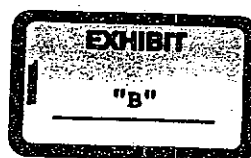
FILMERS MEMORANDUM
At the time of reproduction, this instrument
was found to be inadequate for the best
photographic reproduction.

MGHLINEBL J25

Revised July 14, 1997

294-00-2441

1. That certain Condominium Declaration Colony Place recorded under Clerk's File No. 8309487 of the Official Public Records of Real Property of Montgomery County, Texas, as modified and amended by (a) that certain First Amendment to Condominium Declaration Colony Place recorded under Clerk's File No. 9632538 of the Official Public Records of Real Property of Montgomery County, Texas, and (b) that certain Second Amendment to Condominium Declaration Colony Place recorded under Clerk's File No. 9666448 of the Official Public Records of Real Property of Montgomery County, Texas, said declaration having been subordinated to the herein granted easement.
2. The map or plat dedication recorded in Cabinet 1, Sheet 84-A et seq., of the Condominium Map Records of Montgomery County, Texas.
3. Subject to the rights and easements in certain gullies, low lying areas, arms or inlets granted to the San Jacinto River Authority by those instruments recorded in Volume 710, Page 5; Volume 710, Page 11; Volume 716, Page 707; and Volume 716, Page 702 of the Official Public Records of Real Property of Montgomery County, Texas.
4. An undivided 1/32nd non-participating royalty interest in and to all the oil, gas and other minerals on, in, under or that may be produced from the subject property is excepted herefrom as the same are reserved by Melvin K. Weisinger and wife, Gladys Weisinger, by that certain instrument recorded in Volume 329, Page 55 of the Official Public Records of Real Property of Montgomery County, Texas.
5. An undivided 1/32nd non-participating royalty interest in and to all the oil, gas and other minerals on, in, under or that may be produced from the subject property is excepted herefrom as the same are reserved by Lee Signor and wife, Ruth T. Signor, by that certain instrument recorded in Volume 533, Page 392 of the Official Public Records of Real Property of Montgomery County, Texas.
6. An undivided 1/32nd non-participating royalty interest in and to all the oil, gas and other minerals on, in, under or that may be produced from the subject property is excepted herefrom as the same are reserved by Charles Edward Signor, by that certain instrument recorded in Volume 571, Page 399 of the Official Public Records of Real Property of Montgomery County, Texas.
7. The easement granted herein is supplemental or supplementary to that certain Conveyance of Utility Facilities dated September 13, 1990, recorded under Clerk's File No. 9045553 of



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the Official Public Records of Real Property of Montgomery County, Texas, executed by Colony - Conroe Associates, Inc. in favor of Montgomery County Utility District No. 4.

8. As to Condominium Unit No. 1005, Building No. 10 only: Acknowledgement of Encroachment recorded under Clerk's File No. 8361720 of the Official Public Records of Real Property of Montgomery County, Texas.
9. Subject to the provisions, restrictions and qualifications as set forth in Order by the Texas Water Quality Board, dated November 20, 1970, establishing a water quality zone around Lake Conroe Reservoir, a copy of which order is recorded in Volume 741, Page 445 of the Official Public Records of Real Property of Montgomery County, Texas.
10. That certain five foot (5') foot utility easement along the easterly property line of the subject property as reflected in the map or plat dedication recorded in Cabinet 1, Sheet 84-A et seq., of the Condominium Map Records of Montgomery County, Texas, as said plat may be modified, amended and replatted from time to time, and as specifically depicted in the survey plat dated February 15, 1996, by Ken Powers, Registered Professional Land Surveyor No. 3484.
11. That certain Utility Easement and Covenant of Access in favor of Mid-South Electric Cooperative Assn., recorded under Clerk's File No. 9671136, Film Code Reference No. 210-00-1071 of the Official Public Records of Real Property of Montgomery County, Texas.
12. That certain forty foot (40') wide easement for future road along the most southeasterly corner of the subject property as reflected in the map dedication recorded in Cabinet 1, Sheet 84-A et seq., of the Condominium Map Records of Montgomery County, Texas, as said plat may be modified, amended and replatted from time to time, and as specifically depicted in the survey plat dated February 15, 1996, by Ken Powers, Registered Professional Land Surveyor No. 3484.
13. That certain Timeshare Declaration of Covenants and Restrictions for Colony Place Interval Ownership Plan known as Villas On The Lake Resort recorded under Clerk's File No. 9632539 of the Official Public Records of Real Property of Montgomery County, Texas, said declaration having been subordinated to the herein granted easement.

Return To:
Schwartz Page & Harding L.L.P.
1300 Post Oak Blvd. Ste 1400
Houston, Texas 77056

FILED FOR RECORD
97 SEP -2 PM 3:48

MARK TURNBULL, CO. CLERK
MONTGOMERY COUNTY, TEXAS

DEPUTY

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.

SEP 2 1997



Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS