



MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding dated as of May 13, 2004, between the Cat Mountain Homeowners Association, 6007 Mt. Bonnell Drive, Austin, TX 78731 (the "Association"), and Bill C. and Vivian Pittman, 4805 Fern Hollow, Austin, TX 78731 (the "Pittmans")

WHEREAS, the Pittmans are the owners of Lot 23, Block A, Cat Mountain Villas Section Two, as shown in the Plat recorded in Volume 76, page 97, Plat records of Travis County, Texas (the "Pittmans Lot"); and

WHEREAS, adjoining the ~~north~~ ^{west} and ~~west~~ ^{south} sides of the Pittmans Lot is Common Area 43, Cat Mountain Villas Section 2, a subdivision in Travis County, Texas, according to the Plat recorded in Volume 76, page 97, Plat Records of Travis County, Texas (the "Common Area");

WHEREAS, the Pittmans have installed certain improvements in the Common Area, consisting of a wood fence and a corner of a storage shed, as shown on Exhibit "A" attached hereto and incorporated herein (the "Improvements");

NOW THEREFORE, to memorialize certain matters with respect to the status of and maintenance of the Improvements, the Association and the Pittmans enter into this Memorandum of Understanding:

1. This Memorandum of Understanding is not intended to expand or diminish the rights and obligations of either the Pittmans or the Association under the Declarations of Covenants, Conditions, and Restrictions filed of record in Volume 5017, Page 1440, Volume 6455, Page 2288, and Volume 8275, page 118, and all amendments

filed of record on October 3, 1983, in Volume 8275, pages 118 through 144, of the Deed Records of Travis County, Texas (the "Declaration").

2 The Pittmans acknowledge that at all times the sole and exclusive ownership of the Improvements on the Common Area will reside in the Association. To the extent the Pittmans have borne the cost of the Improvements, they make a donation thereof to the Association. The Pittmans agree that the Association may require the Pittmans, at the Pittmans' sole cost and expense upon not less than thirty (30) days notification in writing, to modify the wood fence on the Common Area by installing a gate in it so as to provide access from the Common Area to the portion thereof that is enclosed by the wood fence.

3. In consideration of the donation, the Association grants the Pittmans permission to enter upon the Common Area for the purpose of maintaining the Improvements.

Upon not less than thirty (30) days written notice by the Association to the Pittmans, the Association may revoke this grant of permission:

- a. if any portion of the Common Area is adversely affected by the Pittmans' conduct in maintaining the Improvements;
- b. if the Pittmans fail to comply with any other obligation placed upon them by this Memorandum of Understanding;
- c. if the Pittmans abandon maintenance of the Improvements; or
- d. for other good cause.

The written notice by the Association to the Pittmans under this Paragraph 3 shall identify the circumstances that the Association considers constitute the basis for

revocation and be sent by certified mail. The Pittmans shall have a period of thirty (30) days, from the initial delivery of the Association's notice, to cure and correct the matters set forth in the notice. If the Pittmans attempt a cure/correction, the Association shall advise the Pittmans in writing whether or not the same is sufficient to reverse the revocation. Upon revocation of the permission granted to the Pittmans under this Paragraph 3, the Association at its sole discretion may remove the Improvements encroaching on the Common Area at its cost and expense.

4. The Pittmans shall assume all costs and expense of maintaining the Improvements and shall have no right of reimbursement from the Association for either the costs of or expense of maintenance or the value of the Pittmans' labor in maintaining the Improvements. The Pittmans may voluntarily discontinue performing maintenance at any time and such discontinuance shall not result in any liability of the Pittmans to the Association, nor shall it create any responsibility on the part of the Association to perform maintenance on the improvements. The Association may, however, treat such discontinuance of maintenance by the Pittmans as an abandonment of maintenance for purposes of Paragraph 3 hereof.

5 Without in anyway limiting the generality of Paragraph 1 hereof, it is expressly understood that the donation of the Improvements and the Pittmans' maintenance of the Improvements shall neither increase nor decrease the Pittmans' voting rights in the Association or property interests in the Common Area nor affect the Pittmans' rights or obligations with respect to the payment of any assessments or fees lawfully made by the Association, and the Pittmans may not claim credit or offset for the value of the donation or performance of any of the maintenance.

6 THE PITTMANS ASSUME ALL RISK AND RESPONSIBILITY WITH RESPECT TO THEIR ACTIVITIES IN MAINTAINING THE IMPROVEMENTS. THE PITTMANS AGREE TO INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION (INCLUDING ALL COST AND EXPENSES OF LITIGATION AND ATTORNEY FEES), FOR INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO PROPERTY, ARISING FROM OR IN CONNECTION WITH THE PITTMANS' INSTALLATION OF THE IMPROVEMENTS AND THEIR MAINTENANCE OF THE IMPROVEMENTS, TO THE EXTENT SUCH CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY ARE CAUSED BY THE ACTS OR OMISSIONS OF THE PITTMANS OR THEIR AGENTS.

7. The terms, covenants and conditions of this Memorandum of Understanding shall run with the land and inure to the benefit of and be binding upon the Pittmans' successors and assigns who at any time hold an ownership interest in Lot 23, Block A, Cat Mountain Villas Section Two, as shown in the Plat recorded in Volume 76, page 97, Plat Records of Travis Count , Texas. The Pittmans agree to apprise any prospective purchaser of the Pittmans' Lot of the existence of this Memorandum of Understanding.

8. This Memorandum of Understanding will be construed under the laws of the State of Texas, with out regard to the choice-of-law rules of any jurisdiction. Venue is in Travis Count, Texas.

9. It shall not constitute a waiver of or consent to default if the non-defaulting party fails to declare immediately a default or delays in taking action. Pursuit of any remedy set forth in this Memorandum of Understanding does not preclude pursuit of any other remedies in this document or provided by law or equity.

10. The terms of this Memorandum of Understanding cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations or warranties that are not expressly set forth in this document. This document will not be construed more or less favorably between the parties by reason of authorship or origin of language.

EXECUTED AS OF THE DATE FIRST GIVEN ABOVE.

CAT MOUNTAIN HOMEOWNERS
ASSOCIATION, INC.

By: 

DAVISON W. GRANT
PRESIDENT


BILL C. PITTMAN


VIVIAN PITTMAN

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day appeared Davison Grant, in his capacity as President of Cat Mountain Home Owners Association, Inc., who acknowledged to me that he executed same for the purposes and consideration therein expressed.

SIGNED this 13th day of May, 2004.



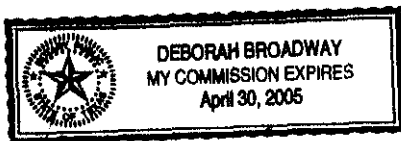
Deborah Broadway
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
PRINTED NAME: Deborah Broadway
My Commission Expires: 4-30-05

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day appeared Bill C. Pittman, who acknowledged to me that he executed same for the purposes and consideration therein expressed.

SIGNED this 13th day of May, 2004.



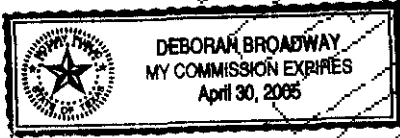
Deborah Broadway
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
PRINTED NAME: Deborah Broadway
My Commission Expires: 4-30-05

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day appeared Vivian Pittman, who acknowledged to me that she executed same for the purposes and consideration therein expressed.

SIGNED this 13th day of May, 2004.



Deborah Broadway
NOTARY PUBLIC IN AND FOR

THE STATE OF TEXAS

PRINTED NAME: Deborah Broadway

My Commission Expires: 4.30.05

After filing return to:

Arnold and Associates, P.C.
406 Sterzing Street
Austin, Texas 78704

SURVEY PLAT OF

4805 FERN HOLLOW, AUSTIN, TEXAS 78731

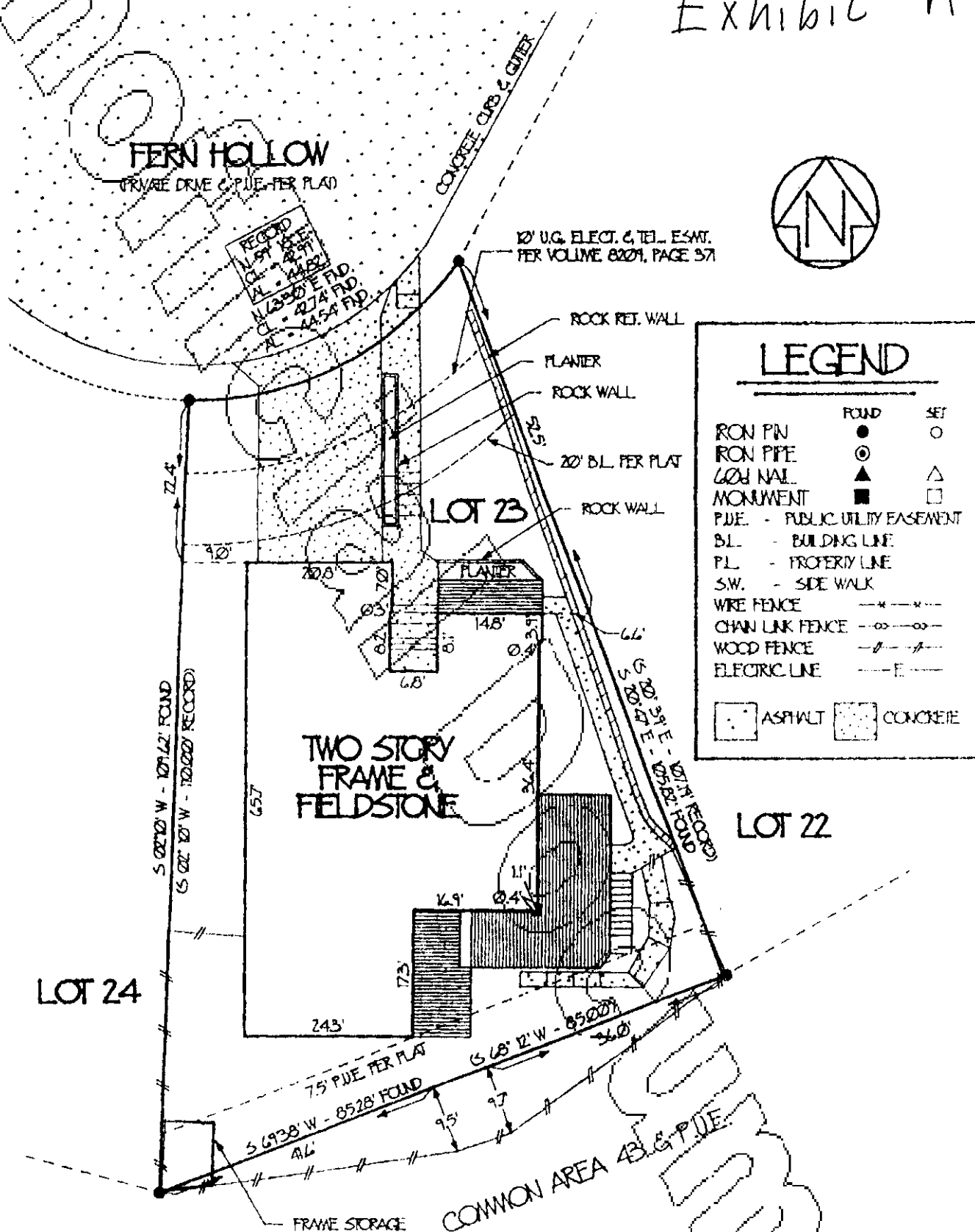
LEGAL DESCRIPTION:

LOT 23, BLOCK A, CAT MOUNTAIN VILLAS, SECTION TWO, AN ADDITION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 76, PAGE 97, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

REFERENCE:

BILL PITTMAN

Exhibit "A"



NOTES:

1. This property is in ZONE "C" of the F.E.M.A. Flood Insurance Rate Map for the City of Austin, Texas, Community Panel No. 480624 0070 B, dated September 2, 1981.
2. The drainage on this lot is such that under normal conditions the water will drain away from the house and off the lot.
3. Restrictive Covenants and easements recorded in Volume 5077, Page 1440; Volume 5365, Page 2205; and Volume 6064, Page 1018, Deed Records, Volume 8275, Page 118; Volume 8275, Page 158; and Volume 10615, Page 515, Real Property Records and Book 76, Page 97, Plat Records of Travis County, Texas affect this lot.
4. This survey prepared without aid of title commitment.

THE STATE OF TEXAS
COUNTY OF TRAVIS

TO THE OWNERS OF THE PREMISES SURVEYED

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and to the best of his information, knowledge and belief is correct, and that there are no discrepancies, conflicts, shortage in area, line or roads in place, except as shown hereon, and that said property has access to and from a dedicated roadway, except as shown hereon.

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT

Point-Line Services

[Handwritten signature]

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2005 Feb 23 09:10 AM 2005029159

LONDAGINB \$30.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS