

STATE OF OREGON }
County of Washington } 88

After recording return to:
Beton Construction, Inc,
15167 Brook Court
Lake Oswego, Oregon 97035

I, Jerry B. Hanson, Director of Assessment and Taxation and Ex-Officio County Clerk for said county, do hereby certify that the within instrument of writing was received and recorded in book of records of said county.


Jerry B. Hanson, Director of Assessment and Taxation, Ex-Officio County Clerk

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**ROAD MAINTENANCE AGREEMENT FOR Tract "A",
RIVENDELL**

**AS RECORDED IN BOOK 117, PAGES 31, 32, 33 & 34
PLAT RECORDS FOR WASHINGTON COUNTY**

WHEREAS, Beton Construction, Inc. desires to dedicate a private roadway known as SW NEPTUNE LANE, SW NEPTUNE TERRACE AND SW NEPTUNE COURT, herein called Tract "A" within Rivendell to lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Rivendell.

WHEREAS, Lots 1 through 13 in Rivendell abut and are benefited by the private roadway known as Tract "A" in the County of Washington, State of Oregon; and

WHEREAS, TRACT "A" is owned by lots 1 through 13 in Rivendell and share a one-thirteenth undivided interest in Tract "A"; and

WHEREAS, The private roadways are not a part of the Washington County road system; and

WHEREAS, The owners of lots 1 through 13 in Rivendell will be desirous of providing for the proper maintenance of the private roadway; hereinafter referred to as "private roadway" and to delegate authority for maintenance.

NOW, THEREFORE, it is hereby agreed:

- (1) By acceptance of the deed to property within said Rivendell, whether or not it shall be so expressed in such deed or other conveyance, the grantee shall become a party to this agreement. Such grantees are hereinafter referred to as "owners". The consideration for this agreement is the mutual promises of the owners to share in the cost of maintenance of said private roadway.
- (2) The owners of lots 1 through 13 in Rivendell hereinafter called "affected owners" shall meet at 7:00 p.m. on the first Tuesday in June of each year to elect a chairperson and review the condition of the private roadway and discuss any maintenance needs and costs.

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- (3) The affected owners shall be entitled to one vote per lot in decision regarding the maintenance of the private roadway, the election of a chairperson, or changes to this agreement; except, however, in the case of a tie vote, the existing chairperson shall be entitled to two votes.
- (4) At the meeting held each year, the affected owners shall elect a chairperson to represent the affected owners in all matters regarding maintenance of the private roadway for the coming year. The private roadway shall be maintained to a standard appropriate for all-weather paved roads.
- (5) The quantity and quality of the work to be performed on the private roadway shall be determined by a majority vote of the affected owners in accordance with paragraph (3) above.
- (6) The costs of road repairs shall be apportioned equally among the affected owners on a per lot basis regardless of frontage, location, or improvements. If an individual owner shall cause the roadway to be damaged, that owner shall be solely responsible for the entire cost of repairing the road to the satisfaction of the other owners within thirty calendar days of the damage.
- (7) An undivided one-thirteenth interest in said Private roadway is hereby attached to each of the twelve lots 1 through 13 in Rivendell and title to each undivided one-thirteenth interest shall pass with each transfer of each lot.
- (8) Enforcement of this agreement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate this private roadway agreement, either to restrain violation or to recover damages. In case suit or action or request for arbitration is instituted, the prevailing party shall be entitled to all costs and expenses, including reasonable attorney fees, at trial and upon appeal. The chairperson, at his or her discretion, may file a statement of claim with an arbitration service. In this event, the decision of the arbitrator shall be binding upon the parties and the fee for the arbitrator shall be borne equally by the parties unless the arbitrator determines that the fee should be borne unequally and allocates the fee. In the event of a violation or attempted violation of this private Roadway agreement, the chairperson shall also be entitled to recover all costs and expense, including reasonable attorney's fees that shall arise from enforcing any provision of this Agreement even though no suit or action or request for arbitration is instituted.
- (9) The owners of the thirteen lots shall share equally on a per lot basis in the liability of the private roadway area. Each owner shall obtain homeowner's liability insurance which includes all risks arising directly or indirectly out of the public use of the roadway area at a level determined by a majority vote of the affected owners. The owners may, by their majority vote, carry a single insurance policy which covers all of them against liability out of public use of the roadway area, sharing the cost equally among them, if such insurance is available and desirable.
- (10) The chairperson shall be empowered to borrow monies where necessary to complete road maintenance and to pay interest at a reasonable rate for such sums as are borrowed.
- (11) Within twenty days after the expenditure of such sums, the chairperson shall send a written notice to each affected owner setting forth their share of the bill. The amount billed shall be due and payable within thirty days thereafter. And if it is not so paid the chairperson may prepare a notice entitled "lien notice" setting forth the legal description of the property for which an assessment has not been paid, name of the owners or reputed owners, the date of the assessment, and the amount thereof. Said Lien notice, over the

chairperson's signature, shall then be recorded in the Lien notices in Washington County and shall constitute a lien on the described premises for a period of one year. The chairperson shall make charges for interest on any amounts unpaid under this agreement at the rate of 1-1/2% per month (or portion thereof) or at the maximum rate permitted under any applicable law for past-due obligations, whichever is less.

- (12) During the period of the year the chairperson may, after having given ten days written notice, institute proceedings to foreclose the lien as provided under ORS 87.060 in the State of Oregon. Said foreclosure shall provide for the costs of filing the lien, attorney's fees and such legal fees as is necessary for the prosecution of the cause. During the one year period the affected owners may, over the signature of the chairperson, sue for the assessment without foreclosure and in such suit shall be entitled to costs and reasonable attorney's fees.
- (13) Invalidaton of any provisions of this private roadway Agreement by judgment or court order shall in no way effect any of the other provisions of this Agreement, which shall remain in full force and effect.

WETLAND MAINTENANCE

- (1) Waste water, chemical fluids (e.g. household cleaners, automotive waste) animal waste, garbage and/or yard debris (i.e. tree shrubs, or grass clippings or mulch, leaves) shall not be disposed of, placed or stored in wetlands or any buffer areas.
- (2) The wetlands and buffer areas shall remain free of invasive plant species Himalayan Blackberry (*Rubus discolor*) and English Ivy (*Rexera helix*). The Association shall remove such plants therefrom without chemical means.
- (3) Chemical fertilizers, pesticides and herbicides shall not be used in the wetlands or buffer areas.
- (4) Planting in wetlands or buffer areas shall be restricted to native plants, reviewed by a qualified wetland scientist and approved by the Oregon Division of State Lands and City of Beaverton.
- (5) Modification of the wetlands (fill and/or excavation) will require a permit from the US Army Corps of Engineers and Oregon Division of State Lands.
- (6) Modification of the wetland buffer (fill/or excavation) will require approval from the City of Beaverton and/or the United Sewerage Agency.

THIS AGREEMENT shall be deemed a covenant running with the land and is binding upon the owners of lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 in the Rivendell subdivision, their heirs, successors, and assigns.

IN WITNESS WHEREOF, the owner or owners of all of the above described lots signed this Agreement on the date and year set forth below.

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Kara Shakerin
Kara Shakerin, VP
Beton Construction, Inc.

4/17/98
Date

STATE OF OREGON)
COUNTY OF CLACKAMAS)

Personally appeared the above named Kara Shakerin and acknowledged the foregoing instrument to be his voluntary act and deed.

Gail Russell
Notary Public State of Oregon
My Commission Expires 5-1-99

