

264-01-0504

8415198

AGREEMENT

REAL PROPERTY RECORDS

THE STATE OF TEXAS)
COUNTY OF MONTGOMERY)

AGREEMENT made this 30 day of, MARCH, 1984,
between TERRAFORM, INC., a Texas Corporation, whose
registered office address is 5400 North Belt East, Houston,
Harris County, Texas 77032, hereinafter referred to as
"Developer," and CARRIAGE HILLS COMMUNITY IMPROVEMENT
ASSOCIATION, INC., a Texas non-profit corporation, whose
registered office address is 1107 Carriage Hills Blvd.,
Conroe, Montgomery County, Texas 77384, hereinafter referred
to as "Association":

Recitals

WHEREAS, Developer in connection with the development
of Carriage Hills, Sections I, II, and III, a subdivision in
Montgomery County, Texas, according to maps or plats thereof
recorded in the office of the County Clerk of Montgomery
County, Texas, hereinafter referred to as "Subdivision", did
duly record certain Dedication of Restrictions by reference
incorporated herein, and, hereinafter referred to as
"Restrictions," in the Deed Records of Montgomery County,
Texas, under County Clerk's File No 7853400, in Vol. 1107,
Pages 309-319, on December 19, 1978;

WHEREAS, Developer did on July 24, 1981, incorporate
the Carriage Hills Community Improvement Association, Inc.,
as a Texas non-profit corporation with rights, powers,
obligations and duties more specifically set out in said
Restrictions;

WHEREAS, on April 28, 1983, pursuant to the
requirements set out in said Restrictions, Developer held a
properly requested and called election of a Board of
Directors to be comprised of lot owners of the subdivision
to replace the initial Board of Directors composed of
Developer personnel and/or employees;

WHEREAS, at such election, Robert Higgs, on behalf of

264-01-0505

Developer's initial Board of Directors did officially submit said Board's resignations which were accepted upon tender, and a new Board of Directors for the Association consisting of lot owners within the Subdivision were duly elected, to-wit: Paul Schwartz, Victor Vidler and Steve LaCaze who were present, accepted the office of director and immediately took over their duties as Directors effective upon election.

WHEREAS, Developer, "Declarant" in said Restrictions, desires to formally transfer and assign to the Association and its new Board of Directors all the rights, powers, duties, and obligations as more fully set out in said Restrictions along with all monies imposed and collected by Developer as maintenance assessments and held by Developer in a maintenance fund account pursuant to the aforesaid Declaration of Restrictions, and to further deed to the Association by General Warranty Deed the swimming pool site and tennis court site located in the subdivision together with all improvements thereon as well as deliver a Bill of Sale conveying all personal property thereon;

WHEREAS, Developer desires to be completely released from the responsibility concerning fixing and imposing assessments, collecting and managing the Maintenance Fund, enforcing its lien for unpaid assessments, taking legal action for violations of covenants and restrictions, and further to assign its rights to approve or disapprove plans and specifications, location of structures, construction contracts and all other documents or approvals required as its duties in the subdivision according to all plans and specifications as submitted and agreed to with third parties, said plans and specifications being by reference incorporated herein, have been substantially performed, SAVE AND EXCEPT FOR maintaining the roads in Sections II and III during the one-year maintenance period as required by Montgomery County before said county takes the roads into

264-01-0506

the County Maintenance System;

WHEREAS, the Association desires to completely assume the rights, powers, duties and obligations given to it in the Restrictions and accept the full management, control and enforcement of the Maintenance Fund assessments and fully release Developer from all claims or causes of action which may exist or may arise out of Developer's obligations to construct or maintain any further improvements in and to the Subdivision, SAVE AND EXCEPT maintenance of the road system in Sections II and III during the one-year maintenance program;

NOW THEREFORE, for and in consideration of the mutual promises, covenants, and agreements hereinafter set forth, Developer and Association have agreed and do agree as follows:

1. Developer hereby transfers and assigns to Association all its rights, powers, duties and obligations as set out in the Declaration of Restrictions, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference for all intents and purposes, including but not limited to items 17-29 concerning the Maintenance Fund management and control, voting rights, enforcement of liens, and proper functions of the Board of Directors as authorized in said Restrictions.

2. Developer confirms and ratifies by signature hereto the previous resignation of its personnel and/or employees from the Board of Directors of the Association effective April 28, 1983.

3. Developer has heretofore delivered to Association all the remaining Maintenance Fund monies collected and held by Developer in the Bank of Harris County, Houston, Texas, Account # 0-0028-241, and being in the amount of \$23,714.52, along with all bank statements, cancelled checks and deposit receipts for said account as an accounting for the receipt

264-01-0507

and disbursement of said funds. Association hereby ratifies acceptance of such amount and the supporting documentation and gives Developer release for same herein.

4. (a) Developer agrees to continue to maintain or cause the maintenance of the roads in Sections II and III of Carriage Hills Subdivison during the one (1) year maintenance period as required by Montgomery County before accepting the roads into its County System, such maintenance on said roads to be performed in a manner which will make said roads acceptable to the County at the end of said one-year period, and Association hereby agrees to pay Developer or its agent for such maintenance work completed upon presentment of an itemized statement for same; provided however, Developer shall obtain the authorization of the Board of Directors of Association prior to commencing any such maintenance work by submitting to them a written estimate of the work to be done, materials to be used, labor necessary for the proposed job, and costs for same for their approval.

(b) Further, it is agreed and understood that prior to acceptance of the roads by Montgomery County, an inspection will be made by its authorized representative. Upon receipt of the list of repairs required by Montgomery County, Developer shall submit same along with its bid for completion of the work. The Association shall have ten (10) working days from the receipt of the repair list and bid to review same, and, if the Association deems it appropriate, to solicit bids from third parties. At the expiration of the ten (10) day period the Association shall notify Developer, in writing, that Developer is authorized to commence work or that the Association has elected to contract with a third party for completion of the work. In the event the Association elects to contract with a third party, the Association shall, and by these presents does hereby

264-01-0508

indemnify and hold Developer harmless from any and all claims and chases in action resulting from Montgomery County's refusal to accept the road system in Carriage Hills Sections II and III, including but not limited to claims which may be asserted against Developer's Bond previously placed with the County Judge of Montgomery County, Texas.

5. Contemporaneously with the execution of this document, Developer shall convey to the Association by General Warranty Deed the pool site and tennis court site together with all improvements thereon, said pool site and tennis court site being more particularly described in Exhibit "B" and Exhibit "C", which are attached hereto and incorporated herein by reference for all intents and purposes. Further, Developer shall execute its Bill of Sale conveying all personal property located thereon together with an assignment of any and all warranties related to same. Developer further covenants and warrants that all debts to mechanics and materialmen for work performed on the improvements and/or personal property related to the pool site and tennis court site have been paid in full.

6. Association hereby acknowledges receipt of the Maintenance Fund monies, bank statements, cancelled checks and deposits for same, the books and records related thereto, and assumes all rights, powers, duties and obligations under the Dedication of Restrictions attached hereto, and by these presents hereby RELEASES AND DISCHARGES, Terraform, Inc., its officers, directors, employees, shareholders, agents, successors and assigns from all claims, demands, actions, judgments and executions which the undersigned ever had, or now has, or may have or which the undersigned's successors, assigns and members may have or claim to have, now or in the future, against Terraform, Inc., its shareholders, officers, directors, agents and employees, arising out of its duties as developer of that certain Subdivision known as Carriage Hills, Sections I, II,

264-01-0509

and III and the swimming pool and pool site, and tennis court site according to maps or plats thereof recorded in the office of the County Clerk of Montgomery County, Texas, and arising out of its obligations contained in those certain Deed Restrictions attached hereto as Exhibit "A" including but not limited to collection of Maintenance Funds, Disbursement of Maintenance Funds, and enforcement of liens for non-payment of maintenance funds; provided however, Developer is not released from liability arising out of this Agreement or from liability for fraud or theft under the Dedication of Restrictions.

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the other party, or same may be enforced in a separate action brought for that purpose, and which fees shall be in addition to any other relief which may be awarded.

No right or remedy herein conferred on or reserved to Association is exclusive of any other right or remedy herein or by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

No covenant or condition of this Agreement may be waived except by the written consent of Association. Forbearance or indulgence by Association in any regard whatsoever shall not constitute a waiver of any other covenant or condition to be performed by Developer.

The obligations and undertakings of each of the parties to this agreement shall be performable in Montgomery County, Texas.

If any term, provision, covenant, or condition of this agreement is held by a court of competent jurisdiction to

264-01-0510

be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

The validity of this agreement, and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be interpreted and construed pursuant to, and in accordance with, the laws of Texas.

Neither this agreement nor any rights or duties hereunder may be assigned by either party without the prior written consent of the other party.

This agreement shall inure to the benefit of and be binding on the successors and assigns of the respective parties hereto.

Any notice to be given hereunder by either party to the other shall be in writing and may be effected by certified mail, return receipt requested. Notice to TERRAFORM, INC. shall be sufficient if mailed to 5400 North Belt East, Houston, Texas 77032, and to CARRIAGE HILLS COMMUNITY IMPROVEMENT ASSOCIATION, INC. if mailed to 1107 Carriage Hills Blvd., Conroe, Texas 77384. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

Executed in duplicate on APRIL 30, 1984.

ATTEST:

Jerry Burrell
JERRY BURRELL,
Secretary

TERRAFORM, INC.

BY: Robert B. Higgs
ROBERT B. HIGGS
Vice-President
5400 North Belt East
Houston, Texas 77032

ATTEST:

Melba Dreggors
MELBA DREGGORS
Secretary

CARRIAGE HILLS COMMUNITY
IMPROVEMENT ASSOCIATION, INC.

BY: Bobby G. Fisher
BOBBY G. FISHER,
President
1107 Carriage Hills Blvd.
Conroe, Texas 77384

RETURN TO:

F. Delores Moring
Attorney at Law
14425 Cornerstone Village Dr.
Houston, Texas 77014

(Acknowledgment)

264-01-0511

STATE OF TEXAS)
COUNTY OF HARRIS .)

BEFORE ME, the undersigned authority, a notary public in and for said County and State, on this day personally appeared ROBERT B. HIGGS, Vice-President of TERRAFORM, INC. a Texas corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed as the act and deed of said corporation, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 30th day of March, 1984.

Anji Treadway
Notary Public in and for
The State of Texas
My commission expires
ANJI TREADWAY
Notary Public, State of Texas
(Printed Name)
My Commission Expires 12/31/85
Notary Public, State of Texas

(Acknowledgment)

264-G1-0512

STATE OF TEXAS)

COUNTY OF HARRIS)

BEFORE ME, the undersigned authority, a notary public in and for said County and State, on this day personally appeared BOBBY G. FISHER, President of CARRIAGE HILLS COMMUNITY IMPROVEMENT ASSOCIATION, INC., a Texas corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposed and consideration therein expressed as the act and deed of said corporation, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 30th day of March, 1984.

Ann Bradley
Notary Public in and for
The State of Texas
My commission expires
Notary Public, State of Texas
My Commission Expires November 2, 1987
Bonded by Lovett Agency, Lawyers Supply Co.
(Printed Name of Notary)