

AGENDA ITEM 15

Discuss and consider final plat approval of Morningside Meadows, Section Seven.

Moved: **Commissioner Hays**

Seconded: **Commissioner Boatright**

Motion: To approve final plat of Morningside Meadows, Section Seven.

Vote: 3 - 0

REGULAR AGENDA

AGENDA ITEM 16

Discuss and consider setting a date to hold a public hearing for regulatory signage at Buckeye Lane and Bowman Road.

Moved: **Commissioner Heiligenstein**

Seconded: **Commissioner Hays**

Motion: To table Agenda Item 16 until the January 14, 2003 meeting.

Vote: 3 - 0

AGENDA ITEM 17

Discuss and consider preliminary plat approval of Lion Acres.

Moved: **Commissioner Heiligenstein**

Seconded: **Commissioner Hays**

Motion: To table Agenda Item 17 until the January 14, 2003 meeting.

Vote: 3 - 0

AGENDA ITEM 18

Discuss and take appropriate action concerning licensing agreement with Cimarron Hills.

Moved: **Commissioner Hays**

Seconded: **Commissioner Boatright**

Motion: To approve the license agreement with Cimarron Hills with changes recommended by the County Attorney.

Vote: 3 - 0

< Attachment >

LICENSE AGREEMENT

THE COUNTY OF WILLIAMSON, a political subdivision of the State of Texas ("Licensor") and PALOMA CIMMARON HILLS, L.P., a Texas limited partnership ("Licensee"), enter into this License Agreement ("Agreement") on this the 3rd day of December, 2002, upon the terms and conditions set forth below.

I. PURPOSE OF LICENSE AGREEMENT

The Licensor grants to Licensee, its successors and assigns, permission to use the licensed property for the following purposes only:

To allow the installation, construction, maintenance, repair and replacement of landscaping, lighting, fencing, irrigation, entry and retaining walls and tree wells, street and traffic signs, mailbox kiosks, headwalls, bridge parapets, trails, sidewalks, entry house, enhanced pavement, cart paths and signage into, onto, over and below all of the real property dedicated to the County within the property described in **Exhibit "A"**, attached hereto and incorporated herein (said County property hereinafter referred to as the "Property").

Licensee agrees that all construction and maintenance permitted by this Agreement shall be done in compliance with all applicable County, City, State and/or Federal police, traffic, building, health and safety ordinances, laws and regulations existing at the time said construction and maintenance is performed.

II. ANNUAL FEE

The Licensor, its governing body, and its respective successors and assigns, agree that no annual fee shall be assessed for the license and permission herein granted to Licensee.

III. LICENSOR'S RIGHTS TO LICENSED PROPERTY

Notwithstanding anything contained in this Agreement to the contrary, the Licensor, its successors, assigns, grantees, and licensees, shall have the present and future right to construct, install, establish, maintain, use, operate, and renew any public utilities facilities or franchised public utilities on or below the surface of the Licensed Property described in Article I.

In case of an officially declared emergency, however, damage to or destruction of Licensee's property shall be at no charge, cost, claim or liability to the Licensor, its agents, contractors, officers or employees.

IV. INSURANCE

Licensee shall, at its sole expense, provide a commercial liability insurance policy, written by a company reasonably acceptable to the Licensors and licensed to do business in Texas, with a combined single limit of not less than Five Hundred Thousand and No/100 Dollars (\$500,000.00), which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall specifically cover all perils arising from the activities of Licensee, its officers, elected officials, employees, agents or contractors, relative to this Agreement. Licensee shall be responsible for all deductibles stated in the policy. A true copy of each instrument effecting such coverage shall be delivered to the Licensors on or before the date Licensee begins construction of any additional improvements to be constructed by Licensee or alteration to Licensee's existing improvements as contemplated in this Agreement.

So long as Licensee is using the Property, Licensee shall not cause such insurance to be canceled nor permit such insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until thirty (30) days after the Licensors has received written notice as evidenced by a return receipt of registered or certified mail.

V. INDEMNIFICATION

Licensee shall indemnify and hold harmless the Licensors and its elected officials, officers, agents and employees against all claims, suits, demands, judgments and expenses, including attorney's fees, or other liability for personal injury, death or damage to any person or property which is proximately caused by Licensee's action or inactions in its utilization of the Property. This indemnification provision, however, shall not apply to any claims, suits, damages, costs, losses or expenses (i) for which the Licensors shall have been, or is entitled to be compensated by insurance provided under Article IV above, or (ii) which are proximately caused by the negligent or willful acts of the Licensors, its agents, employees or contractors; provided, however, that for the purposes of the foregoing, the Licensors's act of entering into this Agreement shall not be deemed to be a "negligent or willful act."

VI. CONDITIONS

- A. Licensee's Responsibilities. Licensee will be responsible for any damage to or relocation of facilities on the Property. Further, Licensee shall reimburse the Licensors for all costs of replacing or repairing any property of the Licensors or of others which was damaged or destroyed as a result of activities authorized under this Agreement by, or on behalf of, Licensee.
- B. Removal or Modification. Licensee agrees that removal or modification of any improvements now existing or to be later replaced shall be at Licensee's expense. Said

removal or modification shall be at Licensee's sole discretion, except where otherwise provided by this Agreement.

- C. Default. In the event that Licensee fails to maintain the licensed property or otherwise comply with the terms or conditions as set forth herein, then the Licensor shall give Licensee written notice thereof by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of. If Licensor gives notice of a default which cannot be cured solely by the payment of money and is (1) of such a nature that it cannot be cured within such thirty (30) day period, or (2) if the curing thereof cannot be completed within said thirty (30) day period due to causes beyond the control of Licensee, then such default shall not be deemed to continue so long as Licensee, after receiving such notice, proceeds to cure the default as soon as reasonably possible and continues to take all steps necessary to complete the same within a period of time which, under all prevailing circumstances, shall be reasonable. If Licensee timely cures a default in any manner described above, the Licensee's rights hereunder shall continue unaffected by such default. If Licensee does not satisfactorily remedy the same within the 30-day period, the Licensor may perform the work or contract for the completion of the work. Licensee agrees to pay, within thirty (30) days of written demand by the Licensor, all costs and expenses incurred by the Licensor in completing the work.

VII. COMMENCEMENT; TERMINATION BY ABANDONMENT

This Agreement shall begin with the date set forth in the introductory paragraph of this Agreement, and continue thereafter for so long as the Property shall be used for the purposes set forth herein. If Licensee abandons the use of all or any part of the Property for such purposes set forth in this Agreement, then this Agreement, as to such portion or portions abandoned, shall expire and terminate following thirty (30) days' written notice to the Licensee if such abandonment has not been remedied by Licensee within such period; the Licensor shall thereafter have the same complete title to the licensed property so abandoned as though this Agreement had never been made and shall have the right to enter on the Property and terminate the rights of Licensee, its successors and assigns hereunder. All installations of Licensee not removed shall be deemed property of the Licensor as of the time abandoned.

VIII. TERMINATION

- A. Termination By Licensor. This Agreement may be revoked at any time by resolution of the Commissioner's Court of the Licensor if such revocation is determined by the Commissioner's Court of Licensor to be reasonably required by the public interest (as hereinafter set forth), after providing thirty (30) days' written notice to the Licensee. Licensor and Licensee acknowledge and agree to consider other available measures to address any problems prior to revocation of this License.

Subject to prior written notification to Licensee or its successors-in-interest, this Agreement is revocable by the Licenser and deemed to be in the public interest if:

1. the licensed improvements, or a portion of them, interfere with the Licenser's use of the Property and such interference is not capable of being resolved by other reasonable means at the expense of the Licensee;
2. the licensed improvements, or a portion of them, constitute a danger to the public which the Licenser deems not to be remediable by alteration or maintenance of such improvements;
3. despite thirty (30) days' written notice to Licensee, maintenance or alteration necessary to alleviate a danger to the public has not been made; or
4. Licensee fails to comply with the terms and conditions of this Agreement including, but not limited to, any insurance requirements specified herein.

If Licensee abandons or fails to maintain the Property, and the Licenser receives no substantive response within thirty (30) days following written notification to Licensee, then the Licenser may remove and/or replace all licensed improvements.

IX. APPLICATION OF LAW

This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

X. VENUE

Venue for all lawsuits concerning this Agreement will be in Williamson County, Texas.

XI. COVENANT RUNNING WITH LAND: WAIVER OF DEFAULT

This License Agreement and all of the covenants herein shall run with the land; therefore, the conditions set forth herein shall inure to and bind each party's successors and assigns. Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

XII. ASSIGNMENT

Licensee may assign, sublet or transfer its interest in this Agreement without the written consent of the Licenser, subject to the assignee's compliance with the insurance and requirements set forth herein. Licensee shall furnish to the Licenser a copy of any such

assignment or transfer of any of Licensee's rights in this Agreement, including the name, date, address and contact person. Assignee shall comply fully with all terms and conditions of this License.

XIII. NOTICES

All notices, demands and requests for delivery of documents or information hereunder shall be in writing and shall be deemed to have been properly delivered and received as of the date of delivery if personally delivered, three (3) business days after deposited in the mail system if sent by United States certified mail, return receipt requested, and postage prepaid, or the next business day following the delivery to Federal Express (or comparable express delivery system) if sent by such method with all costs prepaid. All notices, demands and requests hereunder shall be addressed:

To Licensee At:

Paloma Cimarron Hills, L.P.
Attn: Garth Chambers
102 W. Morrow St., Suite 103
Georgetown, Texas 78626

With a copy to:

William D. Brown
Sneed, Vine & Perry, P.C.
901 Congress Ave.
Austin, Texas 78701

and to Licensor at:

County Judge
County Courthouse
710 Main Street
Georgetown, Texas 78626

or to such other addresses which either party may so designate by sending notice as aforesaid.

TERMS AND CONDITIONS ACCEPTED, this the 1st day of January, 2002.

WILLIAMSON COUNTY

PALOMA CIMARRON HILLS, L.P.
A Texas limited partnership

By: CIMARRON HILLS
DEVELOPMENT, LLC
Its General Partner

By: John C. Doerfler 1-7-03
JOHN DOERFLER
County Judge

By: Garth Chambers
Garth Chambers, President

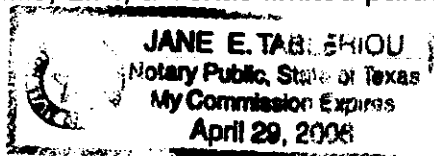
STATE OF TEXAS

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PARTNERSHIP ACKNOWLEDGMENT

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the 1st day of January, 2003, by Garth Chambers, a person known to me, in his capacity as President of Cimarron Hills Development, LLC, as General Partner of Paloma Cimarron Hills, L.P., a Texas limited partnership, on behalf of said limited partnership.



Jane E. Tableriou
Notary Public, State of Texas

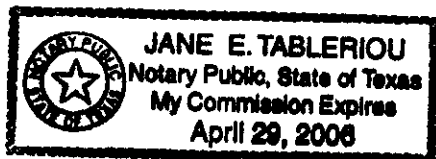
STATE OF TEXAS

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CORPORATE ACKNOWLEDGMENT

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the 7 day of January, 2003 by John Doerfler, a person known to me, in his capacity as County Judge of Williamson County, Texas.



Jane E. Tableriou
Notary Public, State of Texas

AGENDA ITEM 19

Consider approving bonds and affidavits from newly sworn officials.

Moved: **Commissioner Heiligenstein**

Seconded: **Commissioner Hays**

Motion: To approve the bonds and affidavits from newly sworn officials.

Vote: 2 – 0 –1. **Commissioner Boatright abstained from the vote.**

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