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ACCESS EASEMENT AGREEMENT

STATE OF TEXAS §
§
COUNTY OF FORT BEND §

This Access Easement Agreement (this "Agreement") is made effective as of 21st day of August, 2019 ("Effective Date") by and between **ASSOCIATION OF LOST CREEK OWNERS, INC.**, a Texas non-profit corporation ("Lost Creek"), and **PACFIN 6, LTD.**, a Texas limited partnership ("PacFin"). Lost Creek and PacFin are sometimes referred to individually herein as a "Party" or, collectively as, the "Parties".

RECITALS

WHEREAS, LOST CREEK owns certain real property in Fort Bend County, Texas consisting of approximately +/- 0.23 acres, as such real property is further described within Exhibit "A", attached hereto and incorporated herein by reference for all purposes (the "Lost Creek Tract"), and all contained within a certain residential community subdivision known as Lost Creek located in Fort Bend County, Texas (the "Subdivision");

WHEREAS, PacFin owns certain real property in Fort Bend County adjacent to the Lost Creek Tract, commonly known as District West and consisting of approximately +/- 6.00 acres, as such real property is further described and depicted within Exhibit "B" (the "PacFin Tract");

WHEREAS, Lost Creek desires to grant a certain non-exclusive access easement on, across and over the Lost Creek Tract for vehicle and pedestrian access to and from the PacFin Tract and Creeks End Boulevard in strict accordance with the terms herein contained.

AGREEMENT

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars and the mutual benefits to accrue to the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

GRANT OF ACCESS EASEMENT

1. Ownership of Lost Creek Tract. Lost Creek represents and warrants that Lost Creek owns the Lost Creek Tract, subject to all validly existing restrictions, liens, encumbrances, covenants, conditions, rights-of-way, easements, mineral reservations and royalty reservations, and other matters of record, if any, affecting the Lost Creek Tract (collectively, the "Lost Creek Tract Exceptions").

2. Ownership of PacFin Tract. PacFin represents and warrants that PacFin owns the PacFin Tract, subject to all validly existing restrictions, liens, encumbrances, covenants, conditions, rights-of-way, easements, mineral reservations and royalty reservations, and other matters of record, if any, affecting the PacFin Tract (collectively, the "PacFin Tract Exceptions").

3. The Site Plan. Attached hereto as Exhibit "C", and made a part hereof for all purposes, is a site plan (as may be amended from time-to-time, the "Site Plan") containing an aerial photograph within which the Access Easement Area (as hereinafter defined), the Lost Creek Tract and the PacFin Tract are shown.

4. Access Easement. Lost Creek hereby grants to PacFin, subject to (i) the Lost Creek Tract Exceptions and all covenants, conditions, restrictions, reservations, easements and other matters affecting title to the Lost Creek Tract that are shown of record in the Real Property Records of Fort Bend County, Texas and (ii) the rights reserved by Lost Creek in this Agreement, for use by PacFin and its occupants, lessees, agents, employees, contractors and invitees, a non-exclusive, revocable, free and unobstructed easement and right-of-way pursuant to the terms herein (the "Access Easement") over, upon and across a certain area of the Lost Creek Tract as depicted on the Site Plan as "Access Easement Area" for the vehicular and pedestrian ingress and egress by PacFin and PacFin Tract tenants, and their respective occupants, lessees, agents, employees, contractors and invitees, in order to allow for necessary vehicular and pedestrian ingress and egress from and through the Lost Creek Tract for access to and from Creeks End Boulevard to the PacFin Tract. Notwithstanding anything contained herein to the contrary, the Parties agree that the exact location of the Access Easement Area as depicted on the Site Plan may be amended, relocated or otherwise modified due to permitting, municipal and/or construction requirements. The Parties agree that, without having to first obtain any consent or approval from any of the Parties, the location and depiction of the Access Easement Area on the Site Plan (as may be amended from time-to-time) shall be automatically modified and this Agreement shall be amended as necessary to reflect and include the actual location where the Access Driveway (as hereinafter defined) is actually and finally constructed pursuant to approved construction and governmental requirements without having to first obtain any consent or approval from any of the Parties. Such easement shall be a covenant running with the land for the use and benefit of PacFin and PacFin Tract occupants and each successive owner and/or assign of PacFin and shall be binding upon and enforceable against PacFin, its individual PacFin Tract occupants and each successive owner of the PacFin Tract or any portion thereof.

The Parties agree that Lost Creek hereby grants access to, over and upon the Lost Creek Tract to PacFin for the purposes of the construction and completion of a driveway (the "Access Driveway") within the Access Easement Area. PacFin will be responsible for all costs related to the construction, repair and continued maintenance of the Access Driveway.

5. No Barriers. No walls, fences or barriers of any sort or kind shall be constructed or maintained in the Access Driveway Easement Area, or any portion thereof, which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including without limitation, pedestrian and vehicular traffic and vehicular parking through the Access Easement Area; provided however, the foregoing shall not be deemed to prohibit reasonable, temporary obstructions necessitated by the construction, repair or maintenance of the Access Easement Area. PacFin shall not construct or maintain, or permit to be constructed or maintained, any barrier, fence, or other temporary or permanent improvements, such as buildings, or other structures upon, over, under or across the Access Easement Area which would eliminate or materially or adversely affect the use of the Access Easement Area or otherwise impair the use of the Lost Creek Tract by any party including, but not limited to, Lost Creek or Subdivision residents.

6. Maintenance and Repair of the Access Driveway within the Access Easement Area. In connection with the Access Easement, PacFin will be responsible for maintenance and/or repair, in a good and workmanlike manner, at its own cost and expense, of the vehicular and pedestrian thruway of the Access Driveway and the Access Easement Area for vehicular and pedestrian ingress and egress on the Access Easement Area. Further, PacFin shall have the right to alter, reconstruct or change any portion of the Access Driveway or the Access Easement Area so long as it is only related to the continuation of providing vehicular and pedestrian ingress and egress on the paved driveway portions of the Access Easement Area. If PacFin fails to maintain the Access Easement Area, Lost Creek shall give PacFin written notice specifying the repairs and maintenance which need to be performed. In the event any such maintenance or repairs are identified to be caused by Lost Creek or its successors, assigns, or beneficiaries, then Lost Creek shall be exclusively liable for the such maintenance or repair costs.

7. Modification of Access Easement Area. It is expressly understood and agreed that the easement granted herein constitutes a non-exclusive easement upon, over, through, and across the Access Easement Area. Subject to the terms and conditions of Section 6, 8 and 13 hereof and the respective non-exclusive rights herein contained, PacFin shall not have the right to modify the location, layout, configuration, and size of the Access Driveway and/or Access Easement Area without first having to obtain the written consent and approval of Lost Creek, which consent shall not be unreasonably withheld, conditioned, or delayed.

8. Purpose. The easement herein is granted for the right to use the Access Easement and the Access Easement Area for the vehicular and pedestrian ingress and egress strictly as needed, to and from Creeks End Boulevard to the PacFin Tract, in order to allow for necessary vehicular and pedestrian ingress and egress from, over, across and through the Lost Creek Tract solely for the purposes set forth herein and subject to the conditions herein contained.

9. Payment of Property Taxes. Lost Creek will pay, or cause to be paid, directly when due, all real property taxes and other general and other special taxes that may be levied or assessed against those portions of the Access Easement Area lying within the Lost Creek Tract.

10. Rights Reserved. Lost Creek reserves for Lost Creek and Lost Creek's members, and their respective successors and assigns, the right to continue to use and enjoy the surface of the Access Easement Area for all purposes which do not unreasonably interfere with or interrupt the use or enjoyment of the easement.

11. Insurance. Each Party will at all times maintain, or cause to be maintained, commercial general liability insurance covering the Tract owned by it, insuring against the risk of bodily injury and property damage with liability limits of not less than $2,000,000.00 general aggregate, and $1,000,000.00 per occurrence. Subject to the requirements and approval of the respective Party's insurance carrier, all such insurance maintained by either Party will name the other Party as additional insured, and such insurance will be primary and non-contributory, will provide for severability of interest, will provide that an act or omission for one of the insureds or additional named insureds that would void or otherwise reduce coverage will not reduce or void the coverage as to the insured or other additional insureds, and will afford coverage for all claims

based on acts, omissions, injury and damage that occur or arise (or the onset of which occurs or arises) in whole or in part during the policy period.

Any insurance policy required by this Agreement may be maintained under a so-called "blanket policy" or an "umbrella liability form" insuring the other Party so long as the amount of insurance required to be provided by this Agreement is not thereby diminished. Any policy of insurance required to be carried by a Party under this Agreement will provide that such policy may not be canceled or modified without at least thirty (30) days' prior written notice to the other Parties named as additional insureds. Each Party will furnish to the other Party, on or before the effective date of the policy of insurance required to be carried under this Agreement, an ACORD certificate stating that such insurance is in full force and effect, that the premiums have been paid, that the other Party has been named as additional insured and that such insurance may not be canceled or modified without at least thirty (30) days' prior written notice to the other Party named as additional insured.

Each Party will be responsible for the payment of insurance premiums as required above. If any Party fails to pay for the required insurance coverage, the other Party may acquire any insurance it deems reasonably appropriate (to the extent allowed by law) and exercise all remedies available to it by law to collect for reimbursement of such amounts from the other Party and any other amounts as may be owing by the non-paying Party.

12. Covenants Running with the Land. The easements granted and the covenants made in this Agreement are appurtenant and run with the land and inure to the benefit of and are binding upon the Parties and their respective successors and assigns.

13. Revocation of Access Easement. Notwithstanding anything contained herein to the contrary, the Parties agree that the Access Easement and all associated rights granted herein to PacFin are conditional, non-perpetual and shall at all times be subject to revocation and termination in their entirety, with no recourse to PacFin, by Lost Creek, but only in the event that following thirty (30) days' written notice, PacFin fails to comply with the following requirements which form the basis of Lost Creek's agreement to grant the Access Easement and the rights herein contained:

(i) Pacfin shall construct a deceleration lane on the FM 1093 eastbound feeder road at the entrance to the Subdivision onto Creeks End Blvd;

(ii) All businesses and improvements built on the PacFin Tract must be used only as professional offices, retail outlets or restaurants of the kind which do not operate on a twenty-four hour/seven days a week basis;

(iii) No motels, hotels or similar establishments are to be built on the PacFin Tract;

(iv) Tall shrubs and/or trees must be planted and continuously maintained along the fence between the PacFin Tract and the Subdivision in order to provide an additional screening barrier to Subdivision property;

(v) Only a service lane may exist between the businesses and buildings located, or to be located, on the PacFin Tract which back up to the Subdivision property; and

(vi) All subsequent owners, tenants and/or users of the PacFin Tract must fully abide by the terms and conditions of this Agreement to Lost Creek's full satisfaction.

The Parties agree that, in the event that any or all of the aforementioned conditions are not satisfied and the Access Easement is terminated by Lost Creek, any improvements constructed or located upon the Access Easement Area including, but not limited to, the Access Driveway, shall be immediately removed in their entirety, at PacFin's sole cost and expense, unless otherwise agreed in writing by Lost Creek.

It is expressly agreed that, except as set forth immediately above, no breach of this Agreement shall entitle either party to cancel, rescind or otherwise terminate this Agreement; provided, however, such limitation shall not affect in any manner any of the other rights or remedies which any such party may have hereunder by reason of such breach.

14. Eminent Domain. In the event the whole or any part of the Lost Creek Tract shall be taken by right of eminent domain or any similar authority of law (a "Taking") or in the event that Lost Creek conveys all or any portion of the Lost Creek Tract under threat of eminent domain (any such conveyance also being a "Taking" as such quoted word is used in this instrument), the entire award (or compensation paid) for the value of the land and improvements constituting the subject of such Taking shall belong to the owner of the Lost Creek Tract (and improvements thereon) constituting the subject matter of taking (whether such award or the compensation so paid is for the property taken or as severance damages with respect to such owner's property not taken) and no other owner shall have a right to claim any portion of such award (or compensation paid) by virtue of any easement or other interest created by this Agreement. Any owner of a tract which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the respective tract (inclusive of any improvements thereon) constituting the subject matter of such Taking to the extent of any damage suffered by such owner resulting from the severance of the Tract (inclusive of any improvements thereon) constituting the subject matter of such Taking if such claim shall not operate to reduce the award allocable (or compensation paid) to the owner of the Tract (inclusive of any improvements thereon) constituting the subject matter of such Taking. In the event of a partial Taking, the owner of the portion of the affected tract so taken shall restore the paving and surfacing located on such owner's tract as nearly as possible to the condition existing prior to the Taking without contribution from any other owner.

15. Notices. Any notice or demand required or permitted to be given herein shall be in writing and shall be deemed delivered when actually received or when deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid, addressed to the parties as follows:

Lost Creek: Association of Lost Creek Owners, Inc.
c/o Crest Management Company
17171 Park Row, Suite 310

Houston, Texas 77084
Attn: Community Manager

with a copy to: Hoover Slovacek LLP
Galleria Tower II
5051 Westheimer Rd., Suite 1200
Houston, Texas 77056
Attn: Jonathan H. Clark and Adelqui J. Boué

PacFin: PacFin 6, Ltd.
c/o Pacific Advertising, Inc.
21711 FM Road 1093
Richmond, Texas 77407
Attn: Bobby Ferguson

with a copy to: Chernosky, Smith, Ressling & Smith, PLLC
3664 Walnut Bend Ln., Bldg. B
Houston, Texas 77042
Attn: R. Stephen Ressling

Either party may change its address for notice at any time or from time to time by notification in writing delivered to the other party.

16. Force Majeure. Any provision in this Agreement to the contrary notwithstanding, if either Party is delayed in the performance of an obligation under this Agreement due to an event of Force Majeure, so long as the affected Party is diligently and in good faith attempting to abate or remove the circumstances causing the delay in performance, it shall not be considered a default or delay under this Agreement. As used herein, "Force Majeure" shall mean means act of war, civil disobedience, insurrection, act of terrorism, act of God, strike, prolonged drought, or prolonged or extreme weather conditions, or other event beyond the reasonable control of a party giving rise to a delay in performance that was not foreseeable and that could not have been avoided through the exercise of reasonable care; provided, any payment obligations hereunder shall not be subject to Force Majeure.

17. Indemnification. PacFin agrees to indemnify and defend Lost Creek from all claims arising by, through or under PacFin related to the Access Easement, the Access easement Driveway, and the respective usage rights related to, the Access Easement unless such claims are caused, in part or in full, by the gross negligence or willful misconduct of Lost Creek, its owners, residents, employees, contractors, invitees or agents.

WITHOUT IN ANY WAY LIMITING THE FOREGOING PROVISIONS AND NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE PARTIES AGREE THAT THE LIABILITY OF A PARTY FOR ANY BODILY INJURY OR PROPERTY DAMAGE FOR WHICH A PARTY IS LEGALLY FOUND TO BE HELD RESPONSIBLE TO ANOTHER PARTY IN CONNECTION WITH THIS AGREEMENT AND THE ACCESS EASEMENT SHALL BE LIMITED

TO, AND SUBJECT TO, THE POLICY AMOUNTS AND REQUIREMENTS OF THE RESPECTIVE PARTY'S INSURANCE COVERAGE AS REQUIRED UNDER THIS AGREEMENT. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

18. Recording/No Public Dedication. This Agreement shall be recorded in the Official Public Records of Fort Bend County, Texas. The grant of the easements under this Agreement shall not be deemed to be a gift or a dedication of any portion of the easements to the general public. The easements are solely for the benefit of the Parties, their successors, assigns and invitees.

19. Severability. If any one or more of the provisions of this Agreement is held to be invalid or unenforceable, the validity and enforceability of the remainder of this Agreement will not be affected and will continue to be in force to the fullest extent permitted by law.

20. Applicable Law/Venue. The laws of the State of Texas, without regard to its conflicts of law provisions, will govern the validity, enforcement and interpretation of this Agreement. Exclusive venue for any action or proceeding in connection with this Agreement shall lie in Fort Bend County, Texas.

21. Equitable Rights of Enforcement. In the event of any interference or threatened interference with the Access Easement Area, a Party's rights to the Access Easement Area under this Agreement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting such interference and commanding compliance hereof, which restraining orders and injunctions shall be obtainable upon proof of the existence of such interference or threatened interference, and without the necessity of proof of inadequacy of legal remedies or irreparable harm, and shall be obtainable only by the parties hereto or those benefitted hereby; provided, however, nothing herein shall be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

22. Mortgage Subordination. Any mortgage or deed of trust now or hereafter affecting any portion of the easements established under this Agreement will, at all times, be subject and subordinate to the terms of this Agreement; and any party foreclosing such mortgage or deed of trust, or acquiring title by deed in lieu of foreclosure, will acquire title subject to all of the terms and provisions of this Agreement.

23. Amendments. This Agreement, and the easements herein granted, may not be revoked, amended, supplemented or terminated except with the written consent of both Parties or their respective successors and assigns; provided, however, to be effective, any amendment of this Agreement must be agreed to in writing by any mortgagee holding liens on any portion of the Lost Creek Tract at the time of the amendment. To the extent any reasonable modification is required by any mortgagee holding liens on the Lost Creek Tract, the Parties agree to reasonably cooperate in so amending or modifying this Agreement.

24. Waiver. Failure by either Party to enforce any of the provisions of this Agreement for any length of time shall not be deemed a waiver of its rights set forth in this Agreement. A waiver may be made only by an instrument in writing signed by the Party sought to be charged with the waiver.

25. Attorney's Fees. If any Party retains an attorney to enforce this Agreement, then the Party prevailing in such dispute, as the case may be, shall be entitled to recover reasonable attorney's fees and court and other costs from the other Party.

26. Binding Effect. This Agreement shall be binding on and inure the benefit of the Parties and their respective successors and assigns who become owners of fee simple title to all or any portion of the Tracts.

27. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

28. Further Assurances. Recognizing that the parties hereto may find it necessary from time to time to establish to lenders, mortgagees, tenants, or other parties of the then current status of performance under this Agreement, each party bound or benefited by this Agreement agrees, upon written request, that it will from time to time, with reasonable promptness, furnish a written statement in recordable form on the status of any matter relating to this Agreement. In connection with this Agreement, as well as all transactions contemplated by this Agreement, each signatory party hereto agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement.

30. **WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PARTIES EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

EXECUTED by the Parties to be effective as of the Effective Date herein set forth.

LOST CREEK:

ASSOCIATION OF LOST CREEK OWNERS, INC.,
a Texas non-profit corporation

By: _____

Name: Peter A. Lajoie

Title: President

ACKNOWLEDGEMENT

STATE OF TEXAS §
§
COUNTY OF Harris §

This instrument was acknowledged before me on the 21st day of August, 2019, by Peter A. Lajoie as President of **ASSOCIATION OF LOST CREEK OWNERS, INC.**, a Texas nonprofit corporation, on behalf of said nonprofit corporation for the purposes set forth therein.

_____
Notary Public, State of Texas

SHANNON W. NOGRADI
Notary Public, State of Texas
Comm. Expires 08-15-2023
Notary ID 11623969

PACFIN:

PACFIN 6, LTD.,
a Texas limited partnership

By: Pacific Financial Management, Inc.,
a Texas corporation,
its General Partner

By: _____

Name: Robert Ferguson Jr.

Title: VP

ACKNOWLEDGEMENT

STATE OF TEXAS §
Fort Bend §
COUNTY OF ~~HARRIS~~ §

This instrument was acknowledged before me on the 20th day of August, 2019, by Robert B. Ferguson, Jr. as Vice President of Pacific Financial Management, Inc., a Texas corporation, as General Partner of PACFIN 6, LTD., a Texas limited partnership, on behalf of said entities for the purposes herein set forth.

TAMMY HUYNH
My Notary ID # 10393424
Expires November 6, 2021

_____
Notary Public, State of Texas

After Recording, Return To:
Adelqui J. Boué, Esq.
Hoover Slovacek LLP
5051 Westheimer Road, Suite 1200
Houston, Texas 77056

EXHIBIT "A"

LOST CREEK TRACT

Restricted Reserve "C", 0.230 acres, restricted to landscape/detention use, located in Lost Creek, Section 1, according to the plat thereof recorded under Clerk's File Number 20040146 of the Plat Records of Fort Bend County, Texas

EXHIBIT "B"

PACFIN TRACT

Being a tract of land containing 6.056 acres (263,785 square feet), located in the George Fields Survey, Abstract Number (No.) 591 and the Brooks and Burleson Survey, Abstract No. 145, in Fort Bend County, Texas; Said 6.056 acre tract being all of a called 6.056 acre tract recorded in the name of PacFin 6, Ltd. in Fort Bend County Clerk's File (F.B.C.C.F.) No. 2017017713; Said 6.056 acre tract being more particularly described by metes and bounds as follows (all bearings are referenced to the Texas Coordinate System, South Central Zone No. 4204, North American Datum of 1983 (NAD83), as per GPS observations):

BEGINNING at a 5/8-inch iron rod with a "Hovis" cap found on the southerly Right-of-Way (R.O.W.) line of Westpark Tollway (F.M. 1093) (width varies as per F.B.C.C.F. Nos. 9277986 & 2004018705), being on the westerly line of Restricted Reserve "C", Block 1 of Lost Creek, Sec. 1, a subdivision plat of record in Plat No. 20040146, Fort Bend County Plat Records (F.B.C.P.R.), marking the northeast corner of said 6.056 acre tract and the herein described tract;

Thence, with the line common to said 6.056 acre tract and said Restricted Reserve "C", South 02 degrees 32 minutes 45 seconds East, a distance of 300.32 feet to a 5/8-inch iron rod with a "Miller Survey Group" cap found on the northerly line of Lot 32 of said Block 1 of Lost Creek, Sec. 1, marking the southeast corner of said 6.056 acre tract and the herein described tract;

Thence, with the line common to said 6.056 acre tract and said Block 1 of Lost Creek, Sec. 1, South 83 degrees 02 minutes 15 seconds West, a distance of 881.11 feet to a PK nail in concrete found at the northwest corner of said Block 1 of Lost Creek, Sec. 1, being on the easterly line of Unrestricted Reserve "B", Block 1 of Stripes at Peek Road, a subdivision plat of record in Plat No. 20120160, F.B.C.P.R., marking the southwest corner of said 6.056 acre tract and the herein described tract;

Thence, with the line common to said 6.056 acre tract and said Unrestricted Reserve "B", North 02 degrees 31 minutes 38 seconds West, a distance of 300.26 feet to a 5/8-inch iron rod with a "Hovis" cap found on the southerly R.O.W. line of said Westpark Tollway (F.M. 1093), being the northeast corner of said Unrestricted Reserve "B" and marking the northwest corner of said 6.056 acre tract and the herein described tract:

Thence, with the line common to said 6.056 acre tract and the southerly R.O.W. line of said Westpark Tollway (F.M. 1093), North 83 degrees 01 minutes 58 seconds East, a distance of 881.02 feet to the **POINT OF BEGINNING** and containing 6.056 acres (263,785 square feet) of land.

EXHIBIT "C"

SITE PLAN
(depicting Access Easement Area and proposed Access Driveway)