

FNTIC. 8/23
00-62126

Doc Bk Vol Pg
01030532 OPR 1917 661

FN 762126-65 (12)
3100

ROAD MAINTENANCE AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT (this "Agreement") is made to be effective the 5 day of December, 2000, by and among **DONNIE WAYNE POLK** and **WENDALYN J. POLK** ("Polk"), **KARL FREDERICK MAGENS** ("Magens"), **HAROLD EDWIN SIMON JR.** ("Simon") and **KURT EDWIN MAGENS** ("Magens2")

WITNESSETH:

WHEREAS, Polk is the owner of a 51.59 acre tract of land out of the John Ingram League, Abstract No. 256 in Hays County, Texas, being the same tract of land more particularly described by metes and bounds in the deed recorded in Volume 1374, Page 490, Real Property Records of Hays County, Texas and on **Exhibit "A"** attached hereto and made a part hereof for all purposes (the "Polk Tract"); and

WHEREAS, Magens is the owner of a 72.150 acre tract of land out of the John Ingram League, Abstract No. 256 in Hays County, Texas, and being the same tract of land more particularly described by metes and bounds in the instrument recorded under File No. 9923937, Official Public Records of Hays County, Texas and on **Exhibit "B"** attached hereto and made a part hereof for all purposes (the "Magens Tract"); and

WHEREAS, Simon is the owner of a 9.042 acres tract of land out of the John Ingram League, Abstract No. 256 in Hays County, Texas, and being the same tract of land more particularly described by metes and bounds in the instrument recorded under File No. 9721493, Official Public Records of Hays County, Texas and on **Exhibit "C"** attached hereto and made a part hereof for all purposes (the "Simon Tract"); and

WHEREAS, Magens2 is the owner of a 72.150 acre tract of land out of the John Ingram League, Abstract No. 256 in Hays County, Texas, and being the same tract of land more particularly described by metes and bounds in the instrument recorded in Volume _____, Page _____, Official Public Records of Hays County, Texas and on **Exhibit "D"** attached hereto and made a part hereof for all purposes (the "Magens2 Tract"); and

WHEREAS, in a Deed of Partition recorded in Volume 840, Page 414, Official Records of Hays County, Texas (the "Partition Deed"), a 60 foot roadway easement was reserved for the purpose of constructing and maintaining a private, non-exclusive road to provide free ingress, egress and regress to and from Ranch Road 2325 and the Polk Tract, the Magens Tract, the Simon Tract and the Magens2 Tract, among others; and

WHEREAS, Polk, Magens, Simon and Magens2 wish to establish a mechanism for sharing in the costs of the construction and maintenance of such roadway and have agreed to share equally in such costs for the mutual benefit of the current and future owners of the Polk Tract, the Magens Tract, the Simon Tract and the Magens2 Tract, as hereinafter

provided in this Agreement.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the premises, the mutual benefits to be derived by the provisions of this Agreement, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties hereto, Polk, Magens, Simon and Magens2 do hereby covenant and agree as follows:

1. Right to Construct Road Improvements. Polk, Magens, Simon and Magens2 hereby confirm the roadway easement granted in the Partition Deed (the "Easement") and each agrees that upon the prior written consent of the other owner(s) of the Polk Tract, the Magens Tract, the Simon Tract or the Magens2 Tract, shall have, and Polk, Magens, Simon and Magens2 each hereby expressly confirm the right to construct, install and maintain such road improvements within the Easement in accordance with all applicable ordinances, rules, regulations and other requirements of the governmental authorities with jurisdiction over the same. The reasonable costs of construction and maintaining such road improvements shall be borne in equal shares by Polk, Magens, Simon and Magens2, and the party construction and/or maintaining such improvements may submit to the other parties from time to time, but not more frequently than annually, a statement reflecting the reasonable construction and maintenance costs incurred by such party, itemizing such costs in such detail as may be reasonably necessary to document and evidence same. The other parties shall reimburse the party submitting such statement for their respective share of such maintenance costs within sixty (60) days after the date of the submission of each statement of such costs. Construction not to exceed Five Hundred (\$500.00) Dollars Maximum in calendar year.

2. Duration. The provisions of this Agreement shall run with and bind the land described herein, shall be and remain in affect perpetually to the extent permitted by law, and shall be for the benefit of, and be binding upon, the owner(s) of the Polk Tract, the Magens Tract, the Simon Tract and the Magens2 Tract, or any part thereof, and their respective administrators, executors, heirs, successors and assigns.

3. Notices. All notices provided for or permitted hereunder shall be in writing and shall be deemed to have been properly given or served when delivered personally or by overnight air courier or deposited in the United States mail, or any official successor thereto, as registered or certified mail, return receipt requested, postage prepaid and addressed as hereinafter provided. Each such notice shall be effective upon being so delivered or deposited. The time period within which a response to any such notice must be given, however, shall commence to run from the date of delivery, if delivered by hand or by overnight air courier, or from the date of receipt set forth on the return receipt notice, if mailed as provided above.

Polk:

5500 FM 2325
Wimberley, TX 78676-4800

Magens:

5300 FM 2325
Wimberley, TX 78676-4800

Simon:

5330 FM 2325
Wimberley, TX 78676-4800

Magens2:

Current location to be obtained by Magens or J.H. Magens 2745 Hwy 90 Seguin,
TX 78155

4. Severability. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate applicable law and shall be limited to the extent necessary to render this Agreement valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person or circumstance shall be held to be invalid, illegal, or unenforceable, the validity of the remainder of this Agreement or the application of such term, provision, covenant or agreement to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

5. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective administrators, executors, heirs, successors, successors-in-title and assigns. The easements confirmed and rights created, granted and established in this Agreement do not, are not intended to, and shall not be construed to create any third party beneficiary rights in favor of any other parties or any easement, right or privilege for the benefit of the general public unless and until such roadway is dedicated to the public.

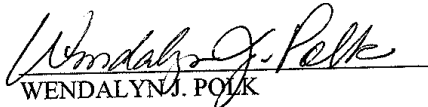
6. Miscellaneous. This Agreement shall be governed in accordance with the laws of the State of Texas. The paragraph headings in the Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof. Nothing in this Agreement shall be construed to make the parties hereto parties or joint venturers. No party hereto shall be obligated to take any action to enforce the terms of this Agreement or to exercise any easement, right, power, privilege or remedy granted, created, conferred or established hereunder. This Agreement may be amended, modified or terminated only in writing, executed and acknowledged by all parties to this Agreement or their respective administrators, executors, heirs, successor or assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day, month and year first above written.

"POLK"



DONNIE WAYNE POLK


WENDALYN J. POLK

"MAGENS"


KARL FREDERICK MAGENS

"SIMON"


HAROLD EDWIN SIMON

"MAGENS2"

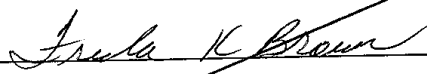

KURT EDWIN MAGENS

~~THE STATE OF TEXAS~~

~~COUNTY OF HAYS~~

~~BEFORE ME, the undersigned authority, on this day personally appeared **DONNIE WAYNE POLK**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.~~

~~GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 18 day of Dec, 2000.~~

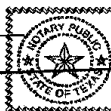
~~ NOTARY PUBLIC, State ~~TEXAS~~ of HAYS~~

~~MAY 27, 2002~~

~~Name: Freda K Brown~~

~~Seal~~

~~Expires: May 27 2002~~



~~Freda K Brown Printed
FRED A K BROWN
NOTARY PUBLIC STATE OF TEXAS
Commission Expires:
MAY 27, 2002~~

~~May 27, 2002 Commission~~

~~THE STATE OF TEXAS~~

~~COUNTY OF HAYS~~

~~BEFORE ME, the undersigned authority, on this day personally appeared **WENDALYN J. POLK**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the~~

11/13/2000

~~purposes and consideration therein expressed.~~

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 6th day of December, 2000.

Kimbra Lynn White NOTARY PUBLIC, State of Texas

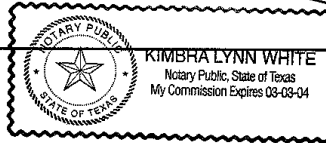
Printed

Name: _____

My

Commission

Seal Expires: _____



THE STATE OF Texas

COUNTY OF Hays

BEFORE ME, the undersigned authority, on this day personally appeared **KARL FREDERICK MAGENS**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 6th day of December, 2000.

Kimbra Lynn White NOTARY PUBLIC, State of Texas

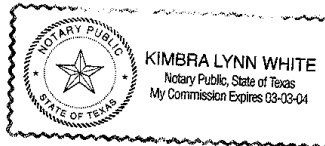
Printed

Name: _____

My

Commission

Seal Expires: _____



THE STATE OF Texas

COUNTY OF Hays

BEFORE ME, the undersigned authority, on this day personally appeared **HAROLD EDWIN SIMON**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of

_____, 2000.

_____, NOTARY PUBLIC, State of _____

Printed

Name: _____

My

Commission

Seal Expires: _____

KARL FREDERICK MAGENS

"SIMON"

HAROLD EDWIN SIMON

"MAGENS2"

KURT EDWIN MAGENSTHE STATE OF TEXASCOUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared **DONNIE WAYNE POLK**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 18 day of DEC, 2000.

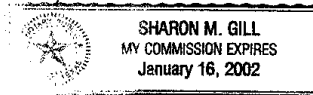
Sharon M. Gill
TEXAS

NOTARY PUBLIC, State of

Printed

Name: SHARON M. GILL
Seal
Expires: 01-16-2002

My Commission

THE STATE OF TEXASCOUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared **WENDALYN J. POLK**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the

11/13/2000

Doc 01030532 Bk OPR Vol 1917 Pg 667

purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 18 day of Dec, 2000.

Sharon M. Gill
TEXAS

NOTARY PUBLIC, State of

Printed

Name: SHARON M GILL
 Seal
 Expires: 01-16-2002

My

Commission



THE STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared **KARL FREDRICK MAGENS**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ___ day of _____, 2000.

NOTARY PUBLIC, State of

Printed

Name: _____
 Seal
 Expires: _____

My

Commission

THE STATE OF TEXAS

COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared **HAROLD EDWIN SIMON**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 18 day of Dec, 2000.

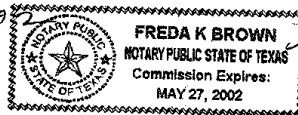
Freda K Brown

NOTARY PUBLIC, State of Texas

Printed

Name: Freda K. Brown
 Seal
 Expires: May 27 2002

My Expires Commission



May 27, 2002

11/13/2000

Doc	Bk	Vol	Pg
01030532	OPR	1917	668

THE STATE OF Texas
COUNTY OF Hays

BEFORE ME, the undersigned authority, on this day personally appeared **KURT EDWIN MAGENS**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 5th day of December, 2000.

Beth Hanna

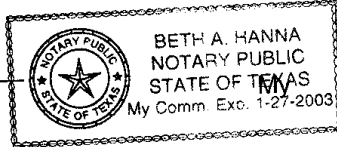
NOTARY PUBLIC,

State of

Printed

Commission

Name: BETH HANNA
Seal
Expires: 1-27-2003



Printed

Commission

Name: _____
Seal
Expires: _____

My

AFTER RECORDING, RETURN TO:

11/13/2000

WILLIAM J. KOLODZIE SURVEYING COMPANY

Dt 01030532 Bk OPR Vol 1917 Pg 669

REGISTERED PROFESSIONAL LAND SURVEYORS
197 EAST WILSON STREET
NEW BRAUNFELS, TEXAS 78130
830-625-6484 FAX 830-620-6484

1308 702

WILLIAM J. KOLODZIE, R.P.L.S. 1462

GERARD S. SCHOLLER, R.P.L.S. 1876

October 30, 1997

Description of a 9.042 acre tract of land, Hays County, Texas.

Being a 9.042 acre tract of land out of the John Ingram League Survey, Abstract No. 256, Hays County, Texas, and being out of the West portion of that certain 72.150 acre Lot 6, conveyed to Harold Simon by Deed of Partition dated August 6, 1990 and recorded in Volume 840 on page 428 of the Real Property Records of Hays County, Texas, and described more particularly by metes and bounds as follows:

FROM a 1/2" re-bar rod found in the centerline of a 60.0 foot Road Easement, in the North line of 36.075 acre Lot 7, conveyed to Harold Edwin Simon by Deed of Partition dated August 6, 1990 and recorded in Volume 840 on page 429 of the Real Property Records of Hays County, Texas, for the Southwest corner of 72.150 acre Lot 3 conveyed to Frances Simon Megens by Deed of Partition dated August 6, 1990 and recorded in Volume 840 on page 425 of the Real Property Records of Hays County, Texas;

THENCE with the centerline of the 60.0 foot Road Easement, the South line of the Frances Simon Megens 72.150 acre Lot 3, the North line of the Harold Edwin Simon 36.075 acre Lot 7, S. 83° 34' 10" E. (REFERENCE BEARING) 1,083.36 feet to a 1/2" re-bar rod found for the Northeast corner of the Harold Edwin Simon 36.075 acre Lot 7, for the Northwest corner of the Harold Simon 72.150 acre Lot 6, for the Northwest corner and POINT OF BEGINNING of the herein described 9.042 acre tract;

THENCE with the centerline of the 60.0 foot Road Easement, the South line of the Frances Simon Megens 72.150 acre Lot 3, the North line of the Harold Simon 72.150 acre Lot 6, S. 83° 34' 10" E. 681.91 feet to a 1/2" re-bar rod set for the Northeast corner of this 9.042 acre tract;

THENCE severing the said Harold Simon 72.150 acre Lot 6, S. 00° 39' 40" W. 531.48 feet to a 1/2" re-bar rod set for the Southeast corner of this 9.042 acre tract;

THENCE establishing the South line of this 9.042 acre tract, S. 89° 06' 57" W. 691.04 feet to a 1/2" re-bar rod set in the West line of the Harold Simon 72.150 acre Lot 6, the East line of the Harold Edwin Simon 36.075 acre Lot 7, for the Southwest corner of this 9.042 acre tract;

Recorder's Note:
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT "A"

9.042 ACRE TRACT, PAGE 2.

1997 700

THENCE with the West line of the Harold Simon 72.150 acre Lot 6, the East line of the Harold Edwin Simon 36.075 acre Lot 7, N. 01° 48' 11" E. 618.79 feet to the Place of Beginning.

I hereby certify that this survey was made on the ground and completed on October 29, 1997, and is true and correct to the best of my knowledge and belief.

GERARD S. SCHOLLER
R.P.L.S. 1876

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Margie T. Villalpando

12-23-97 04:11 PM 9721493
LACKEY \$15.00
MARGIE T VILLALPANDO, County Clerk
HAYS COUNTY



Recorder's Note:
ORIGINAL DOCUMENT ILLEGIBLE

1374 492

Being 72.150 acre Lot 6 out of the John Ingram League Survey, Abstract No. 256, Hays County, Texas, and being a 72.150 acre tract of land out of that certain 296.17 acre tract of land conveyed by J. N. Byler and wife, Margaret Byler to Edwin W. Simon by deed dated December 31, 1959 and recorded in Volume 180 on pages 310-316 of the Deed Records of Hays County, Texas, and described more particularly by metes and bounds as follows:

FROM a 1 inch iron bar found at a corner post, set for the Southeast corner of the above described Edwin W. Simon 296.17 acre tract, for the Southeast corner of a 36.075 acre Lot 5; THENCE with the fence, the South line of the said 296.17 acre tract, the South line of the said Lot 5, N. 89° 25' 26" W. 955.75 feet to an iron pin set at a Live Oak tree and N. 89° 17' 17" W. 25.33 feet to an iron pin set for the Southwest corner of the said Lot 5, for the Southeast corner and POINT OF BEGINNING of the herein described 72.150 acre Lot 6;

THENCE with the fence, the South line of the said 296.17 acre tract, as follows: N. 89° 17' 17" W. 744.92 feet to an iron pin found at a steel corner post, N. 89° 26' 31" W. 1,201.05 feet to an iron pin found at a steel corner post and N. 89° 25' 08" W. 704.54 feet to an iron pin set for the Southeast corner of a 36.075 acre Lot 7, for the Southwest corner of this Lot 6;

THENCE with the East line of the said Lot 7, N. 01° 30' 52" E. 1,326.16 feet to an iron pin set in the South line of a 72.150 acre Lot 3, for the Northeast corner of the said Lot 7, for the Northwest corner of this Lot 6;

THENCE with the South line of the said Lot 3, S. 83° 34' 10" E. 2,612.50 feet to an iron pin set in the West line of the said Lot 5, for the Southeast corner of the said Lot 3, for the Northeast corner of this Lot 6;

THENCE with the West line of the said Lot 5, S. 02° 18' 40" E. 1,062.36 feet to the Place of Beginning.

LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACT OF 20.560 ACRES:

Recorder's Note:
ORIGINAL DOCUMENT ILLEGIBLE

Description of a 20.560 acre tract of land, Hays County, Texas.

Being a 20.560 acre tract of land out of the John Ingram League Survey, Abstract No. 256, Hays County, Texas, and being out of the West portion of that certain 72.150 acre Lot 6, conveyed to Harold Simon by Deed of Partition dated August 6, 1990 and recorded in Volume 840 on page 428 of the Real Property Records of Hays County, Texas, and described more particularly by metes and bounds as follows:

FROM a 1/2" re-bar rod found in the centerline of a 60.0 foot Road Easement, in the North line of 36.075 acre Lot 7, conveyed to Harold Edwin Simon by Deed of Partition dated August 6, 1990 and recorded in Volume 840 on page 429 of the Real Property Records of Hays County, Texas, for the Southwest corner of 72.150 acre Lot 3 conveyed to Frances Simon Megens by Deed of Partition dated August 6, 1990 and recorded in Volume 840 on page 425 of the Real Property Records of Hays County, Texas;

THENCE with the centerline of the 60.0 foot Road Easement, the South line of the Frances Simon Megens 72.150 acre Lot 3, the North line of the Harold Edwin Simon 36.075 acre Lot 7, S. 83° 34' 10" E. (REFERENCE BEARING) 1,083.36 feet to a 1/2" re-bar rod found for the Northeast corner of the Harold Edwin Simon 36.075 acre Lot 7, for the Northwest corner of the Harold Simon 72.150 acre Lot 6, for the Northwest corner and POINT OF BEGINNING of the herein described 20.560 acre tract;

THENCE with the centerline of the 60.0 foot Road Easement, the South line of the Frances Simon Megens 72.150 acre Lot 3, the North line of the Harold Simon 72.150 acre Lot 6, S. 83° 34' 10" E. 681.91 feet to a 1/2" re-bar rod set for the Northeast corner of this 20.560 acre tract;

THENCE severing the said Harold Simon 72.150 acre Lot 6, S. 00° 39' 40" W. 1,258.84 feet a 1/2" re-bar rod found at a steel pipe corner post in the South line of the Harold Simon 72.150 acre Lot 6, for the Northwest corner of a 60.00 acre tract conveyed to Edward N. Jabalie, M.D. and wife, Georgia A. by deed dated June 29, 1979 and recorded in Volume 328 on pages 582-585 of the Deed Records of Hays County, Texas, for the Northeast corner of a 33.88 acre tract conveyed to Lynette Gold by deed dated September 24, 1982 and recorded in Volume 382 on pages 449-453 of the Deed Records of Hays County, Texas, for the Southeast corner of this 20.560 acre tract;

THENCE with the fence, the South line of the Harold Simon 72.150 acre Lot 6, the North line of the Lynette Gold 33.88 acre tract, N. 89° 30' 09" W. 638.45 feet to a 1/2" re-bar rod set and N. 89° 17' 11" W. 66.51 feet to a 1/2" re-

bar rod found for the Southwest corner of the Harold Simon 72.150 acre Lot 6, for the Southeast corner of the Harold Edwin Simon 36.075 acre Lot 7, for the Southwest corner of this 20.560 acre tract;

THENCE with the East line of the Harold Edwin Simon 36.075 acre Lot 7, the West line of the Harold Simon 72.150 acre Lot 6, N. 01° 48' 11" E. 1,329.42 to the Place of Beginning.

I hereby certify that this survey was made on the ground and completed on October 29, 1997, and is true and correct to the best of my knowledge and belief.


GERARD S. SCHOLLER
R.P.L.S. 1876

Recorder's Note:
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT "A" PAGE 2 of 2

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
On: Dec 07, 2001 at 08:31A

Document Number: 01030532

Amount 31.00

Lee Carlisle
County Clerk
By
Rose Robinson, Deputy
Hays County