

# Tiemann Land and Cattle Development, Inc.

March 3, 2004

To: John Danrich  
RH of Texas, Ltd. *Via Facsimile (512) 343-3289*

Pat Murphy  
Gehan Homes, Ltd. *Via Facsimile (512) 310-7752*

Todd Janssen  
Pulte Homes of Texas *Via Facsimile (512) 930-6771*

Steve Emshoff  
Capital Pacific Homes *Via Facsimile (512) 320-9970*

From: Rob Tiemann  
Tiemann Land and Cattle Development, Inc.

Subject: Long term Reciprocal Use Agreement – Meadows & Park/Lakeside H.O.A.

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Attached is a fully executed Amenity Reciprocal Use Agreement for Park/Lakeside using Meadows Amenity Center and vice versa. This agreement should lay to rest any apprehension that Meadows would suddenly cut Park/Lakeside off or that a Meadows homeowner would not be able to use the new Park/Lakeside Amenity Center upon completion.

Please note that this agreement is for twenty (20) years. As ever we remain committed to helping you market the maximum number of homes.

cc: Carmen Glassinger  
Goodwin Management Group *Via Facsimile (512) 346-4873*

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512-990-1933 • Fax 512-990-1938  
P.O. Box 1190 • Pflugerville, Texas 78691  
3719 Rowe Lane Pflugerville, Texas 78660

**AGREEMENT FOR JOINT USE AND ACCESS TO AMENITIES**

This Agreement for Joint Use and Access of Amenities (the "Agreement") is made and entered into by and between **PARK AT BLACKHAWK AND LAKESIDE HOMEOWNERS' ASSOCIATION, INC.**, a Texas non-profit corporation ("Park") and **MEADOWS OF BLACKHAWK HOMEOWNERS ASSOCIATION, INC.**, a Texas non-profit corporation ("Meadows").

**RECITALS**

WHEREAS, Park is the current owner of Lot 51, Block 2, of the Lakeside at Blackhawk Subdivision in Travis County, Texas according to the map or plat thereof recorded under Document No. \_\_\_\_\_ of the Official Public Records of Travis County, Texas (the "Park Amenities Lot").

WHEREAS, Tiemann Land & Cattle Development Corporation ("TLCD") is the developer of Park at Blackhawk and Lakeside at Blackhawk subdivisions and intends to construct an amenity center on the Park Amenities Lot (the "Park Amenity Center");

WHEREAS, TLCD represents that said Amenity Center shall include (a) two (2) pools (1 with zero depth feature), (b) dressing rooms/restrooms, (c) entertainment pavilion, (d) inside meeting room with offices for district, (e) parking area, and (f) sports court (not tennis court). The Amenity Center shall be designed and constructed with a quality and style substantially similar or better than Meadows amenity center.

WHEREAS, Meadows is the current owner of certain recreational amenities within the Meadows of Blackhawk subdivision in Travis County, Texas (the "Meadow Amenity Center");

WHEREAS, Park and Meadows desire to expand the privileges of their members by providing use of and access to each others recreational amenities referenced herein above; and

WHEREAS, Park and Meadows desire to set forth a written agreement to state the terms and conditions to govern the joint use of and access the Park and Meadows Amenity Centers.

NOW, THEREFORE, in consideration of the terms, conditions and covenants herein contained, Park and Meadows hereby agree as follows:

**AGREEMENT**

1. Park agrees that it shall provide the members of Meadows use of and access to the Park Amenity Center, once completed by TLCD.
2. In addition to the use of the Meadows Amenity Center allowed pursuant to that certain Use and Access to Amenities Agreement between the parties dated May 2, 2003 (the "Prior Amenities Agreement") and notwithstanding anything in the Prior Amenities Agreement to the

contrary, Meadows agrees that upon completion of the Park Amenity Center, it shall continue to provide the members of Park use of and access to the Meadows Amenity Center. Upon completion of the Park Amenity Center, such use of the Meadows Amenity Center by the members of Park shall be free of charge, and the Prior Amenities Agreement is hereby amended to delete any required fee for such use to the extent it conflicts with this Agreement.

3. Park agrees it shall, for the term of this Agreement, and subject to reasonable rules and restrictions, allow Meadows and the members of Meadows use of and access to the Park Amenity Center on terms and conditions and at such times that the Park Amenity Center is available to the members of Park, in accordance to the terms provided herein. Upon completion of the Park Amenity Center, such use of the Park Amenity Center by the members of Meadows shall be free of charge, and the Prior Amenities Agreement is hereby amended to delete any required fee for such use to the extent it conflicts with this Agreement.

4. Meadows agrees it shall, for the term of this Agreement, and subject to reasonable rules and restrictions, allow Park and the members of Park use of and access to the Meadows Amenity Center on terms and conditions and at such times that the Meadows Amenity Center is available to the members of Meadows, in accordance to the terms provided herein.

5. Park and Meadows agree to communicate regarding unusual scheduling, and when possible, to coordinate the closure of any of the amenity center for maintenance or special events so as to maintain at least one of the amenity center open for use at all times.

6. Park and Meadows agree that loss of privileges at either of the amenity center, pursuant to the rules and restrictions promulgated by the respective Boards of Directors, shall subject the violator to the same loss of privileges for the same duration at the other amenity center. Written notification of the offense shall be sent to Liddiard Management Company or its successor to distribute as appropriate to ensure enforcement of this provision.

7. Park and Meadows agree to give each other at least fifteen (15) days written notice prior to consideration of any changes to their respective rules and restrictions regulating the use of the pools and other amenities, including the substance of and the reasons for the proposed changes.

8. Park and Meadows respectively agree to maintain General Liability Insurance Coverage with minimum limits of liability of \$1,000,000.00 for Personal Injury, \$1,000,000.00 Occurrence Limit and \$5,000.00 Medical Payments Coverage, with a deductible not to exceed \$1,000.00 to cover claims related to the operations of the amenity centers, including but not limited to claims for personal injury, property damage, and attorneys fees. Park and Meadows shall continue to provide certificates evidencing the existence of adequate liability insurance coverage to Liddiard Management Company and said certificates shall have attached thereto an endorsement that Liddiard Management Company will be given at least ten (10) days prior written notice of cancellation of or any material change in the policy.

9. This Agreement is effective the 1st day of November, 2003, and shall continue

for twenty (20) years following such effective date. This Agreement may be extended by agreement of the parties in writing for such period as mutually agreed upon and duly authorized by their respective boards.

10. If, for any reason, not reasonably within the control of the party so claiming, either party hereto shall be rendered in whole or in part unable to carry out its obligations under this Agreement, then that party's obligation shall be suspended during the continuance of the inability then claimed but for no longer period. Such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

11. Neither party may assign its rights and obligations under this Agreement, without having first obtained the prior written consent of the other, which consent shall not be unreasonably withheld.

12. This Agreement may be amended or modified only by written agreement duly authorized by the respective boards of Park and Meadows and executed by the duly authorized representatives of each.

13. Each signatory party agrees to execute and deliver all such other and further instruments and documents and to perform any additional acts necessary or appropriate to perform the terms, provisions and conditions of this Agreement and all transactions contemplated by this Agreement.

14. In case anyone or more provisions contained herein are deemed invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and in such event; this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

15. This Agreement constitutes the entire agreement of the parties hereto and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this Agreement.

16. No provision of this Agreement shall ever be construed to grant or create any rights whatsoever in or to any portion of the amenities, other than the use and access provided. Nothing in this Agreement shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any right whatsoever.

17. This Agreement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this Agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

18. If either party retains an attorney to enforce this Agreement, the party prevailing

in litigation is entitled to recover reasonable attorney's fees and court and other costs.

19. This Agreement will be construed under and in accordance with the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for any action arising hereunder shall be in Travis County, Texas.

20. It is not a waiver of or consent to default if the nondefaulting party fails to immediately declare a default or delays in taking any action. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies in this Agreement or provided by law. This Agreement may be executed in one or more duplicate originals.

21. Each party agrees to indemnify, defend and hold harmless the other party from any loss, attorney's fees, expenses or claims attributable to breach or default of any provisions of this Agreement by the indemnifying party.

22. Until changed by written notice thereof, any notice required under this Agreement may be given to the respective parties by certified mail, postage prepaid or by hand-delivery to the address of the other party shown below:

**PARK**  
Park at Blackhawk and Lakeside Homeowners'  
Association, Inc.  
C/O Liddiard Management  
12335 Hymeadow Drive, Ste. 300  
Austin, Texas 78750  
Attn: Brian Liddiard

**MEADOWS**  
Meadows of Blackhawk Homeowners  
Association  
C/O Liddiard Management  
12335 Hymeadow Drive, Ste. 300  
Austin, Texas 78750  
Attn: Audrey Veldman

24. Any recitals in this Agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

25. Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays and legal public holidays. If the date for performance of any obligations falls on a Saturday, Sunday or legal public holiday, the date for the performance will be the next regular business day.

EXECUTED THIS 13<sup>th</sup> DAY OF Jan. 2004  
~~November, 2003.~~

*[signature page to follow]*

PARK AT BLACKHAWK AND LAKESIDE  
HOMEOWNERS ASSOCIATION, INC., a Texas non-  
profit corporation

By: *[Signature]*  
Name: Robert M. Tiemann  
Title: President

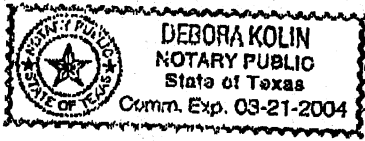
MEADOWS AT BLACKHAWK HOMEOWNERS  
ASSOCIATION, INC., a Texas non-profit corporation

By: *[Signature]*  
Title: President

STATE OF TEXAS            §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on the 5<sup>th</sup> day of January, 2004  
Robert M. Tiemann.

Debra Kolin  
Notary Public, STATE OF TEXAS



STATE OF TEXAS            §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on the 13<sup>th</sup> day of January, 2004  
Robbie McDonald.

Debra Kolin  
Notary Public, STATE OF TEXAS

