

WESTLAKE ISLAND CONSTRUCTION/REMODELING AGREEMENT

This Construction/Remodeling Agreement ("Agreement") is made by and between the Westlake Island Property Owners Association ("Association") and

_____ ("Owner").

Owner is a member of the Association and wishes to improve his or her lot by adding new structures to the lot or by remodeling or repairing existing structures. As a member of the Association, Owner is subject to the Association's Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), Rules and Regulations, and Architectural Rules. The Association is willing to permit Owner use of its private streets subject to the Association's CC&R's, Rules and Regulations, Architectural Rules and the terms of this Agreement.

THEREFORE, the parties agree as follows:

1. Work According to Approved Plans. Owner shall only make improvements or repairs ("Project") which have received written approval by the Architectural Committee and shall comply with the Association's Architectural Rules. Any changes from the approved plans must also be submitted to the Architectural Committee for approval.

2. Building Permits. Prior to commencement of construction, Owner will obtain and post all applicable building permits from appropriate governmental agencies.

3. Damage Deposit. Prior to commencement of work, Owner shall deposit \$_____ ("Deposit") with the Association as a security/damage/clean-up deposit to be held by the Association until the Project is completed, inspected and signed-off. If Owner fully complies with Association's rules and regulations and there is no damage to the common areas, the Deposit will be fully refunded within thirty (30) days of sign-off by the Association. In no way does the Deposit restrict the amount of damages the Association may seek against Owner for Owner's violation of the CC&Rs, Architectural Rules, or this Agreement.

4. Liability for Damages. Owner agrees to assume full responsibility for any damage to other lots and their improvements, as well as the common areas, and to personal property of the Association caused by Owner or Owner's family, subcontractors, agents, employees or invitees. If the damage is not repaired in a timely manner, Owner agrees the Association has the right to make the repairs and specially assess Owner for the cost of these repairs, or deduct the amount from the Deposit, and/or take legal action against the Owner. If Owner fails or refuses to pay the special assessment, the Association shall have the right to lien Owner's property and/or utilize any other remedy provided for in this Agreement, in the CC&Rs or by law.

5. Inspections. Owner agrees the Association has the right to periodically inspect the work and to conduct a final inspection before releasing the Deposit. Owner agrees to allow inspections and understands that construction work will be halted if inspections are not allowed. Such inspections or lack of inspections by the Association do NOT relieve Owner from Owner's duty to comply with (i) the CC&Rs and Architectural Rules, (ii) plans approved by the Association, (iii) all applicable building and fire/safety codes, and (iv) this Agreement.

6. Right to Stop Work. Owner agrees the Association has the right to stop any work that (i) is in violation of this Agreement, (ii) creates a fire or safety hazard, or (iii) unreasonably interferes with the common areas and/or neighbors.

7. Security. Owner agrees to provide security for the work sites and agrees to bear the risk of loss for any theft which may occur. Owner agrees to provide the guardhouse with a list of those vehicles and subcontracting companies authorized to work on the Project.

8. Construction Hours. Construction is limited to Monday through Friday 7:00 a.m. to 5:00 p.m. No construction is permitted on Saturday, Sunday or the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas.

9. Trash and Debris. The Project must be kept neat and clean, and all trash must be carried off site on a regular basis at Owner's sole cost and expense. Sweeping, blowing or washing construction debris, oils, repair residue or any toxic or poisonous material into the street, gutters, or anywhere else which may cause such items to drain, blow or flow into the Lake is prohibited and will result in a \$1,000.00 fine per incident.

10. Protection of Sidewalks. A plastic tarp or similar material cover must be placed on the street and sidewalk whenever dirt, sod, sand, cement or any other materials are used. Failure to do so will result in a \$400.00 fine per incident. Whenever possible, Owner's driveway rather than the street must be used for mixing materials.

11. Trash Bins. Plywood MUST be placed under the wheels of trash bins to prevent damage to the street. Failure to do so will result in a \$400.00 fine per incident plus the cost to repair any damage to the street or sidewalk.

12. Contractor Signs. Contractors may display stake signs not exceeding three square feet in size during construction, remodeling or major repair (roof, landscaping, painting, concrete, etc.). Signs must be removed at the completion of the job. There shall be a \$400.00 fine per day until the violation is corrected.

13. Construction Hazards. Appropriate barriers are required for all construction hazards. There shall be a \$500.00 fine per violation per day until the violation is corrected.

14. Cement Work. OWNER IS RESPONSIBLE FOR INSURING THAT SOME TYPE OF SPILL CONTAINMENT DEVICE IS USED DURING THE MIXING AND POURING OF CONCRETE AND SUBSEQUENT CLEANING OF EQUIPMENT SO THAT NO CONCRETE IS SPILLED ON THE STREET OR SIDEWALK, NOT CAN IT RUN IN THE GUTTER TO THE LAKE. Any concrete spills on the Association's streets must be cleaned *immediately*. No concrete ready-mix truck may be washed in the streets. All chutes are to be washed on the building site pad. Cleaning of concrete or cement handling tools or equipment which results in residue entering the street gutters or sewers of Westlake Island is PROHIBITED. Violations will result in a \$1,000.00 fine per incident against the Owner. Either of the following procedures is recommended for cleaning ready-mix delivery chutes, mortar mixers or workers' tools:

- a. *Steel Drum for Waste.* The contractor shall provide a 55 gallon drum with a securable lid to be used on the job site. Ready-mix truck operators and other workers may then pour all liquid cement waste into the drum. At the end of the work day this drum should be securely closed and removed from the Island.
- b. *Shallow Hole for Washing Equipment.* No concrete ready-mix truck may be washed in the streets. All chutes are to be washed on the building site pad. A shallow hole shall be dug in the ground (approximately 12" deep) to be used for disposal. Workers and ready-mix operators may then wash their equipment into a wheelbarrow, and the liquid cement waste may be poured into the shallow hole. This will result in the water filtering down through the earth, and the solidified residue may be removed the next day.

15. Approval for Pouring of Concrete. Once the forms for concrete are in place, the Owner will notify a member of the Architectural Committee and obtain approval before any concrete is poured.

16. No Open Fires. Fires are prohibited at all times, even in instances where they are protected by trash cans or other containers. There shall be a \$1,000.00 fine per violation.

17. Restrictions on Workers. Violation of any of the following shall result in a \$200.00 fine per violation:

- a. *Alcoholic Beverages.* No alcoholic beverages, intoxicants, drugs or other controlled substances are permitted on Association property.
- b. *Animals.* Workers are to leave their animals at home. No dogs or other animals are allowed on the construction sites.
- c. *Radios.* Radios are permitted on the project but must be kept at low volume so as not to disturb neighbors.
- d. *Parking.* All workers are restricted to parking at the work site.

- e. Driver's License and Insurance. No vehicle may be operated on the Association's streets without the operator having in his possession a valid driver's license and proof of liability insurance.
- f. Speed Limit. The speed limit on the Island is 25 miles per hour.

18. Street Maintenance. Damage to the Association's streets must be repaired in a timely fashion to the street's original condition or better. Accumulation of sand, dirt, etc., due to construction activity must be removed promptly by Owner as needed. A final street sweeping must be performed at the conclusion of construction.

19. Tracked Vehicle Operation. Tracked vehicles shall not be operated on paved surfaces. This includes "street tracks". All movement, pick-up, delivery and regular operation of such vehicles shall be on the construction site. Any placement or movement upon or across streets requires the use of protective wood surfaces. There shall be a \$1,000.00 fine per violation.

20. Insurance. All contractors and subcontractors must be licensed and must carry appropriate amounts of Worker's Compensation Insurance, General Liability and Property Damage Insurance.

21. Mechanic's Liens. Owner shall indemnify, hold harmless, and defend the Association and individual lot owners in the Association against liability or loss arising from liens for labor performed or materials furnished to the Project.

22. Diligent Construction. Work on the Project must be completed in a timely manner. Reasonable extensions will be granted by the Association for delays caused by fires, rains or other events beyond Owner's control. If the work is not completed by the Completion Date and no extensions have been granted, fines will begin to accrue at the rate of \$600.00 per day until the work is completed.

Start Date: _____ Completion Date: _____ Owner's Initials: _____

23. Obligation to Obey Governing Authorities. This Agreement in no way relieves the Owner from complying with the Association's governing documents as well as all governmental and quasi-governmental statutes, ordinances, and regulations.

24. Indemnity. Owner shall indemnify, hold harmless and defend the Association and its directors, officers, members, employees and representatives from and against liability or loss arising from the Project, including all claims made for personal injuries, death and property damage arising out of or incurred in connection with the Project.

25. Enforcement. Failure to follow this Agreement can result in fines, suspension of subcontractors' access to the Island and/or other legal remedies including *ex parte* restraining orders from a court of competent jurisdiction to restrain the breaching party and its agents, servants or employees from violating the provisions of this Agreement.

26. Payment of Fines. Owner understands and agrees that all fines shall become a special assessment against his or her lot which may result in a lien against the lot and a non-judicial foreclosure if unpaid.

27. Alternate Dispute Resolution. Except for injunctive relief, any dispute arising out of this Agreement shall be resolved by final and binding arbitration before a retired Superior Court judge ("Arbitrator"). The trial shall be commenced, if possible, within six (6) months from the date the matter has been submitted to the Arbitrator. The parties shall be entitled to only such discovery as is permitted by Section 1283.05 of the Code of Civil Procedure. Should any party refuse to or neglect to appear or participate in the arbitration proceedings, the Arbitrator shall decide the controversy in accordance with whatever evidence is presented. The fees necessary to initiate the arbitration shall be remitted by the requesting party. The prevailing party shall be entitled to reasonable attorney's fees and costs plus interest at the highest rate permitted by law as of the date of the breach. Judgment on the Arbitrator's award may be entered in any court having jurisdiction.

28. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

29. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

30. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all negotiations, prior discussions, representations, statements or understandings whether oral or written. This Agreement may not be modified, amended or replaced except by a written instrument signed by both parties.

OWNER

_____ Date _____

WESTLAKE ISLAND PROPERTY OWNERS ASSOCIATION

By: _____ Date _____