

8114725

AGREEMENT INCREASING MAINTENANCE CHARGE

THE STATE OF TEXAS §
COUNTY OF GALVESTON §

WHEREAS, MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST ("MDCSW"), is the owner of the following described Lots in Galveston County, Texas, to-wit:

Lots 1 through 14, both inclusive, in Block 17; Lots 21 through 31, both inclusive, in Block 19; Lots 2 through 12, both inclusive, in Block 24; Lots 1 through 7, both inclusive, in Block 25; Lots 1 and 2, in Block 26; Lots 1 through 15, both inclusive, in Block 27; Lots 3, 5, 6, and 8, in Block 28; Lots 1, 4 through 11, both inclusive, 14, 17, 21, 22, 23, 31, and 32, in Block 29, all in Pirates Beach, Section 1, a Subdivision in Galveston County, Texas, according to the Map or Plat thereof recorded in Volume 1616, Page 66, of the Plat Records of Galveston County, Texas ("the Property").

and,

WHEREAS, MDCSW's title to the Property is subject to certain Restrictions, Covenants, and Conditions, ("Restrictions"), dated June 13, 1966, recorded in Volume 1798, Page 670, of the Deed Records of Galveston County, Texas; and,

WHEREAS, the Restrictions provide for the imposition against each lot in the Pirates Beach, Section 1, Subdivision (except lots owned by Mitchell Development Corporation of the Southwest, its successors and assigns) of an annual maintenance charge, payable to an Architectural Control Committee (the "Committee") composed of three or more representatives from time to time appointed by MDCSW, the funds of which are to be used towards payment of maintenance expenses in the Pirates Beach, Section 1, Subdivision; and,

WHEREAS, due to inflation and other causes the maximum annual amount of such maintenance charge permitted by the Restrictions is now too low to provide sufficient funds for the proper maintenance of the Pirates Beach, Section 1, Subdivision, and the MDCSW has elected to increase the annual maintenance charge against each Lot in the Property from and after the time

001-20-11992

of conveyance of each such lot by MDCSW, for the general benefit of the Property and the entire Pirates Beach, Section 1, Subdivision, and in order to maintain and increase property values therein:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, for and in consideration of the benefits to be derived by purchasers of Lots within the Property by the proper maintenance of the Pirates Beach, Section 1, Subdivision, and the maintenance and increase of property values therein, MDCSW, on behalf of itself, its successors, assigns, and grantees, hereby covenants and declares that, notwithstanding the provisions of the Restrictions, henceforth the amount of the annual maintenance charge assessed against each lot in the Property shall be determined as follows:

1. Each lot within the Property is hereby subject to a minimum annual maintenance charge of \$92.40 per year to be paid into the "Maintenance Fund" created by the Restrictions. Said maintenance charge may be increased from time to time by the Committee in an annual amount not to exceed 10% of the maintenance charge for the previous year, up to a maximum charge of \$168.00 a lot per year if, in the sole discretion of the Committee, such action is required to satisfy funding requirements for maintenance expenses in the Pirates Beach, Section 1, Subdivision. After said maximum charge of \$168.00 per lot has been reached, thereafter the Committee shall have the right, in its sole discretion, to increase the annual maintenance charge by a percentage increase equal to the percentage increase in the Consumer Price Index - All items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year next preceding the year for which the assessment is being made. Should the U.S. Department of Labor, Bureau of Labor Statistics cease to publish the Consumer Price Index - All Items, 1967 equals 100, the Committee shall select such other indices which in its judgment reflect the then broad range of economic

factors represented in the said Consumer Price Index - All Items, 1967 equals 100. Said maintenance charge shall be due and payable annually in advance on or before the first day of July of each year to the Committee at its office in The Woodlands, Texas. All maintenance charges referred to herein, together with any and all liens securing payment of the same, are hereby transferred, assigned and conveyed to the Committee.

2. Notwithstanding anything contained herein to the contrary, in the event either the public and/or private roads and/or streets in the Pirates Beach, Section 1, Subdivision (including, but not limited to, access roads) are damaged by hurricane, flood, storm or other acts of nature, and the County of Galveston does not satisfactorily repair such roads, the annual maintenance charge may be increased annually during the next ensuing collection period or periods by an amount not to exceed one-half (1/2) of the then current annual maintenance charge in order to raise sufficient funds to pay the cost of restoring such roads or streets to their former condition and the funds collected by reason of such increase may be used to repair such damage and/or to reimburse MDCSW, its successors or assigns, for any expense, including interest, if any, which it may have incurred in connection with the repair of such damage. After the total cost of such repairs, including interest, if any, has been paid, the annual maintenance charge shall revert to such amount as may have been collected annually prior to such increase, subject to the right of the Committee, its successors or assigns, to increase the maintenance charge as herein provided.

3. It is understood and agreed by MDCSW, its successors, assigns, and grantees, that the agreements and covenants herein contained increasing the amount of the annual maintenance charge assessed against each lot in the Property shall be effective commencing with the conveyance of each such Lot by MDCSW.

4. It is further understood and agreed by MDCSW, its successors, assigns and grantees, that none of the provisions of

001-20-1994

the Restrictions are amended or changed by this instrument other than those pertaining to the minimum and maximum amount of the annual maintenance charge assessed against the lots in the Property, and all other provisions of the Restrictions, including, without limitation, those providing for the reservation of a Vendor's Lien to secure the payment of such maintenance charge, and those exempting from imposition of the annual maintenance charge lots owned by MDCSW, its successors and assigns, remain binding against the Property and in full force and effect. By its execution hereof, MDCSW does not waive any of its rights granted or preserved under the Restrictions. It is understood and agreed that MDCSW's execution of this Agreement covering the Property, coupled with the execution of such Agreement by other Owners of Lots within the Pirates Beach, Sections 1 and 2 Subdivision, constitute the Agreement of a sufficient number of Lot Owners in the Subdivision to effect an Amendment of the Restrictions in the particulars herein stipulated.

5. The provisions of this agreement shall be binding upon MDCSW, its successors, assigns and grantees, and shall constitute real covenants running with the title to the Property. In case of a conveyance of the Property or a lot or lots therein, each grantee from MDCSW agrees to include in the Deed a provision expressly referring to the fact that title to the Property is subject to the terms of this agreement and giving the recordation data thereof.

EXECUTED this 19TH day of MAY, 1981.

MITCHELL DEVELOPMENT CORPORATION
OF THE SOUTHWEST

By James L. Fasser
JAMES L. FASSER
VICE-PRESIDENT

001-20-11995

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on this day personally appeared JAMES L. FISHER, of MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument as VICE PRESIDENT, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 19TH day of MAY, 1981.



Milton W. Sweet

Notary Public for the
State of Texas MILTON W. SWEET

PAID

Attn:

MITCHELL DEVELOPMENT CORP
RT. 1, BOX 149B
GALVESTON, TEXAS 77551
ATTN: MILTON W. SWEET

FILED FOR RECORD
at 1:30 o'clock P. M.
MAY 22 1981
Mary Jane Christman
CLERK CO. CL. GALVESTON, TEX.

STATE OF TEXAS COUNTY OF GALVESTON
I hereby certify that this instrument was filed on the
date and time stamped herein by me and was duly recorded
in the Official Public Records of Real Property of Galveston
County, Texas, on

MAY 22 1981



Mary Jane Christman
COUNTY CLERK, Galveston County, Texas