

Road Use and Maintenance Agreement and Covenant

2023-01-803
Date: March 27, 2023

Roadway Owner: Baiza Properties, Inc.

Property Owners: Any person or entity that owns or purchases a lot within the Baiza Properties Subdivision, recorded in Cabinet B, Page 132-C, Plat Records of Ector County, Texas

Roadway (description):

The roadways as shown on Baiza Properties Subdivision, recorded in Cabinet B, Page 132-C, Plat Records of Ector County, Texas attached as Exhibit "A" hereto and made a part hereof for all purposes.

The parties, whose property is benefited or burdened by the Roadway described above, agree to the following:

1. Property Owners are granted the right to free and uninterrupted pedestrian and vehicular ingress and egress, over, along and across the Roadway.
 2. Property Owners will pay their pro rata share (based upon the acreage owned out of the 58.8 acres situated within Baiza Properties Subdivision) of all expenses of maintenance, repair, and restoration of the Roadway covered by this Agreement.
 3. The Roadway will be maintained in good, passable condition under all traffic and weather conditions, and in a condition no less than equal to its condition at the time of execution of this Agreement.
 4. Roadway Owner shall designate a party to be the agent for contracting or undertaking the repair or maintenance and to collect each Property Owner's share of the cost.
 5. If a Property Owner damages or disturbs the surface of the roadway (other than normal automobile and service ingress and egress), that Property Owner is responsible for immediately restoring the road surface to as nearly as possible the condition in which it existed before being disturbed.
 6. This Agreement runs with the properties situated in the Baiza Properties Subdivision, recorded in Cabinet B, Page 132-C, Plat Records of Ector County, Texas, and is appurtenant to the land.
 7. This Agreement is made by and between parties who own property benefited/burdened by the Roadway. All property accessed over the Roadway is deemed benefited thereby.
- EB

8. This Agreement remains in effect until the Roadway Owner dedicates, releases, remises and quitclaims to the Public and in particular the Property Owners, their successors and assigns, the Roadway to have and to hold for public use.

9. *Attorney's Fees.* If any party retains an attorney to enforce this Agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees, other fees, and court and other costs.

10. *Binding Effect.* This Agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

11. *Choice of Law.* This Agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any other jurisdiction. Venue is in the county or counties in which the Properties are located.

12. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting Party fails to declare immediately 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.

13. *Indemnity.* 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 provision of this agreement by the indemnifying party. The obligations of the parties under this provision will survive termination of this agreement.

14. *Legal Construction.* If any provision in this Agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

15. *Notices.* Any notice required or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

16. *Time.* 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 obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

EB

17. *Rights Reserved.* Roadway Owner reserves for its heirs, successors, and assigns the right to continue to use and enjoy the surface of the Properties for all purposes that do not unreasonably interfere with or interrupt the use or enjoyment of the Roadway.

18. *Equitable Rights of Enforcement.* This Roadway 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.

Baiza Properties, Inc.

By: 
Edgar Baiza Sr., President

STATE OF TEXAS
COUNTY OF ECTOR

Sworn to and subscribed before me on the 27 day of 3, 2023, by

Edgar Maza Sr.

[Signature]
Notary Public Signature



Exhibit "A"

BAIZA PROPERTIES SUBDIVISION

BEING A SUBDIVISION OF A 28.21 ACRES OF LAND IN SECTION 45, BLOCK 42,
T-2-S, T&P RY. CO. SURVEY AND A 54.16 ACRES OF LAND IN SECTION 4, BLOCK 42,
T-3-S, T&P RY. CO. SURVEY, ECTOR COUNTY, TEXAS



NOTES:
PRIVATE ROAD MAINTENANCE IS THE SOLE RESPONSIBILITY OF THE
PROPERTY OWNER.
ALL ROAD RIGHTS-OF-WAY AS SHOWN ON THIS PLAT ARE HEREBY
EASEMENTS.
BASIS OF SURVEY AND DISTANCES IS GCS, TEXAS STATE PLANE
COORDINATE SYSTEM AND 1983, TEXAS CENTRAL ZONE 4203

CREATING TABLE

LOT	ACREAGE	TOTAL ACREAGE
LOT 1	4.50	4.50
LOT 2	4.50	9.00
LOT 3	4.50	13.50
LOT 4	4.50	18.00
LOT 5	4.50	22.50
LOT 6	4.50	27.00
LOT 7	4.50	31.50
LOT 8	4.50	36.00
LOT 9	4.50	40.50
LOT 10	4.50	45.00
LOT 11	4.50	49.50
LOT 12	4.50	54.00
TOTAL	54.00	54.00



LEGEND

• SECTION CORNER

• QUARTER CORNER

— ROADWAY LINE

NOTE: LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

S.W. HOWELL, INC.
400 EAST STAM STREET
DRESSER, TEXAS 75762
(409) 397-3011
FAX: (409) 397-3012
www.swhowell.com

FILED FOR RECORD THIS 9th DAY OF April 2014 10:44 AM.
RECORDED THIS 9th DAY OF April 2014 10:44 AM.
CARTER B. PAGE 132-C PLAT RECORDS ECTOR COUNTY TEXAS

Shirley Shivers
CLERK OF ECTOR COUNTY TEXAS

APPROVED THE 25th DAY OF March 2014 BY THE PLANNING COMMISSION OF THE CITY OF
OPERA, TEXAS
Carter B. Page
DIRECTOR OF PLANNING

CERTIFICATE OF DIRECTOR OF PUBLIC WORKS - CITY OF OPERA, TEXAS
I HEREBY CERTIFY THAT ALL REQUIREMENTS OF THE "UNIFORM REGULATORY CONTRACT" CONCERNING
SUBDIVISIONS HAVE BEEN COMPLETED AND THE CITY ENGINEER HAS REVIEWED THE PLAT AND APPROVED THE CITY ENGINEER'S REVIEW FOR THIS SUBDIVISION.
DATE: March 25, 2014
Director of Public Works

THIS PLAT IS HEREBY NOTED AS FOR THE ECTOR COUNTY RECORDS WITH THE CITY OF OPERA FOR REGISTRATION OF
SUBDIVISION PLAT IN THE ECTOR COUNTY RECORDS OF THE CITY THIS DAY OF
March 25, 2014 IN THE ECTOR COUNTY RECORDS OF THE CITY OF OPERA, TEXAS.
Carter B. Page
DIRECTOR OF PUBLIC WORKS



STATE OF TEXAS
COUNTY OF ECTOR
KNOW ALL MEN BY THESE PRESENTS THAT I, S.W. HOWELL, A REGISTERED PROFESSIONAL
LAND SURVEYOR OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED BY ME OR BY AN
AGENT OR EMPLOYEE OF THE STATE OF TEXAS, AND THAT THE CORNER MARKERS SHOWN HEREON WERE PLACED
AND PLACED UNDER MY SUPERVISION.
DATE: 7-12-2013

NOT COMMISSIONED EVIDENCE
S.W. HOWELL, INC.
400 EAST STAM STREET
DRESSER, TEXAS 75762
(409) 397-3011
FAX: (409) 397-3012
www.swhowell.com

STATE OF TEXAS
COUNTY OF ECTOR
THE UNDERSIGNED HAS BEEN EMPLOYED BY THE CITY OF OPERA, TEXAS
FROM 2013 TO THE PRESENT, AS A REGISTERED PROFESSIONAL LAND SURVEYOR.
DATE: 7-12-2013

S.W. HOWELL, INC.
400 EAST STAM STREET
DRESSER, TEXAS 75762
(409) 397-3011
FAX: (409) 397-3012
www.swhowell.com

STATE OF TEXAS
COUNTY OF ECTOR
KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED, BEING THE PRESENT
OWNERS OF THE LAND SHOWN ON THIS PLAT AND ORIGINALLY ACQUIRED BY S.W. HOWELL, INC., A
SUBDIVISION OF 28.21 ACRES OF LAND IN SECTION 45, BLOCK 42, T-2-S, T&P RY. CO. SURVEY AND 54.16 ACRES OF LAND IN SECTION 4,
BLOCK 42, T-3-S, T&P RY. CO. SURVEY, ECTOR COUNTY TEXAS, DO HEREBY CERTIFY THAT THE PLAT REPRESENTS ALL
MATERIAL CORRECTIONS, OMISSIONS, AND PUBLIC RECORDS SHOWN HEREON FOR THE PURPOSE AND CONSIDERATION
HEREIN EXPRESSED.

13-96 (PLAT 3)

**THE STATE OF TEXAS
COUNTY OF ECTOR**

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Official Public Records of Ector County, Texas.

2023-00005338 AGREEMENT
03/30/2023 01:48:45 PM Total Fees: \$42.00
Recorded By: Barbara Brownlee

Jennifer Martin



Jennifer Martin, County Clerk
Ector County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH
RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL
PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR
IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.