

Driggs Title Agency, Inc.

## Commitment

**Escrow No.:** 19-05-150160CP

**Due to the volume of closings and, per the purchase contract, if loan documents are not received within 3 days of funding, the escrow may be delayed.**

In response to the application for a policy of title insurance referenced herein, **Driggs Title Agency, Inc.** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Schedule B attached. Copies of the Policy forms should be read. They are available from the office which issued this report.

THE POLICIES CONTEMPLATED BY THIS REPORT WILL BE ISSUED BY DRIGGS TITLE AGENCY, INC., UNDERWRITTEN BY ALLIANT NATIONAL TITLE .

**Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Schedule B of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**A CPL is available upon request by any depositing party.**

**All currently vested owners and all potential owners have been searched for any judgment liens that may affect the property herein described.**

Driggs Title Agency  
2680 S. Val Vista Dr., Suite 152, Bldg. 10-Suite 152  
Gilbert, AZ 85295



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Authorized Agent or Officer

Commitment Version: 1

COMMITMENT FOR TITLE INSURANCE

Issued By

**Driggs Title Agency, Inc.**  
**Underwritten by Alliant National Title**

**SCHEDULE A**

**Escrow No.:** 19-05-150160CP

Commitment Effective Date: May 17, 2019 8:00 A.M.

Title No.: 19-05-150160CP

**Proposed Coverage:**

**1. Policy (or Policies) to be issued:**

- a. LTAA Standard Owners Policy In the Amount of: \$30,000.00

Proposed Insured:  
To be determined

- b. In the Amount of: \$

Proposed Insured:

- c. In the Amount of: \$

Proposed Insured:

**2. Title to the estate or interest in the land upon issuance of the Policy shall be:**

Fee

**3. The Fee estate herein described is currently vested in:**

Thomas J. Brophy Jr. and Virginia R. Brophy, trustees of The Thomas J. Brophy Jr. and Virginia R. Brophy Trust dated August 17, 1988

**The Fee estate herein described upon issuance of the Policy shall be vested in:**

To be determined

**4. The land referred to in the Commitment is described as follows:**

**See Exhibit A attached hereto and made a part hereof.**

**EXHIBIT "A"**

**Escrow No.:** 19-05-150160CP

:  
:  
:

**Lot 23, THE MESA, according to Book 4 of Maps and Plats, page 50 thereof, records of Santa Cruz County Arizona**

**parcel no. 106-44-023**

## **REQUIREMENTS**

**Escrow No.:** 19-05-150160CP

For the current tax information Santa Cruz County Treasurer  
please, prior to recording contact: 2150 N. Congress Drive  
Nogales AZ 85621

Phone No.:(520) 375-8030

### **TAX INFORMATION:**

Parcel No.: 106-44-023  
Year: 2018  
Full year1,736.16  
amount:

1. Payment of first half taxes for 2018 , plus penalties and interest, if any.\*NOTE: If this is a mobile or manufactured home, please verify that there are no outstanding personal taxes due on the structure.
2. Payment of second half taxes for 2018 , plus penalties and interest, if any. .\*NOTE: If this is a mobile or manufactured home, please verify that there are no outstanding personal taxes due on the structure.
3. Furnish a proper showing that all assessments levied by The Mesa Homeowners Association Inc. have been paid to date, including the closing date of this transaction, and any transfer fees that may apply.
4. There are no Deeds of Trust currently of record.

NOTE: Please be advised that our search did not disclose any open Deed of Trust of record. If you should have knowledge of any outstanding obligation, please contact the Title Department immediately for further review prior to closing. Upon confirmation by the Owner of no open Deed of Trust or Mortgages encumbering the land described herein,we will require an "Owner's Affidavit of No Liens/ No Open Deed of Trust".

THIS REQUIREMENT MUST BE TO THE TITLE DEPARTMENT AT LEAST 48 HOURS PRIOR TO CLOSE OF ESCROW.

5. Furnish in the recording package, a copy of the "Certification of Trustee" regarding Trust dated August 17, 1988 . The Trustees are Thomas J. Brophy Jr. and Virginia R. Brophy .

Also, furnish that portion of the Certification named "Beneficiaries' Disclosure". This must be attached to any Deeds to be recorded in this transaction.

6. Furnish to the Title Department the names of the Buyers prior to close of this transaction.

THIS REQUIREMENT MUST BE TO THE TITLE DEPARTMENT AT LEAST 48 HOURS PRIOR TO CLOSE OF ESCROW.

7. Record a Warranty Deed from Thomas J. Brophy Jr. and Virginia R. Brophy, trustees of The Thomas J. Brophy Jr. and Virginia R. Brophy Trust dated August 17, 1988 to To be determined , the proposed insured Owner(s).

**LENDER'S NOTE:** There is located on said land a Vacant land purportedly known as  
107 Red Mountain Court, Patagonia, Arizona 85624

**NOTE:** The following is for informational purposes only:  
The current vesting referred to in Schedule A herein, is pursuant to the following documents of record affecting the chain of title: Warranty Deed, recorded March 6, 2006 in Recording No. 2006-03705 from Design W. LLC, an Arizona Limited Liability Company to Thomas J. Brophy Jr. and Virginia R. Brophy, trustees of The Thomas J. Brophy Jr. and Virginia R. Brophy Trust dated August 17, 1988.

**END OF REQUIREMENTS**



## **SCHEDULE B**

**Escrow No.:** 19-05-150160CP

**\*\* NOTE:** The policy of title insurance will include an arbitration provision. The Company or the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your Title Insurance coverage.

1. Reservations, rights, easements or other matters as may be set forth in the Patent to said land recorded in the office of the County Recorder, or in acts authorizing the issuance thereof.
2. Water rights, claims or title to water, whether or not the matters excepted are shown by public records.
3. Full Year for the year 2019 a lien not yet due and payable. First half due and payable October 1, 2019 and delinquent on November 1 of that year. Second half payable on or before March 1 of the following year and delinquent on May 1 of that same year.
4. Easements, restrictions, and set-back lines as shown on the recorded plat of said subdivision
5. Failure of the County Assessor to assess and the County Treasurer to collect taxes on the land and/or improvements referred to herein.
6. Terms and conditions contained in that certain Road Maintenance Agreement, recorded in Docket 496, page 37, Docket 502, page 708 and Docket 654, page 230 of Official Records .
7. Terms and conditions contained in that certain Well Agreement, recorded in Docket 688, page 258 and in Recording No. 2009-05864 of Official Records .
8. Easement and rights incident thereto as set forth in instrument:  
Recorded:in Docket 686, page 504 of Official Records  
Purpose: driveway access over Lot 22
9. Easement and rights incident thereto as set forth in instrument:  
Recorded:in Docket 724, page 461 of Official Records  
Purpose: electrical right of way
10. All matters contained in instrument(s) setting forth covenants, conditions, restrictions, liabilities, obligations and easements recorded: in Recording No. 2009-11079 of Official Records (but omitting, if any, such conditions, covenants or restrictions based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant: a) is exempt under Chapter 42, Section 3607 of the United States code; or b) relates to handicap but does not discriminate against handicapped persons).
11. Liabilities and obligations imposed upon said land by reason of inclusion within The Mesa Homeowners Association Inc.. (All assessments have been paid current at time of close.)

## ATTACHMENT ONE

**Escrow No.: 19-05-150160CP**

### AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06) WITH A.L.T.A. ENDORSEMENT-FORM 1 COVERAGE EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting, or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or

(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.

4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

### AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

3. Defects, liens, encumbrances, adverse claims, or other matters;
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy, or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above ALTA policy forms, dated 06-17-06, may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

## EXCEPTIONS FROM COVERAGE

### **Escrow No.: 19-05-150160CP**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. 5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.



ATTACHMENT ONE  
(CONTINUED)

CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (6-2-98)  
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (06-17-06)  
EXCLUSIONS

**Escrow No.: 19-05-150160CP**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
  - a. building
  - b. zoning
  - c. Land use
  - d. improvements on Land
  - e. Land division
  - f. environmental protection

This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.

This Exclusion does not limit the coverage described in Covered risk 14, 15, 16, 17 or 24.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
  - a. notice of exercising the right appears in the Public Records at the Policy Date; or
  - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.

4. Risks

- a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
- b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
- c. that result in no loss to You; or
- d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24, or 25.

5. Failure to pay value for Your Title.

6. Lack of a right:

- a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
- b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)  
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs. Attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvements now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (this paragraph does limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25, and 26; or
  - (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.

4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Coverage Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the exercise of which are Known to the Insured at:
  - (a) The time of the advance; or
  - (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

## **PRIVACY POLICY NOTICE**

### **Purpose of Notice:**

Alliant National Title Insurance Company and Driggs Title Agency respects the privacy of our customers' personal information, so we want you to know the ways in which we may collect and use non-public personal information ("personal information"). Our practices and policies are set out in this notice.

### **Types of Information We May Collect:**

In the course of our business, the types of personal information that we may collect about you include:

- Information we receive from you or your authorized representative on applications and forms, and in other communications to us;
- Information about your transactions with us, our affiliated companies, or others;
- Information from consumer or other reporting agencies.

### **Use and Disclosure of Information:**

We use your information to provide the product or service you or your authorized agent have requested of us.

We may disclose information to our affiliated companies and unrelated companies as necessary to service your transaction, to protect against fraudulent or criminal activities, when required to do so by law, and as otherwise permitted by law.

We do not share any personal information we collect from you with unrelated companies for their own use.

### **Protection of Your Personal Information:**

We restrict access to personal information about you to those employees who need to know that information in order to provide products and services to you or for other legitimate business purposes. We maintain physical, electronic and procedural safeguards to protect your personal information from unauthorized access or intrusion.

### **Changes:**

This notice may be revised in accordance with applicable privacy laws.

## Disclosure Statement

Escrow No.: 19-05-150160CP

Pursuant to Arizona Revised Statutes 11-480, effective January 1, 1991, the County Recorder may not accept documents for recording that do not comply with the following:

- (a) Print must be ten-point type or larger.
- (b) Margins of at least one-half inch along all sides, including top and bottom, except the top of the first page which must be at least two inches for recording and return address information. The margin must be clear of all information including, but not limited to, notaries, signatures, and page numbers.
- (c) Each instrument shall be no longer than 8 1/2 inches in width and 14 inches in length.

First half taxes are due on October 1 of the taxable year, and become delinquent on November 1. Second half taxes are due on March 1 of the following year, and become delinquent on May 1.

Arizona notaries who have renewed their commission after July 20, 1996 must use an ink seal; embosser seals will not be accepted subsequent to such renewal.

**A COPY OF THIS COMPANY'S PRIVACY POLICY NOTICE IS ATTACHED HERETO FOR YOUR REVIEW. IF, FOR ANY REASON, YOU DO NOT FIND IT ATTACHED AND YOU WISH TO REQUEST A COPY, PLEASE CALL OUR OFFICE AT (602) 589-5300.**

### **Closing Protection Letter**

Escrow No.: 19-05-150160CP

Pursuant to ARS 6-841.02, a real property escrow agent that is a title insurance agent shall disclose to the buyer and seller of a residential dwelling that the title insurer may offer a closing protection letter that provides for the loss of escrow monies due to fraud or dishonesty of the escrow agent to both buyer and seller. This disclosure applies only to transactions involving a buyer and seller of a residential dwelling (an owner occupied structure or an investment that is designed for residential use by four or fewer families).

Pursuant to ARS 6-841.03, be advised that monies deposited in an escrow account are not insured against loss from fraud or theft by the State of Arizona or the United States Government. Said funds are, however, deposited in a custodial escrow account at a banking institution whose accounts are insured by the Federal Deposit Insurance Corporation.

### **Deposit of Monies**

Pursuant to ARS Section 6-834, as a depositing party to an escrow transaction you have the right to earn interest by having your funds deposited into an interest bearing account.

Driggs Title Agency, Inc. will establish a separate interest bearing account if you elect to have your funds earn interest. Our fee for this service is \$50.00.

Your funds will earn interest at the prevailing rate of interest paid by the financial institution into which the funds have been deposited.

The following is an example of the amount of interest you might receive for a \$1,000.00 deposit of a typical escrow transaction. The interest rate will be determined by the bank and may change from time to time based on the then prevailing rate offered by the bank.

Example: \$1,000.00 Deposit  
Interest rate of 1.50%  
Based on a thirty day period = \$1.23

Driggs Title Agency, Inc. or its underwriter shall not be responsible for any penalties, or loss of principal or interest or any delays in the withdrawal of the funds which may be imposed by the Depository as a result of the making or redeeming of the investment pursuant to our instruction, nor shall Driggs Title Agency, Inc. or its underwriter be liable for any loss or impairment resulting from the failure, insolvency or suspension of financial institution.

Should you wish to receive interest on your deposit, or acquire a closing protection letter, please contact: Carol Paolo at 480 422 7581

PRIVATE ROADWAY CONSTRUCTION, MAINTENANCE  
AND EASEMENT AGREEMENT

DOCK 496 PAGE 37

This Private Roadway Construction, Maintenance and Easement Agreement (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 1989 by and between ANN L. STEEL, a widow ("Steel"), and CHARLES E. LEWTON and JEAN LEWTON, husband and wife ("Lewton"), with reference to the following recitals:

RECITALS:

A. Steel is the owner of the real property legally described on Exhibit "A" hereto (the "Steel Property").

B. Lewton is the owner of the real property legally described on Exhibit "B" hereto (the "Lewton Property").

C. Steel desires to grant to Lewton, upon the terms and provisions which follow, a nonexclusive easement, 60 feet in width, over and across that portion of the Steel Property legally described on Exhibit "C" hereto (the "Steel Property Easement"). The Steel Property Easement shall be appurtenant to the Lewton Property and shall be for purposes of providing Lewton with ingress and egress to and from the Lewton Property, as the Lewton Property may in the future be owned, leased, subdivided or otherwise held.

D. In addition, Steel and Lewton desire to construct a private roadway, 28 feet in width (or such greater width which may be required by Santa Cruz County for private roadways), within the Steel Property Easement (the "Steel Property Roadway"). Steel and Lewton also wish to construct a gate (of a type to be determined by Lewton) at the entrance to the Steel Property Easement off of Harshaw County Road (the "Gate"). Steel and Lewton wish to provide for the construction of the Steel Property Roadway and the Gate, for the sharing of costs to construct same, and for the continuing maintenance obligations for same.

E. Lewton desires to grant to Steel, upon the terms and provisions which follow, a nonexclusive easement (the "Lewton Property Easement"), over and across the roadway system located or to be located on the Lewton Property and depicted on Exhibit "D" hereto (the "Lewton Property Roadways"). The Lewton Property Easement shall be appurtenant to the Steel Property and shall be for purposes of providing Steel with ingress and egress to and from the Steel Property, as the Steel Property may in the future be owned, leased, subdivided or otherwise held.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Incorporation by Reference. The Recitals to this Agreement are hereby affirmed by the parties as true and correct and, together with the exhibits attached hereto, are incorporated herein by this reference.

2. Grant of Steel Property Easement. Steel hereby grants the nonexclusive Steel Property Easement to Lewton for the purpose of constructing the Steel Property Roadway and the Gate thereon and to provide Lewton with ingress and egress to and from the Lewton Property through the Gate and over the Steel Property Roadway.

3. Grant of Lewton Property Easement. Lewton hereby grants the nonexclusive Lewton Property Easement to Steel for the purpose of providing Steel with ingress and egress to and from the Steel Property over the Lewton Property Roadways.

4. Construction of Steel Property Roadway and Gate. If and when Lewton desires to construct the Steel Property Roadway and the Gate, Lewton shall be responsible for constructing same. The Steel Property Roadway shall be surfaced with a four-inch gravel surface or such other surface as Santa Cruz County shall, at the time of construction, require for private roadways. Lewton shall enter into such material, labor and equipment contracts as are necessary, in his judgment, to construct the Steel Property Roadway and the Gate. Steel shall execute on a timely basis all documentation that may be necessary and act in a responsible and prudent manner in order to allow construction of the Steel Property Roadway and the Gate to be commenced and completed.

5. Cost of Construction of Steel Property Roadway and Gate. Lewton and Steel shall share equally in all costs and expenses relating to the construction of the Gate and the Steel Property Roadway (which shall not include any charge for Lewton's supervision), except that 1230 foot section of the Steel Property Roadway measured east from that point where the Steel Property Roadway crosses the boundary of the Steel Property and the Lewton Property, the cost and expense of which shall be borne solely by Lewton. Notwithstanding the foregoing, Steel's share of the cost of "roughing in" the Steel Property Roadway shall not exceed Ten Thousand Dollars (\$10,000.00), nor shall Steel's share of the cost of placing the gravel surface thereon exceed Five Thousand Dollars (\$5,000.00). Lewton shall, no more frequently than monthly during the construction of the Steel Property Roadway and the Gate, bill Steel for her portion of the construction costs of same. Such bills shall be accompanied by a description, in reasonable detail, of the labor performed and materials and equipment provided, as evidenced by the bill. Payment on such bills shall be due within ten days of receipt by Steel.

6. Maintenance of Steel Property Roadway and Gate. The Steel Property Roadway and the Gate shall be maintained in good

condition by both Steel and Lewton. The cost of such maintenance shall be shared equally by Steel and Lewton, except for the cost of maintaining that 1230 foot section of the Steel Property Roadway measured east from that point where the Steel Property Roadway crosses the boundary of the Steel Property and the Lewton Property, which shall be borne solely by Lewton. Should portions of either the Steel Property or Lewton Property be conveyed by Steel or Lewton after the date of this Agreement, in the absence of a recorded agreement among all of the then owners of the Steel Property or Lewton Property, as the case may be, or their predecessors in title, dealing with the allocation of their share of such maintenance costs, such share shall be allocated among the then owners of the Steel Property or Lewton Property, as the case may be, by multiplying the Steel Property's or Lewton Property's, as the case may be, share of such costs by a fraction the numerator of which shall be the gross land area of the owner's parcel and the denominator of which shall be the gross land area of the entire Steel Property or Lewton Property, as the case may be. Either Steel or Lewton shall have the right to pave all or any portion of the Steel Property Roadway at that party's sole expense. Thereafter, the cost of maintenance of the paved roadway shall be allocated as provided for above in this paragraph 6, except should Lewton pave all or a portion of the Steel Property Roadway, then Steel, personally (as opposed to her transferees), shall have no responsibility for the cost of maintaining the paved portion of the Steel Property Roadway and the cost of such maintenance that would otherwise be Steel's personal obligation shall be added to the maintenance cost allocated to the Lewton Property.

7. Construction and Maintenance of Lewton Property Roadways. Steel shall bear no costs for the construction and maintenance of the Lewton Property Roadways.

8. Utilities. Should it be required by any utility company desiring to service all or any portion of the Steel Property or the Lewton Property, Lewton or Steel, as the case may be, shall execute any and all further instruments granting such utility companies' reasonable utility easements under, over or upon the Lewton Property Easement or the Steel Property Easement, as the case may be.

9. Binding Effect. The terms, conditions and covenants set forth herein shall inure to the benefit of and be binding upon the parties hereto, their heirs, personal representatives, successors, assigns, lessees and subsequent purchasers.

10. Mutuality; Reciprocity; Covenants Running With the Land. All covenants, representations, agreements and obligations contained herein are made for the direct, mutual and reciprocal benefit of each and every part and parcel of the Steel Property and the Lewton Property (collectively, the "Properties"); shall create reciprocal rights and obligations between the respective fee title

owners of all parcels located within the Properties and privity of contract and estate between all grantees of said parcels, their heirs, successors and assigns; and shall as to the fee title owner of each parcel, his heirs, successors and assigns, operate as covenants running with the land for the benefit of all other parcels located within the Properties.

11. Further Assistance. Each of the parties hereto shall, without any undue delays, take all actions, including the execution of such further instruments, letters or documents, as may be reasonably necessary to carry out or fulfill its respective covenants and obligations hereunder and the overall intent expressed herein.

12. Notices. All notices, demands, approvals, instructions, or other communications ("Notices") required or permitted hereunder shall be in writing and shall be given either by personal delivery, overnight air express or sent by United States certified mail, return receipt requested, postage prepaid. In either case, Notices shall be addressed to the party to receive such Notice at its address set forth below. Either of the parties hereto may by notice given as aforesaid change its address or designate different recipients for the receipt of all subsequent Notices. Notices shall be effective upon delivery.

Addresses of the parties:

Lewton: Charles E. Lewton  
Post Office Box 38  
Sonoita, Arizona 85637

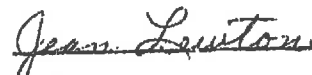
Steel: Ann Steel  
Nogales Highway  
Patagonia, Arizona 85624

13. Attorneys' Fees. If any action is brought by a party in respect to its rights under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs as determined by the court.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

LEWTON:

  
CHARLES E. LEWTON

  
Jean Lewton



JEAN LEWTON

STEEL:

Ann U. Steel  
ANN U. STEEL

STATE OF ARIZONA }  
COUNTY OF Pima } SS.

This instrument was acknowledged before me this 13<sup>th</sup> day of  
MARCH, 1989 by Charles E. Lewton.

Elizabeth A. Sammes  
Notary Public

My Commission Expires:

My Commission Expires April 4, 1992

STATE OF ARIZONA }  
COUNTY OF Pima } SS.

This instrument was acknowledged before me this 13<sup>th</sup> day of  
MARCH, 1989 by Jean Lewton.

Elizabeth A. Sammes  
Notary Public

My Commission Expires:

My Commission Expires April 4, 1992

STATE OF ARIZONA)  
COUNTY OF SANTA ) ss.  
CRUZ

DOCK 496 PAGE 42

This instrument was acknowledged before me this 16<sup>th</sup> day of March, 1989 by Ann L. Steel.

Margarita R. Vindola  
Notary Public



My Commission Expires:

My Commission Expires Nov. 30, 1992

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## EXHIBIT A

3

LEGAL DESCRIPTION

## PARCEL A:

All those portions of the East Half Southwest Quarter and the West Half Southwest Quarter of Section 8, Township 22 South, Range 16 East, Gila and Salt River Base and Meridian, Santa Cruz County, Arizona, lying West of the following described line:

BEGINNING at a point which lies North 76 degrees 48 minutes East, 110.78 feet from the center quarter corner of said Section 8;

thence South 21 degrees 47 minutes 36 seconds East, 26.29 feet to a point;

thence South 8 degrees 52 minutes 39 seconds West, 305.66 feet to a point;

thence South 61 degrees 36 minutes 33 seconds West, 237.36 feet to a point;

thence South 43 degrees 57 minutes 34 seconds West, 118.76 feet to a point;

thence South 9 degrees 47 minutes 08 seconds West, 522.96 feet to a point;

thence South 11 degrees 27 minutes 50 seconds West, 316.83 feet to a point;

thence South 11 degrees 29 minutes 22 seconds East, 129.58 feet to a point;

thence South 15 degrees 46 minutes 18 seconds West, 495.94 feet to a point;

thence South 1 degrees 39 minutes 08 seconds East, 39.42 feet to a point;

thence South 67 degrees 08 minutes 09 seconds East, 195.52 feet to a point;

thence South 0 degrees 08 minutes 16 seconds East, 245.44 feet to a point;

thence South 17 degrees 00 minutes 03 seconds West, 257.53 feet to a point;

thence South 38 degrees 25 minutes 06 seconds East, 41.58 feet to a point;

thence South 93 degrees 13 minutes 18 seconds East, 70.32 feet to a point;

thence South 51 degrees 50 minutes 35 seconds East, 73.29 feet to a point;

thence South 9 degrees 33 minutes 66 seconds West, 15.79 feet to a point on the southerly line of Section 8, Township 22 South, Range 16 East, from which the South Quarter corner of said Section 8 bears North 89 degrees 16 minutes 35 seconds East, 918.94 feet a GLO stone firmly set and marked.

**PARCEL B:**

1. Those parts of Section 8, Township 22 South, Range 16 East, Gila and Salt River Base and Meridian, Santa Cruz County, Arizona, described as follows:

BEGINNING at the Northwest corner of the Southwest Quarter of the Northwest Quarter of Section 8;

and running thence Northerly along the Section line common to said Section 8 and Section 7 in said Township and Range, a distance of 26.3 feet to a point;

thence Easterly by a straight line to a point on the North-South center line of said Section 8, that is 30.9 feet Northerly from the Northeast corner of the Southeast Quarter of the Northwest Quarter of said Section 8;

thence Southerly along said North-South center line of said Section 8 to said Northeast corner of the Southeast Quarter of the Northwest Quarter of said Section 8;

thence Westerly along the Northerly line of the South Half of the Northwest Quarter of said Section 8 to the point of beginning;

2. AND the South Half of the Northwest Quarter of said Section 8;

EXCEPTING the land conveyed to Leroy W. Southers and Della G. Southers by that certain Deed recorded in the office of the County Recorder of Santa Cruz County, Arizona, in Book 30 of Deeds to Real Estate at Page 463, and

EXCEPTING the land conveyed to Thomas W. Bentley and Helen J. Bentley by that certain Deed recorded in the Office of the County Recorder of Santa Cruz County, Arizona, in Book 30 of Deeds to Real Estate at Page 478, and

MINNESOTA  
TITLE

TIM Form J131 8/86

EXCEPTING the land conveyed to Dave O. Gordon and Winona P. Gordon by that certain Deed recorded in the office of the County Recorder of Santa Cruz County, Arizona, in Book 28 of Deeds to Real Estate at Page 515;

4. BEGINNING at the center of said Section 8.

and running Easterly along the East-West center line of said Section 8 a distance of 452 feet to a point;

thence at an interior angle of 144 degrees 33 minutes with the said East-West center line, Northeasterly 525 feet to a point on the Westerly bank of Harshaw Creek;

thence along said Westerly bank of said Harshaw Creek by a meandering line to a point on the Northerly line of the Southwest Quarter of the Northeast Quarter of said Section 8, distant 280.7 feet Easterly from the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 8;

Thence Westerly along said Northerly line of said Southwest Quarter of the Northeast Quarter of said Section 8 to said Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 8;

thence South along the North-South center line of said Section to the point of beginning;

3. AND The West Half of the Southwest Quarter of said Section 8;

EXCEPTING THEREFROM the following described property transferred to Sally Greenleaf January 4, 1989:

**LEGAL DESCRIPTION**

All that portion of Section 8, Township 22 South, Range 16 East, Gila and Salt River base and meridian, Santa Cruz County, Arizona, as described as follows:

Commencing at the Southwest Corner of the Northwest Quarter of Section 8, being a GLO Stone firmly set and marked with 1/4 on the East face and 06 on the West face;

thence North 0 degrees 02 minutes 19 seconds East, 1346.58 feet along the West line of Section 8, to the South Right of Way of Harshaw County Road;

thence North 89 degrees 51 minutes 49 seconds East, 2026.76 along said Right of Way line to the Northwest Corner of a parcel of land described in book 28, page 515, of deeds, in the Office of the County Recorder, Santa Cruz County, Arizona;

thence South 0 degrees 14 minutes 32 seconds West, along the West line of said parcel, 232.90 feet to the POINT OF BEGINNING;

thence continue South 0 degrees 14 minutes 32 seconds West, 1204.31 feet to a point;

thence South 45 degrees 43 minutes 13 seconds East, 557.05 feet to a point;

thence North 41 degrees 37 minutes 05 seconds East, 119.98 feet to a point;

thence North 67 degrees 06 minutes 52 seconds East, 230.69 feet to a point;

thence North 09 degrees 28 minutes 08 seconds East, 305.61 feet to a point;

thence North 22 degrees 01 minutes 24 seconds West, 27.49 feet to a point;

thence South 89 degrees 41 minutes 32 seconds East, 343.64 feet to a point on the North-South Center of Section Line;

thence North 54 degrees 26 minutes 33 seconds East, 525.00 feet to a point;

thence North 32 degrees 56 minutes 42 seconds West, 137.99 feet to a point;

thence North 33 degrees 41 minutes 12 seconds West, 348.13 feet to a point;

thence North 47 degrees 53 minutes 35 seconds West, 135.87 feet to a point;

thence North 19 degrees 33 minutes 41 seconds East, 46.88 feet to a point;

thence North 14 degrees 48 minutes 46 seconds West, 99.78 feet to a point;

thence North 21 degrees 03 minutes 14 seconds West, 133.44 feet to a point;

thence North 35 degrees 26 minutes 08 seconds West, 296.45 feet to a point on the South Right of Way Line of Harshaw County Road;

thence North 89 degrees 39 minutes 50 seconds West, 273.39 feet along said Right of Way Line;

thence North 04 degrees 44 seconds 45 seconds West, 39.96 feet along said Right of Way Line;

thence South 89 degrees 53 minutes 17 seconds West, 401.91 feet along said Right of Way Line to the Northeast corner of a parcel of land described in book 28 page 515, of deeds, in the Office of the County Recorder, Santa Cruz County, Arizona;

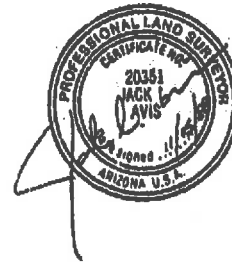
thence South 58 degrees 15 minutes 05 seconds East, 257.20 feet along the East line of said parcel;

thence South 28 degrees 08 minutes 11 seconds East, 114.10 feet along the East line of said parcel;

thence North 89 degrees 37 minutes 57 seconds West, 485.00 feet along the South line of said parcel to the POINT OF BEGINNING.

Said parcel of land containang 1742835 square feet or 40.00 acres, more or less.

11/15/88  
88038  
JA/jt



## EXHIBIT "B"

LEGAL DESCRIPTION

DOCK

496 PAGE 48

## PARCEL I:

A portion of San Jose De Sonoita Land Grant, Santa Cruz County, Arizona, described as follows:

Beginning at a stone marking the one mile corner on said boundary;

thence from said point of beginning along the Southeasterly line of said grant South 56 degrees 22 minutes 00 seconds West 637.05 feet more or less to the intersection of said line with the Southerly prolongation of the North-South centerline of Section 7, Township 22 South, Range 16 East;

thence along said prolonged North-South centerline North 0 degrees 03 minutes 52 seconds West 2547.48 feet more or less to an intersection with the Northeasterly line of said grant from which a stone marking Angle Corner No. 1 of said grant bears North 60 degrees 15 minutes 34 seconds West 1086.12 feet;

thence along said Northeasterly line South 60 degrees 15 minutes 34 seconds East 2364.72 feet more or less to Angle Corner No. 2 of said grant;

thence along the Southeasterly line of said grant South 56 degrees 05 minutes 43 seconds West 1831.36 feet to the point of beginning.

continued.....



ORDER NO. 1228

continued:  
page 2:

## PARCEL II:

All of that portion of the East Half of Fractional Section 7, Township 22 South, Range 16 East, Gila and Salt River Base and Meridian, Santa Cruz County, Arizona, being more particularly described as follows:

BEGINNING at the Southeasternmost corner of said Section 7, a G.L.O. Stone, firmly set and properly marked;

thence West, 1081 feet, more or less, along and upon the Southerly line of said Section 7, to the Closing Corner with the San Jose de Soncota Grant, a G.L.O. stone, firmly set and properly marked;

thence North 56 degrees 25 minutes East, 621 feet, more or less, along and upon the Southeasterly sideline of said Grant, to the position for the Easternmost corner of same;

thence North 60 degrees 00 minutes West, 2,394.0 feet along and upon the Northeasterly endline of said Grant, to its intersection with the North-South centerline of said Section 7;

thence North 0 degrees 05 minutes 30 seconds West, 2,193.7 feet along and upon the North-South centerline of said Section 7 to a point thereon, being the Southwesternmost corner of the so-called W. D. Parker Tract, as described in Deed 32-23, a 5/8 inch iron pin;

thence South 66 degrees 12 minutes 30 seconds East, 1,269.5 feet to the Southeasternmost corner of the said Parker Tract, a 5/8 inch iron pin;

thence South 64 degrees 43 minutes East, 1,633.0 feet to a point lying and being on the Easterly line of said Section 7, a 5/8 inch iron pin from which the Easterly quarter corner of said Section 7 bears North 0 degrees 03 minutes West, 111.6 feet distant, a G.L.O. stone, firmly set and properly marked;

thence South 0 degrees 03 minutes East, 2,524.7 feet to the place of beginning.

EXCEPT a parcel in the Northwest Quarter of the Southeast Quarter conveyed to Southern Utilities Company of Patagonia, described as follows:

BEGINNING at a point 5 feet North 44 degrees 58 minutes East of Station 1628+00 along the high pressure gas main;

thence North 45 degrees 02 minutes West, 15.0 feet;

thence South 44 degrees 58 minutes West, 10.0 feet;

thence South 45 degrees 02 minutes East, 20.0 feet;

thence North 44 degrees 58 minutes East, 10.0 feet;

thence North 45 degrees 02 minutes West, 5.0 feet to the point of beginning.

EXHIBIT "C"  
Private Ingress Egress  
Easement

DOCK 496 PAGE 50

All that portion of a 60 foot wide private Ingress Egress Easement lying 30 feet each side of the following described centerline, lying within the West Half of Section 8, Township 22 South, Range 16 East, Gila and Salt River Base and Meridian, Santa Cruz County, Arizona, described as follows:

Commencing at a point on the West Section Line of Said Section 8, from which the West quarter section corner, being a G.L.O. stone firmly set and properly marked bears South 00 degrees 02 minutes 19 seconds West, 1346.58 feet, said point of commencement also being on the South right-of-way line of Harshaw Road as it now exists;

thence along said South right-of-way line North 89 degrees 51 minutes 49 seconds East, 1550.00 feet, to the POINT OF BEGINNING of said 60 foot wide Ingress Egress Easement;

thence South 00 degrees 08 minutes 11 seconds, 365 feet to a point of curvature;

thence along the arc of a curve concave to the left, having a radius of 250.00 feet and a central angle of 41 degrees 00 minutes 00 seconds a distance of 178.90 feet to a point of reverse curvature;

thence along the arc of a curve concave to the right, having a radius of 250.00 feet and a central angle of 53 degrees 00 minutes 00 seconds a distance of 231.26 feet to a point tangency;

thence South 11 degrees 51 minutes 49 seconds West, 330.00 feet to a point of curvature;

thence along the arc of a curve concave to the left, having a radius of 150.00 feet and a central angle of 41 degrees 18 minutes 00 seconds a distance of 108.12 feet to a point of tangency;

thence South 29 degrees 26 minute 11 seconds East, 270.00 feet to a point of curvature;

thence along the arc of a curve concave to the right, having a radius of 100.00 feet and a central angle of 151 degrees 00 minutes 00 seconds a distance of 263.54 feet to a point of reverse curvature;

thence along the arc of a curve concave to the left, having a radius of 100.00 feet and a central angle of 69 degrees 30 minutes 00 seconds a distance of 121.39 feet to a point of tangency;

thence South 52 degrees 03 minutes 49 seconds West, 373.41 feet to a point of curvature;

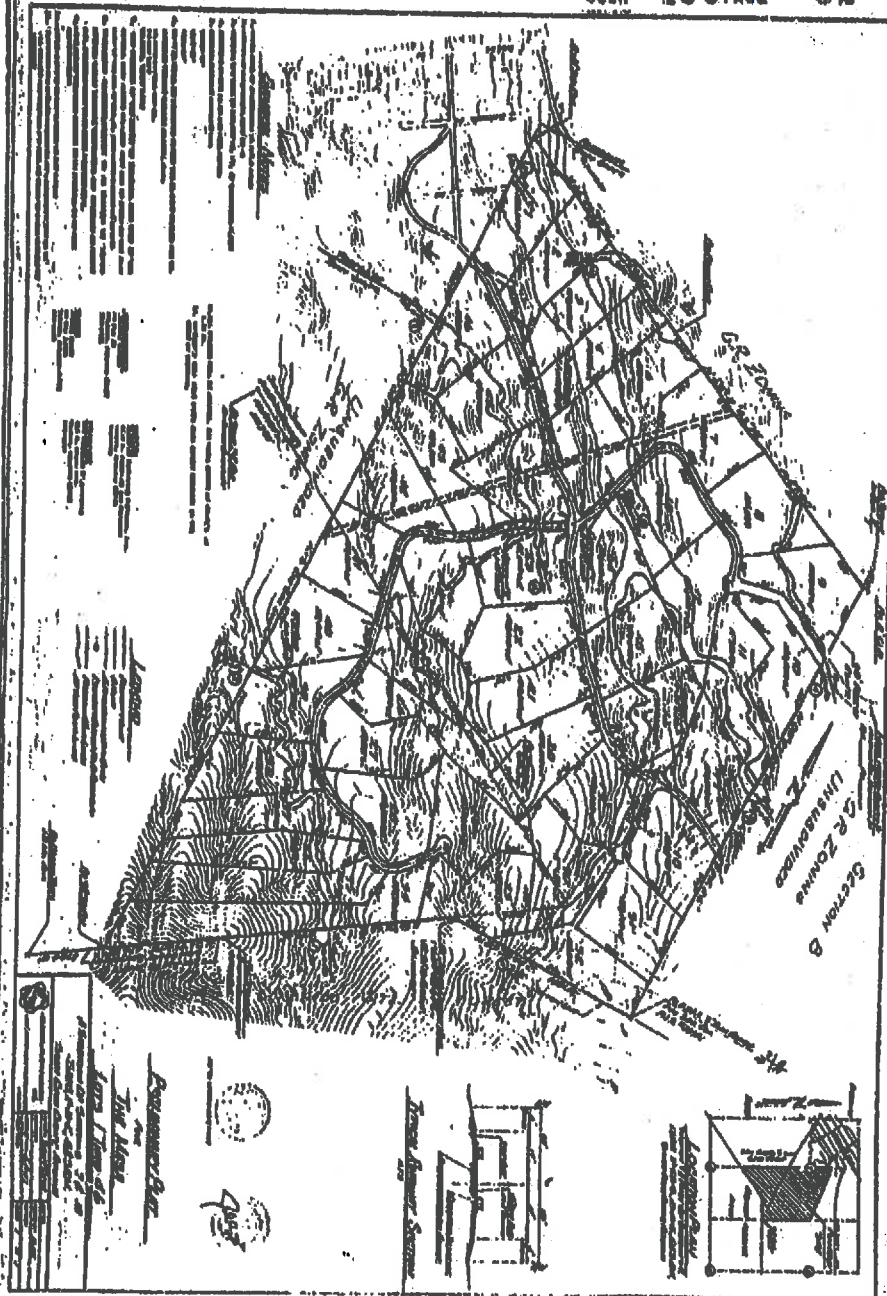
DOCK 496 PAGE 51

thence along the arc of a curve concave to the right, having a radius of 581.88 feet and a central angle of 37 degrees 56 minutes 14 seconds a distance of 385.28 feet to a point of tangency;

thence North 89 degrees 58 minutes 57 seconds West, 845.38 feet to a point of termination of said easement on the West section line of said section 8, from which said West quarter corner bears North 00 degrees 00 minutes 03 seconds East, 550.06 feet;


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DOCK 496 PAGE 53

 INSTRUMENT # 891881  
OFFICIAL RECORDS OF  
SANTA CRUZ COUNTY  
MARY LOU G. SAINZ  
REQUEST OF :  
LEWTON, CHARLES E. & JEAN  
DATE: 03/21/89 TIME: 8.55  
FEE: 19.00  
BOOK 496 PAGE 37 PAGES: 17

WHEN RECORDED MAIL TO.

SALLY S. GREENLEAF  
P.O. Box 980  
Patagonia, AZ 85624

89-781

AMENDMENT

DOCK 502 PAGE 708

PRIVATE ROADWAY CONSTRUCTION, MAINTENANCE AND EASEMENT AGREEMENT  
Dated March 13, 1989  
Docket 496, Page 51

Private Roadway Construction, Maintenance and Easement Agreement (the "Agreement") dated March 13, 1989 by and between ANN L. STEEL, a widow, (STEEL) and CHARLES E. LEWTON and JEAN LEWTON, husband and wife, (LEWTON) is hereby amended as follows:

Thirteen acre parcel bordering east boundary of roadway constructed per terms of this Agreement, conveyed from Steel to SALLY S. GREENLEAF, a widow, (GREENLEAF) per legal description attached and as recorded in Docket 402, Page 74, on June 7, 1989 is hereby excepted from terms of this Agreement.

Greenleaf, her heirs, successors or assigns shall not use road for access to above thirteen acre parcel.

Should Greenleaf, her heirs, successors or assigns desire access easement in the future, said access shall be provided by accepting and participating in maintenance and easement Agreement as in effect at that time.

Dated this 5th day of June, 1989.

Ann L. Steel 6/6/89  
Ann L. Steel date

Charles E. Lewton  
Charles E. Lewton date

Jean Lewton 6-5-89  
Jean Lewton date

STATE OF ARIZONA )  
County of Santa Cruz ) ss.

This instrument was acknowledged before me this 6th day of June, 1989 by Ann L. Steel.

Margarita R. Vindich  
Notary Public

My Commission Expires Nov. 30, 1992

STATE OF ARIZONA )  
County of Santa Cruz ) ss.

This instrument was acknowledged before me this 5 day of JUNE, 1989 by Charles E. Lewton and Jean Lewton.

Bargara Kernahan  
Notary Public BARGARA KERNAHAN

My Commission expires: 8/25/89



LEGAL DESCRIPTION

BOOK 502 PAGE 709

All that portion of Section 8, Township 22 South, Range 16 East, Gila and Salt River Base and Meridian, Santa Cruz County, Arizona, as described as follows:

Commencing at the Southwest corner of the Northwest quarter of Section 8, being a OLD Stone firmly set and marked with quarter on the East face and 06 on the West face;

THENCE North 00 degrees 02 minutes 19 seconds East, 1,346.58 feet along the West line of Section 8, to the South right-of-way of Harshaw County Road;

THENCE North 00 degrees 51 minutes 49 seconds East, 2,026.76 feet along said right-of-way line to the Northwest corner of a parcel of land described in Book 28 at Page 515 of Deeds in the Office of the County Recorder, Santa Cruz County, Arizona, said point being the POINT OF BEGINNING;

THENCE South 00 degrees 14 minutes 32 seconds West along the West line of said parcel, 232.90 feet to a point;

THENCE continuing South 00 degrees 14 minutes 32 seconds West, 1,208.31 feet to a point;

THENCE South 45 degrees 43 minutes 13 seconds East, 557.05 feet to a point;

THENCE North 57 degrees 30 minutes 27 seconds West, 777.40 feet to a point;

THENCE North 12 degrees 41 minutes 13 seconds West, 189.00 feet to a point of curvature.

THENCE Northerly along the arc of a curve, concave to the West having a radius of 270.99 feet through a central angle of 37 degrees 47 minutes 47 seconds, a distance of 178.76 feet to a point of reverse curvature;

THENCE Northerly along the arc of a curve, concave to the East having a radius of 106.00 feet, through a central angle of 59 degrees 59 minutes 00 seconds, a distance of 110.97 feet to a point of tangency;

THENCE North 08 degrees 30 minutes 00 seconds East, 96.50 feet to a point of curvature;

THENCE Northerly along the arc of a curve, concave to the East having a radius of 530.17 feet, through a central angle of 16 degrees 00 minutes 00 seconds, a distance of 148.05 feet to a point of reverse curvature;

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TITLE  
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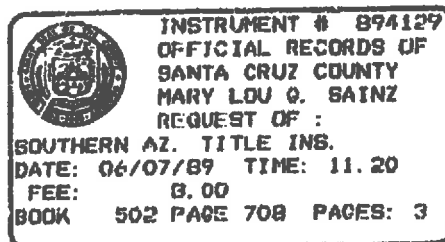
T&A Form 313 6/88

THENCE Northerly along the arc of a curve, concave to the West having a radius of 702.50 feet, through a central angle of 30 degrees 34 minutes 46 seconds, a distance of 704.15 feet to a point of tangency;

THENCE North 06 degrees 04 minutes 46 seconds West, 488.89 feet to a point of curvature;

THENCE Northeasterly along the arc of a curve, concave to the Southeast having a radius of 50.00 feet; through a central angle of 95 degrees 56 minutes 37 seconds, a distance of 83.73 feet to a point of tangency also being a point on the South right-of-way of said Marshaw Road;

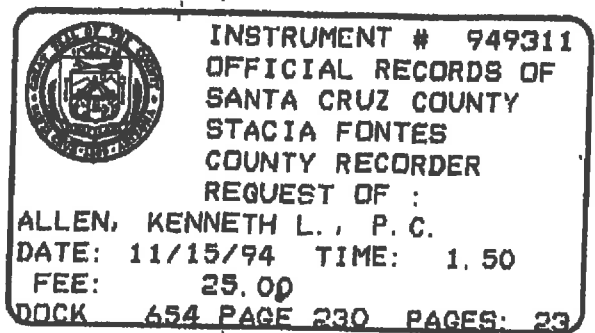
THENCE North 89 degrees 51 minutes 49 seconds East, 354.76 feet along said right-of-way line to the POINT OF BEGINNING.



MINNESOTA  
 TITLE

TIM Form 3131 6/86





When recorded, return to:  
Charles E. Lewton  
Post Office Box 38  
Sonoita, Arizona 85637

DOCK 654 PAGE 230

**SECOND AMENDMENT TO PRIVATE ROADWAY CONSTRUCTION,  
MAINTENANCE AND EASEMENT AGREEMENT**

This Second Amendment to Private Roadway Construction, Maintenance and Easement Agreement ("Second Amendment") is between Patlanco L.L.C., as Trustee for Patagonia Land Trust ("Patlanco"), Charles E. Lewton and Jean Lewton, husband and wife ("Lewton"), The Mesa Homeowners' Association, Inc., an Arizona not-for-profit corporation (the "Association"), and the other undersigned parties ("The Mesa Lot Owners"), with reference to the following recitals:

**RECITALS**

A. Lewton and Ann L. Steel, a widow ("Steel"), entered into that certain Private Roadway Construction, Maintenance and Easement Agreement, dated March 13, 1989, recorded March 21, 1989 in Book 496, pages 37 through 53, Official Records of Santa Cruz County, Arizona (the "Agreement").

B. Thereafter, Lewton and Steel entered into that certain Amendment to the Agreement, dated June 5, 1989, and recorded in Docket 502, pages 708 through 710, Official Records of Santa Cruz County, Arizona (the "Amendment"). The Agreement and the Amendment are referred to collectively as the "Amended Agreement."

C. Patlanco is the successor in title to Steel in and to the Steel Property.

D. The Mesa Lot Owners have, subsequent to the date of the Agreement, acquired portions of the Lewton Property.

E. The parties now wish to amend the Amended Agreement in certain respects as set forth below.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Incorporation by Reference. The recitals to this Amendment are hereby affirmed by the parties as true and correct and are incorporated herein by this reference.
2. Definitions. All capitalized terms used in this Amendment that are not defined herein shall have the meanings set forth in the Amended Agreement.
3. Amendment of Steel Property Easement. The Amended Agreement shall be modified so that the Steel Property Easement shall be for purposes of providing Lewton, The Mesa Lot Owners, and their successors in title with emergency ingress and egress to and from the Lewton Property, as the Lewton Property may in the future be owned, leased, subdivided or otherwise held.
4. Amendment of Lewton Property Easement. The Amended Agreement shall be modified so that the Lewton Property Easement shall be for purposes of providing Patlanco and its successors in title with emergency ingress and egress to and from the Steel Property, as the Steel Property may in the future be owned, leased, subdivided or otherwise held.
5. Emergency Ingress and Egress. For purposes of this Amendment, "emergency ingress and egress" shall mean ingress and egress over the Steel Property Easement or the Lewton Property Easement, as the case may be, (i) to allow emergency vehicles access to the relevant property, where such access cannot be obtained practically or in a timely manner over different roadways; and (ii) in situations in which the alternative access to the relevant property are not passable by normal passenger vehicles because of temporary road construction or acts of God. The parties acknowledge that the existing gate at the point where the Steel Property Roadway crosses the boundary of the Steel Property and the Lewton Property shall be locked and that Lewton and Cousins shall each be provided with copies of the key or combination for such lock so that access can be obtained for such emergency ingress and egress.
6. Maintenance of Steel Property Roadway, the Gate, and the Lewton Property Roadways. The Amended Agreement shall be modified so that from and after the date hereof, Patlanco shall be responsible for maintenance and repair of the Steel Property Easement, the Steel Property Roadway, and the Gate at their sole cost, and so that the Association shall be responsible for maintenance and repair of the Lewton Property Easement and Lewton Property Roadways at its sole cost. The Association shall be responsible for maintaining, repairing, and replacing, when necessary, the gate located on the Steel Property

Roadway at the point where the Steel Property Roadway crosses the boundary of the Steel Property and the Lewton Property.

7. Utilities. Paragraph 8 of the Agreement shall be deleted and be of no further force or effect.

8. Full Force and Effect. Except as amended hereby, the Amended Agreement shall remain in full force and effect.

Dated 11-14-, 1994.

"Patlanco"

Patlanco L.L.C., as Trustee for  
Patagonia Land Trust

By: LR Hayer

Its: Manager



STATE OF FLORIDA )

) ss.

County of Pinellas )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of July, 1994 by LR Hayer, the manager for Patlanco L.L.C., as Trustee for Patagonia Land Trust.

Dennis A. Larue  
Notary Public

My Commission Expires:



DENNIS A. LARUE

MY COMMISSION EXPIRES  
April 30, 1995

BONDED THRU NOTARY PUBLIC UNDERWRITERS

"Lewton"

Charles E. Lewton  
Charles E. Lewton

Jean Lewton  
Jean Lewton

STATE OF ARIZONA )  
 ) ss.  
County of SANTA RUA

DOCK 654 PAGE 233

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day  
of May, 1994 by Charles E. Lewton and Jean Lewton, husband and wife.

Susan B Bell  
Notary Public

My Commission Expires:

MAY 1, 1997

The Mesa Homeowners' Association, Inc.

By *Charles E. Lewton*  
Its \_\_\_\_\_

STATE OF Wyoming )  
 ) ss.  
County of Natrona )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day  
of August, 1994 by Charles E. Lewton, the \_\_\_\_\_ of The  
Mesa Homeowners' Association, Inc., an Arizona non-profit corporation, on  
behalf of the corporation.


Karen D. Sanders  
Notary Public

My Commission Expires:

9-12-94

When recorded mail to:  
William E. Constable  
Post Office Box 1189  
Patagonia, AZ 85624

106-44-22  
106-44-23

	INSTRUMENT # 9601200
	OFFICIAL RECORDS OF
	SANTA CRUZ COUNTY
	SUZANNE SAINZ
	COUNTY RECORDER
REQUEST OF :	CONSTABLE, WILLIAM E.
DATE: 02/15/96	TIME: 1.47
FEE: 8.00	
DOCK 686	PAGE 504 PAGES: 4

DECLARATION OF EASEMENT

DOCK 686 PAGE 504

THIS DECLARATION OF EASEMENT, made this 30th day of JANUARY, 1996 by CHARLES E. LEWTON, a married man, in his sole and separate right, herein called "Declarant;"

WITNESSETH:

WHEREAS, Declarant is the owner of Lots 22 and 23 in The Mesa, a subdivision of Santa Cruz County, Arizona, on record in the office of the Santa Cruz County Recorder in Book 4 of Maps and Plats at page 50;

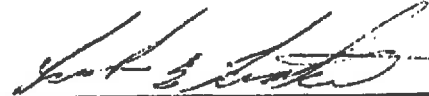
WHEREAS, Declarant desires to create a driveway easement upon the lots owned by Declarant and to provide for the maintenance thereof;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Declarant hereby states as follows:

1. An easement for a 20' wide common driveway in favor of the owner or owners, from time to time, of Declarant's lots, their successors and assigns, herein collectively called "Lot Owners," is hereby created over and upon the land described on Exhibit "A" attached hereto and made part hereof.
2. The Lot Owners shall share the costs and expenses of maintaining said easement in good repair. The owner or owners of each lot shall pay fifty per cent (50%) of the cost of such repairs and maintenance. The repairs to be undertaken and performed hereunder shall be those determined necessary, from time to time, by a majority of the Lot Owners, with the owner or owners of each lot having one vote.
3. The terms, conditions and covenants set forth herein shall inure to the benefit of and be binding upon the parties hereto, their heirs, personal representatives, successors, assigns, lessees, and subsequent purchasers.
4. All covenants, representations, agreements, and obligations contained herein are made for the direct, mutual and reciprocal benefit of the lots covered hereby; shall create reciprocal

rights and obligations between the respective fee title owners of the lots covered hereby and privity of contract and estate between all grantees of said lots, their heirs, successors, and assigns; and shall as to the fee title owner or owners of each lot covered hereby, his or her or their heirs, successors, and assigns, operate as covenants running with the land for the benefit of all other lots covered hereby.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Easement, as of the day and year first hereinabove written.



Charles E. Lewton, in his sole  
and separate right

STATE OF ARIZONA           )  
  ) ss.  
COUNTY OF SANTA CRUZ )

This instrument was acknowledged before me this 30<sup>th</sup> day of JANUARY,  
1996, by Charles E. Lewton.



"OFFICIAL SEAL"  
Elizabeth K. Kailing  
Notary Public-Arizona  
Santa Cruz County



Notary Public

My Commission expires: \_\_\_\_\_

LEWTON32.WPD

20' Wide Driveway Easement  
Over Lots 22, and 23 of  
THE MESA, Subdivision

All that portion of a 20 foot Wide Driveway Easement lying 10 feet each side of the following described centerline within THE MESA, Subdivision as recorded in the office of the Santa Cruz, County Recorder at Book 4 Page 50, being a portion of the East Half of Section 7, Township 22 South Range 16 East, Gila and Salt River Base and Meridian, Santa Cruz County, Arizona, described as follows:

Commencing at the Southeastern most common corner of lots 22 and 23 on the Westerly Right of Way of Mountain Court said corner being a 1/2" tagged pin properly marked;

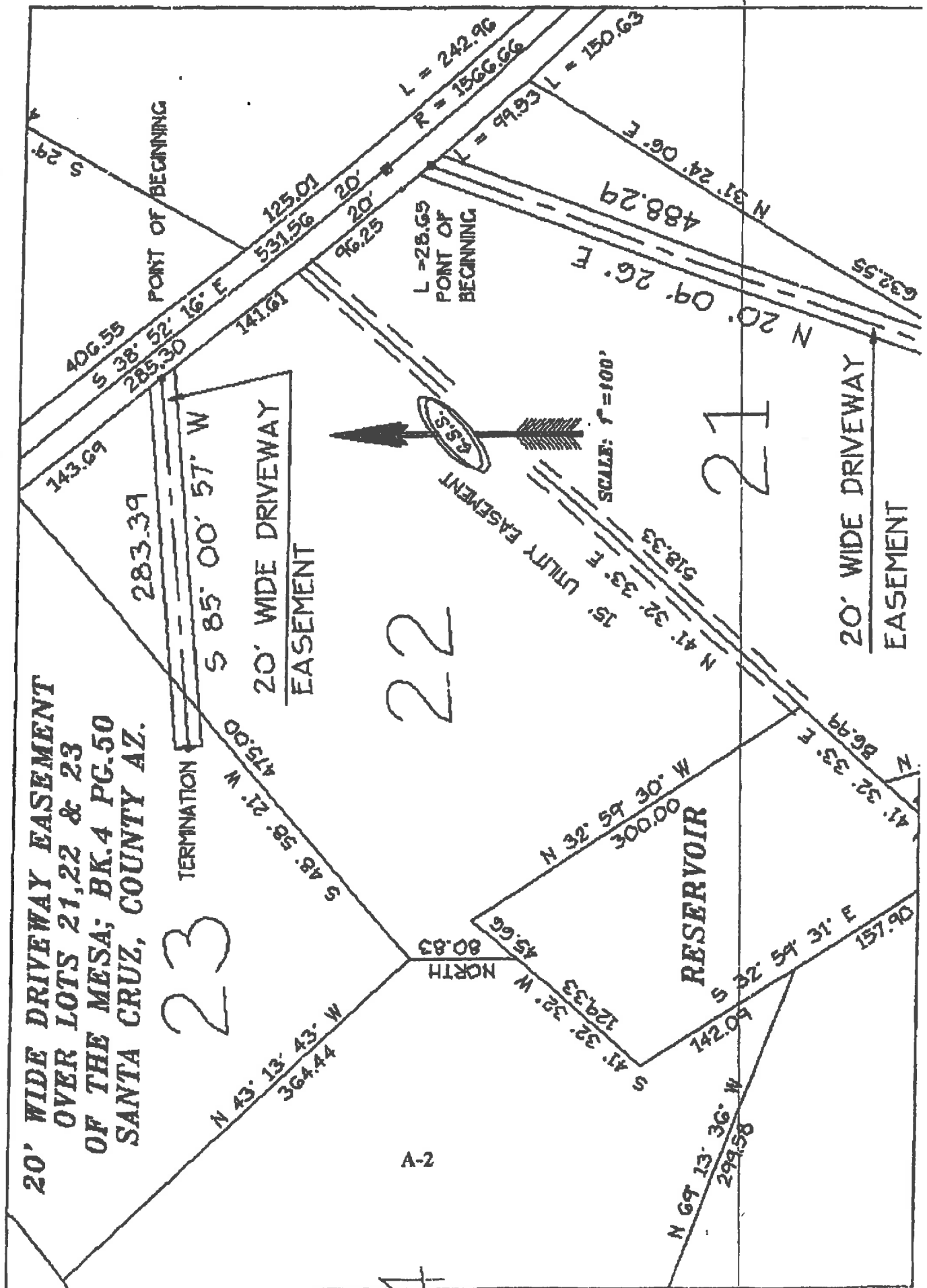
thence Southerly along said Right of Way South 38 degrees 52 minutes 16 seconds East a distance of 143.69 feet to a the POINT OF BEGINNING;

thence North 85 degrees 00 minutes 57 seconds West 283.39 feet to the Point of Termination of said 20' Wide Driveway Easement.

1/96  
drv2223




EXHIBIT "A"





When recorded mail to:  
William E. Constable  
Post Office Box 1189  
Patagonia, AZ 85624

	INSTRUMENT # 9601832
	OFFICIAL RECORDS OF
	SANTA CRUZ COUNTY
	SUZANNE SAINZ
	COUNTY RECORDER
	REQUEST OF :
	CONSTABLE, WILLIAM E.
	DATE: 03/08/96 TIME: 9.55
	FEE: 8.00
	DOCK 688 PAGE 258 PAGES: 2

THE MESA WATER USE AGREEMENT

DOCK 688 PAGE 258

Whereas, we the owners of the following listed lots, covenant together, for our mutual benefit, for the purpose of sharing a domestic water system.

Whereas this agreement shall be transferable to the heirs or assigns of the present owners.

Therefore, the following is the complete list of lots and owners, never to exceed a total of four, of which are all in The Mesa, a plat map of which is attached hereto,

Lot #22, owned by Charles Lewton

Lot #23, owned by Charles Lewton

Lot #24, owned by Charles Lewton and Jean Lewton

Lot #25, owned by Jean Lewton

Whereas, this system is contained entirely within THE MESA, and the well is entirely on Lot #22, and the four lots are near one another.

Whereas, for the smooth operation of this system, we now set down these general guidelines;

1. Whichever purchaser builds first, whether Lot # 22, 23, 24, or 25, shall pay the cost of completing the pumping system on the well. Should the lot purchaser or purchasers build during the immediately following five year period, a prorata share of cost of completion shall be payable to the first builder by the other builder or builders factoring in cost and time.

2. A fund shall be established from donated money on the part of the owners, sufficient to pay monthly expenses as well as any maintenance or repair items. This fund shall be paid into monthly by the owners on an equitable basis based on the actual water usage determined by meters and equal payment of maintenance, repair, and replacement costs.

3. A caretaker shall be appointed on a rotating basis to oversee the necessary care of the system, including the fund.

4. Easements shall be granted as necessary for a waterline to service Lots #22, #23, #24, and #25.

IN WITNESS WHEREOF the parties hereto have signed this agreement this 29th day of February, 1996.

Lot #22

Lot #23

Lot #24

Lot #25

STATE OF ARIZONA )  
COUNTY OF SANTA CRUZ ) ss.

The foregoing instrument was acknowledged before me by Charles Lewton and Jean Lewton, who executed the foregoing instrument. IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal this 29th day of February, 1996.

Elizabeth K. Kalling  
Notary Public


my commission expires:



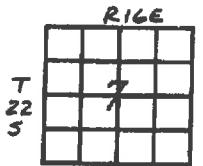


When recorded mail to:

Sulphur Springs Valley  
Electric Cooperative, Inc.  
P.O. Box 820  
Willcox, Arizona 85644-0820

	INSTRUMENT #9703627	
	OFFICIAL RECORDS OF	
	SANTA CRUZ COUNTY	
	SUZANNE SAINZ	
	COUNTY RECORDER	
REQUEST OF :		
SULPHUR SPRG. VLY. ELEC. COOP. INC		
DATE: 05/19/97 TIME: 1.00		
FEE: 8.00		
DOCK 724 PAGE 461 PAGES: 3		

This space reserved for recording information.



LOT 22, THE MESA

## Electrical Right-of-Way Easement

DOCK 724 PAGE 461

### KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, ELLIS PARTNERS, A WYOMING GENERAL PARTNERSHIP, referred to as "Grantor", for good and valuable consideration, the receipt of which is hereby acknowledged grants unto SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC., referred to as "Grantee", and to its successors or assigns, a right-of-way easement over, upon, under and across and the right to enter upon the land of the undersigned, situated in the County of Santa Cruz, State of Arizona, described as follows:

SEE ATTACHED EXHIBIT "A"

and the right to locate, construct, operate, repair, remove, maintain, add to, alter, inspect, relocate, and replace thereon, both above ground and underground, electric transmission and/or distribution facilities together with all appurtenances necessary or convenient thereto, including but not limited to poles, towers, wires, foundations, guy wires and anchors. If the exact location of this easement and right-of-way is not described herein, the Grantee shall have the right to determine the location and relocation of its facilities that is convenient for Grantee. If the width of this easement and right-of-way is not specified, then its width shall be twenty (20) feet wide. Except that in the event it becomes necessary or convenient for Grantee to extend anchors, guy wires or other appurtenances beyond the twenty (20) foot width heretofore mentioned to secure, install or maintain said facilities, the Grantor grants to Grantee an easement for said anchors, guy wires or other appurtenances. Grantee may permit the attachment of communication wires and fixtures of other companies and may permit said companies right of access to service and maintain said wires or fixtures.

Grantee shall have the right to trim or clear away all trees, brush, and plant growth on said easement and right-of-way and to trim or remove any trees or plants or other objects on either side of said easement and right-of-way which create or may create a hazard by falling or striking the electrical facilities located on said easement.

Grantor grants to Grantee, for the consideration set forth herein, the right to ingress to and egress from said easement and right-of-way described herein, over and across private roads owned by Grantor and which provide a reasonable and convenient access to the easement described herein, and if no such roads exist, then on such route as the Grantee may determine to be reasonable under the circumstances.

Grantor covenants and agrees that he shall not erect, construct, or place or in any way permit any house, building, stable, corral, mobile home, or any structure whatsoever to be

Grantor covenants and agrees that he shall not erect, construct, or place or in any way permit any house, building, stable, corral, mobile home, or any structure whatsoever to be erected, constructed, or placed on the easement and right-of-way granted herein nor shall he use said easement in any manner inconsistent with Grantee's rights hereunder.

Grantor covenants that he is the owner of the above described land and that said land is free and clear of encumbrances and liens, except the following liens and encumbrances held by the following persons:

Grantor shall not grant any other easement and/or right-of-way on, under, or over said strip of land without first having secured written consent of Grantee.

It is further understood that, whenever necessary, words in the singular shall be construed to read in the plural, and words used in the masculine gender shall be construed to read in the feminine or neuter gender.

IN WITNESS WHEREOF, the undersigned set his hand this 10th day

of April, 1997  
David L. Ellis  
Christina Ellis

STATE OF \_\_\_\_\_ )  
 ) ss  
 COUNTY OF \_\_\_\_\_ )

On this, the 11th day of April, 1997, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_

David L. Ellis  
Christina Ellis

known to me to be the person(s) whose name(s) is/are subscribed herein and acknowledged that he executed said document for the purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Julie Stump  
 NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_



EXHIBIT "A"

EASEMENT DESCRIPTION:

The northwesterly 30.00 feet of the northeasterly 145.00 feet of Lot 22, THE MESA SUBDIVISION, a subdivision of Santa Cruz County, Arizona, on record in the office of the Santa Cruz County Recorder in Book 4 of Maps and Plats at page 50.

E 8770

W.O. 39055

**RECORDING REQUESTED BY:**

Generation Mortgage Co.

**AND WHEN RECORDED MAIL TO:**

Generation Mortgage Co.  
3565 Piedmont Rd, #300  
Atlanta, GA 30305

SPACE ABOVE FOR RECORDER'S USE ONLY

SHARED WELL WATER AGREEMENT

Title of Document

## SHARED WELL WATER AGREEMENT

This Agreement, made and entered into this 15 day of June, 2009 by and between David and Christina Ellis, Owners of Lot 22, described further below, party of the first part, hereinafter referred to as the "supplying party", and the owners of record of Lot 23, Thomas and Jean Brophy, of Lot 24, Frederick and Christina Wilhelm, Jr., and Donald and Carolyn McIntosh, Owners of Lot 25 also all in The Mesa and described further below, party of the second part, and hereinafter referred to as the "supplied parties"

WITNESSETH:

THAT WHEREAS, the supplying party is now the owner of property known as Lot 22, The Mesa according to Plat Book 4, Page 50 located in the County of Santa Cruz, State of Arizona; and

WHEREAS, the supplied parties are the owners of Lots 23, 24, and 25, located in the County of Santa Cruz, State of Arizona, which property is more fully described as follows, to wit: Lot 23 The Mesa according to Plat Book 4, Page 50; Lot 24, The Mesa according to Plat Book 4, Page 50; Lot 25, The Mesa according to Plat Book 4, Page 50. and

WHEREAS, the undersigned parties deem it necessary due to the nonexistence of city supplied water in the area, to provide a well system to service the parcels described herein connected thereto, and an Agreement has been reached relative to supplying water from the well and the cost of supplying said water; and

WHEREAS, there is located a well upon Lot 22, The Mesa, together with water distribution facilities, hereinafter referred to as "water distribution system", for the purpose of supplying water to all properties connected to the said water distribution system; and

WHEREAS, it is the intention and purpose of the undersigned parties that the well and water distribution system shall be used and operated to provide an adequate supply of water for each of the properties connected thereto, for the domestic consumption of the occupants of said properties, and to assure the continuous and satisfactory operation and maintenance of the well and water distribution system for the benefit of the present and future owners, their heirs, successors and assigns of the properties connected thereto; and

WHEREAS, the said well is deemed by the parties hereto to be of adequate capacity to supply a single family dwelling on each of the parcels described herein with water from the well for all domestic uses of a single family residing therein; and

WHEREAS, the United States of America, Federal Housing Administration and Rural Housing Services, will not finance or guarantee mortgage loans covering the separate properties and improvements thereon unless proper assurance is given by the parties as demonstrated by execution of this Agreement, that the water distribution system will have a continuous and satisfactory operation in accordance with the terms of this Agreement; and

WHEREAS, the water from the well has undergone a water quality analysis from the State of Arizona health authority and has been determined by the authority to supply safe and potable water; and

WHEREAS, the parties hereto desire to enter this Agreement for the purpose of reducing to writing their respective rights and obligations pertaining to said well and water distribution system.

NOW THEREFORE, in consideration of the promises and covenants herein contained, it is agreed that the well and water distribution system situated on Lot 22, The Mesa, shall be used by the parties to this Agreement, as well as by all future owners and occupants of said parcels, upon the following terms and conditions:

1. That until this Agreement is terminated, as hereinafter provided, the parties hereto, their heirs, successors and assigns, for the exclusive benefit of the respective parcels of real estate, and for the exclusive use of the household residing thereon, are hereby granted the right in common with the other parties to this Agreement, to draw water from the well located on Lot 22 for quotidian domestic use, excluding the right to draw water to fill swimming pools of any type.
2. That the owners or residents of the dwellings located on Lot 22, 23, 24 and 25, as of the date of this Agreement shall Pay or cause to be paid promptly, a proportionate share of all expenses for the operation and maintenance of the well and water distribution system that may become necessary. Each respective share shall be determined by dividing the amount of each expense by four, it being understood that the supplying party and the supplied party shall pay an amount equal to one fourth of the total of such necessary repair or replacement. Shared expenses include the cost of electricity for pumping, repairs and maintenance on said well and water distribution system.
3. That the cost of any removal or replacement of pre-existing site improvements on an individual parcel necessary for system operation, maintenance, replacement, improvements, inspection or testing, damaged as a result of repair of the well or water distribution system maintenance will be borne by the owner of the affected parcel, except that costs to remove and replace common boundary fencing or walls damaged as a result of repair shall be shared equally between or among parties so damaged.
4. That each of the parties hereby agrees that they will promptly repair, maintain and replace all water pipes or mains serving their respective dwellings whether such repair or maintenance is required due to actions or damage done by either residents or guests at their property. If damage to any part of the water distribution system is from a source outside of the current parties of this agreement then costs shall be shared in accordance to Section 5 below.
5. That the consent of all parties to pay a proportionate share of costs shall be obtained prior to embarking upon expenditures for system maintenance, replacement or improvement, except in emergency situations. All repairs performed on the water distribution system shall, at a minimum, return the system to the original system performance.
6. That the supplied parties when connected shall pay their proportionate share for the cost of energy for the operation of the pumping equipment. Such payments shall be made on an agreed upon schedule. An agreed upon caretaker shall be appointed to oversee the necessary care of the system, including the fund.
7. That it is the agreement of the parties that they shall permit a third party to cure a default of payment or other obligation and shall permit water distribution service to be reinstated upon such curative action.



8. That each of the parties to this Agreement does hereby grant to the other, his heirs, successors and assigns, such easements over, across and through the respective parcels as shall be reasonably necessary for the construction of the well, maintenance of water pipes, pumping equipment, mains, electrical wiring and conduit consistent with the purposes of this Agreement.
9. That no party may install landscaping or improvements that will impair the use of said easements.
10. That each party shall have the right to act to correct an emergency situation and shall have access to the pertinent parcel in the absence of the other. An emergency situation shall be defined as the failure of any shared portion of the system to deliver water upon demand.
11. That only those parcels of real estate hereinabove described and the dwellings located thereon shall be permitted to receive water from said well and pumping equipment; and each of the parties hereto does hereby covenant and agree that he/she will not allow or permit other persons, other than household guests, to take, draw, use or receive water from the well, nor permit other persons to connect to the pipes or mains serving his/her respective parcel.
12. That in the event the referenced well shall become contaminated and shall no longer supply water suitable for domestic consumption, or shall no longer supply water adequate for the needs of all relevant parties, or in the event that another source of water shall become available to the respective parcels, then the rights and obligations of the parties created by this Agreement shall cease and terminate in accordance with the terms and conditions hereinafter described.
13. That upon the availability of such other source of water, it is contemplated that a reasonable time shall be allowed to effectuate the necessary connections to the new source.
14. That the respective rights and obligations of the parties shall continue until the parties who wish to terminate their participation in the Well Agreement have executed and filed a written statement of termination at the Office of the Register of Deeds of the County of Santa Cruz, State of Arizona. Upon termination of participation in this Agreement, the owner and occupant of each residence which is terminated from the Agreement shall have no further right to the use of the well. The terminated parties shall disconnect their respective lateral connection from said well system and shall have no further obligation to pay or collect for maintenance and related expenses incurred thereafter. The costs of disconnection from the well and water system shall be borne by the owner of the pertinent parcel.
15. That the undersigned parties shall permit periodic well water sampling and testing by a responsible authority at the request of an undersigned party, mortgagee or the United States of America, Rural Housing Services. If testing reveals a significant water quality deficiency, corrective repairs shall be required in accordance with section 5 above.
16. That the said well agreement, if amended, shall serve no more than four single family dwelling units or four parcels, notwithstanding the ability of the parties to make other amendments to this Agreement.
17. That the parties may amend this Agreement to assure equitable distribution of shared costs and responsibilities; however, this Agreement may not be amended during the

term of a Federally-insured (direct) or guaranteed mortgage on any property served, except as provided herein, for the purpose of adding to the prescribed number of parties.

18. That the term of this Agreement shall be perpetual, except as herein limited.
19. That the benefits and burdens of this Agreement shall constitute a covenant running with the parcels of land herein described and shall be binding upon the heirs, successors in title and assigns of the parties hereto.
20. The parties agree that this Agreement can be executed in separate and that the 5 pages contained represent the whole of the Agreement and supersede any previous Shared Well Agreements.
21. No Septic or Sewer facilities can be located within 50 feet of the Well System and/or proposed new construction of Septic and Sewer must be located at a distance of greater than 100 feet from the water distribution system.
22. The parties agree to binding arbitration should a dispute arise regarding the Well System or the terms of this agreement. Binding arbitration shall be through the American Arbitration Association or similar body and may be initiated at any time by any party to the agreement. Arbitration costs shall be equally shared by the parties to the agreement.

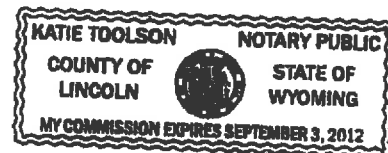
IN WITNESS WHEREOF, the parties have hereunto set their hands and seal the day and year first above written.

Lot 22, The Mesa  
 BY [Signature] [Signature]  
 David Ellis Christina Ellis  
 DATE June 15, 2009 DATE June 15, 2009

Sworn and subscribed before me this 15<sup>TH</sup> day of JUNE, 2009.  
[Signature]

Notary Public

My commission expires: 9/3/2012



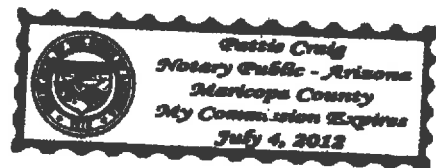
Lot 23, The Mesa

BY Thomas J. Brophy Virginia R. Brophy  
 Thomas Brophy Virginia Jean Brophy  
 DATE June 18, 2009 DATE June 18, 2009

Sworn and subscribed before me this 18 day of June, 2009

Notary Public

My commission expires: July 4, 2012



Lot 24, The Mesa

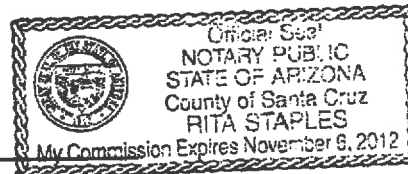
BY Frederick Wilhelm Jr. Christina Wilhelm  
 Frederick Wilhelm Jr. Christina Wilhelm, Lot 24  
 DATE 05/28/09 DATE 05/28/09

Sworn and subscribed before me this 28th day of May, 2009

Rita Staples

Notary Public

My commission expires: 11/06/2012



Rita Staples  
 Santa Cruz - Arizona  
 Comm Exp: 11-6-2012

Lot 25, The Mesa

BY \_\_\_\_\_  
 Donald McIntosh Carolyn McIntosh  
 DATE \_\_\_\_\_ DATE \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_

Lot 23, The Mesa

BY \_\_\_\_\_

Thomas Brophy

Jean Brophy

DATE \_\_\_\_\_ DATE \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_.

Notary Public

My commission expires: \_\_\_\_\_

Lot 24, The Mesa

BY \_\_\_\_\_

Frederick Wilhelm Jr.

Christina Wilhelm Jr., Lot 24

DATE \_\_\_\_\_ DATE \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_.

Notary Public

My commission expires: \_\_\_\_\_

Lot 25, The Mesa

BY Donald McIntosh Carolyn McIntosh

Donald McIntosh

Carolyn McIntosh

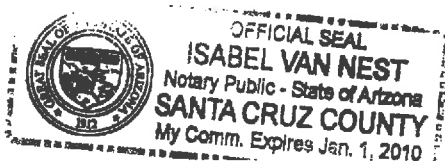
DATE May 26, 2009 DATE May 26, 2009

Sworn and subscribed before me this 26th day of May 2009.

Isabel Van Nest

Notary Public

My commission expires: Jan 1, 2010





2009-11079

Page 1 of 21

Requested By: THE MESA HOMEOWNERS ASSOC.

SUZANNE SAINZ, RECORDER

SANTA CRUZ COUNTY, ARIZONA

12-10-2009 03:22 PM Recordings Fee \$30.00

Requested By:

*The MESA Homeowners Association*

*c/o James V. McMahon, Esq*

*PO Box 950*

*Patagonia, AZ 85624*

Return To:

*James V. McMahon*

*PO Box 950*

*Patagonia, AZ 85624*

---

CAPTION HEADING

*The MESA Homeowners Association*

*Conditions, Covenants and Restrictions*