



DEEDED EASEMENT AND AGREEMENT

THIS DEEDED EASEMENT AND AGREEMENT ("Easement Agreement"), is made and entered into this 6 day of July, 2021, by and between Charles and Deborah Nolan (together, "Grantors") and Roosevelt Ridge Homeowners Association, a Colorado nonprofit corporation ("HOA"). Grantors and the HOA may be individually referred to as a "Party" and collectively referred to as the "Parties" in this Agreement.

RECITALS

A. WHEREAS, pursuant to the Declaration of Covenants, Conditions, and Restrictions for Roosevelt Ridge recorded in the office of the Gilpin County Clerk and Recorder on August 30, 2005 at Reception Number 127333, the HOA is the owners association for real property located in Gilpin County, Colorado, commonly known as "Roosevelt Ridge."

B. WHEREAS, Grantors are the owners of real property within Roosevelt Ridge described as Lot 15, Roosevelt Ridge Exemption Plat, Gilpin County, Colorado, also known by street and number as 2 Roosevelt Ridge, Black Hawk, CO 80422 ("Lot 15").

C. WHEREAS, the HOA has constructed a 30,000-gallon community fire suppression water cistern on Lot 15 ("Cistern").

D. WHEREAS, the Cistern is used solely for fire suppression and training purposes by the Timberline Fire Protection District, a quasi-municipal corporation of the State of Colorado ("District"), pursuant to the Agreement to Amend Conditions of Inclusion of Roosevelt Ridge entered into on the 13th day of October, 2020, ("Inclusion Amendment Agreement").

E. WHEREAS, pursuant to the Inclusion Amendment Agreement, the HOA is solely responsible for the repair, maintenance, service and operability of the Cistern in accordance with the manufacturer's specifications for each component, at the sole expense of the HOA.

F. WHEREAS, the Parties desire to enter into this Easement Agreement to further clarify and define their rights and responsibilities with regard to access, use, operation, maintenance, and repair of the Cistern.

G. WHEREAS, the Parties acknowledge that a separate easement for the fire district (and other uses) exists, which is dated Sept. 29, 2005, and is recorded with the Gilpin County Clerk and Recorder at Reception number 127977 on Nov. 2, 2005, and that both this easement and the 2005 easement refer to the exact same swath of land, which is illustrated in Attachment A, take from Exhibit A of the 2005 easement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. **Deeded Easement.** Grantors do hereby grant and convey to the HOA and its agents and contractors, including the District, a nonexclusive easement in perpetuity across a portion of



Lot 15 as depicted on **Attachment A**, allowing reasonable access to operate, maintain, repair, and replace the existing structures, infrastructure, equipment, and utilities associated with and necessary for the operation of the Cistern at the sole expense of the HOA, including the fire hydrant and water line connection to the Cistern and the road turn-out used to access the fire hydrant and Cistern (collectively "Easement").

2. **Location of Easement.** The location of the Easement is approximately depicted on **Attachment A**. The Parties agree that should either Party so desire, the location of the above-described Easement may be surveyed by a professional surveyor engaged by that Party and at that Party's sole expense. Upon completion of any such survey of the Easement, the Parties will file an Amended Easement Agreement for the sole purpose of providing a more definite location of the Easement based upon the survey and which will replace and vacate this version of the Easement Agreement.

3. **Maintenance and Repairs.** The maintenance, repair, and replacement of the Cistern, all existing structures, infrastructure, equipment, and utilities associated with the Cistern including the fire hydrant and water line connection, and the access turn-out to the hydrant and Cistern (including road maintenance, snow removal, and possible addition of road base or blacktop), are the affirmative obligation and sole responsibility of the HOA at the HOA's cost. Prior to any maintenance, repair or replacement reasonably anticipated to disturb the ground on Lot 15, the HOA shall notify Grantors in advance and arrange for a mutually acceptable day for the proposed work, unless and except if the work is in response to an emergency situation involving a potential immediate impact to property.

4. **Indemnity.** The HOA shall indemnify Grantors against any claims arising out of any use of the Easement, whether by the HOA, its agents or contractors, including the District, and against any claims arising out of the maintenance, repair and replacement of the Cistern and related facilities, or the lack thereof.

5. **Reclamation.** If during the exercise of its rights and obligations under this Easement Agreement the HOA or any of its agents or contractors, including the District, causes damage or disturbance to any portion of Lot 15, including the Easement, the HOA shall be solely responsible for reclaiming such damage or disturbance to a condition equal to or better than the land's condition prior to the damage or disturbance. At present the Easement area remains disturbed from installation of the Cistern and hydrant. The HOA agrees to replant the area approximately depicted on **Attachment B** with native trees (conifer saplings) during 2022 at a density approved by Timberline Fire Protection District and will replace any replanted trees that do not survive the first four years after planting. The HOA also agrees to cover the access area, Cistern footprint and connecting water line shown in **Attachment B** with wood chips and will add more wood chips over time as needed to maintain a depth sufficient to prevent weed and tree growth, except to the extent the HOA replaces the wood chips on the access area with road base or blacktop. The HOA also agrees to remove the debris (including the tree pile) left on the Easement area after the installation of the Cistern.

6. **Provisions to Run with the Land.** All provisions of this Easement Agreement, including all benefits and burdens, shall be appurtenant to and run with Lot 15, and shall bind and



inure to the benefit of the Grantors and the HOA and their respective heirs, personal representatives, successors and assigns, subject to the provisions hereof. Grantors shall record the fully executed version of this Easement Agreement with the office of the Gilpin County Recorder.

7. Permit Assignment. On the date of execution hereof, Grantors shall assign the Gilpin County permit for the Cistern (Permit No. OWTS-20-21) using the form attached hereto as **Attachment C**, which the HOA does hereby accept, whereafter the HOA shall assume all rights, obligations, and responsibilities under said permit, including but not limited to, satisfying all obligations, payments, and liabilities under said permit. The HOA shall initiate within seven (7) days of the execution of this Easement Agreement the process with the County to change the name of the permittee to the HOA and shall use due diligence to complete the steps necessary with the County to change the name of the permittee to the HOA in an expeditious manner.

8. Notice. Any written notice required or permitted hereunder shall be deemed effective when deposited in the United States mail, postage prepaid, first class and addressed to the party to whom notice is to be given, or e-mailed to the Party, as follows:

If to Grantors: Charles and Deborah Nolan
349 Royal Ridge Dr.
Bailey, Colorado 80421

If to HOA: Roosevelt Ridge Homeowners Association
1630A 30th St. #442
Boulder, Colorado 80301

The above contact information may be modified at any time by a Party by giving written notice to the other Party.

9. No Waiver or Breach. The failure of one of the Parties to insist upon the strict performance of any provision of this Easement Agreement or to exercise any right, power, or remedy upon a breach thereof, shall not constitute a waiver of that or any other provision of this Agreement or limit that Party's or the other Party's right thereafter to enforce any provision or exercise any right in this Easement Agreement.

10. Applicable Law. This Easement Agreement shall be interpreted and enforced under the laws of the State of Colorado.

11. Counterparts. A copy of this Easement Agreement may be executed by each Party, separately, and when each Party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the Parties.

12. Modification. This Easement Agreement may only be modified or amended by an agreement in writing executed by the Parties.



13. **Severability.** If any provision in this Easement Agreement is held invalid, illegal, or unenforceable by a court of law, the validity, legality, and enforceability of the remaining provisions of this Easement Agreement shall not be impaired thereby and will remain in full force and effect and the Parties shall negotiate and execute such other amendments to this Easement Agreement or other documents as may be needed to lawfully accomplish the intended purpose of the invalid provision.

14. **Authority.** The undersigned for the HOA does hereby represent and warrant that they have taken all steps necessary to legally bind the HOA to this Easement Agreement.

15. **Attorney's Fees.** In the event that legal action is commenced by a party to enforce its rights under this Easement Agreement, the prevailing party shall recover the reasonable attorneys fees and costs that it incurred in such action.

16. **Entire Agreement.** This Easement Agreement and the Attachment hereto constitute the entire understanding and agreement between the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be duly executed by the proper officers or agents, and have affixed their seals hereto on the day and year first above written.

Charles Nolan

Date: 7-6-21

Deborah Nolan

Date: 6-Jul-21

STATE OF COLORADO)
) SS.
COUNTY OF Gilpin)

The foregoing instrument was acknowledged before me this 6 day of July, 2021, by Charles and Deborah Nolan.

WITNESS my hand and official seal.

My commission expires: 11/14/24

MICHAEL CARLSON
(Seal)
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164043380
MY COMMISSION EXPIRES NOVEMBER 14, 2024

Notary Public



ROOSEVELT RIDGE HOMEOWNERS ASSOCIATION

A Colorado nonprofit corporation

By: Steven P. Jordan
Director

Date: July 6, 2021

STATE OF COLORADO)
) SS.
COUNTY OF Gilpin)

The foregoing instrument was acknowledged before me this 6 day of July, 2021, by Steven P. Jordan, as Director of Roosevelt Ridge Homeowners Association, a Colorado nonprofit corporation.

WITNESS my hand and official seal.

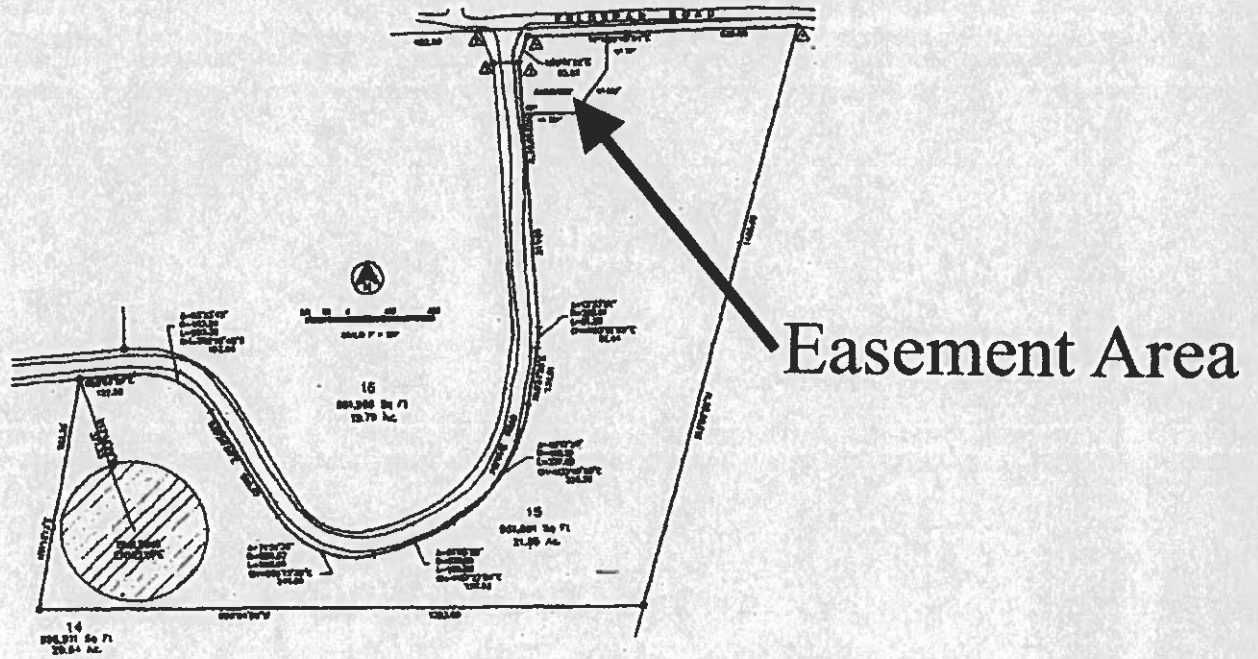
My commission expires: 11/14/24

(SEAL)



Michael Carlson
Notary Public

**MICHAEL CARLSON
NOTARY PUBLIC
STATE OF COLORADO**
NOTARY ID 20184043380
MY COMMISSION EXPIRES NOVEMBER 14, 2024


Attachment A to Deeded Easement and Agreement



07/06/2021 10:50 AM 169636
SAHARI HILCOMICK GILPIN COUNTY, CO
Receipt #46540 Page 5 of 6
174 EASEMENT DEED/AGREEMENT TotalFee: 48.00 DocFee: 0.00



11/2/05 9:06 AM 127977
JESSICA LOVINGER GILPIN COUNTY receipt #1281 Page 5 of 6
174 EASEMENT DEED/AGREEMENT TotalFee: 31.00 DocFee: 0.00





Attachment B

White rectangle signifies cistern footprint requiring woodchips.

White extension off of cistern footprint signifies waterline requiring woodchips.

Grid signifies woodchips placed as a buffer zone between cistern footprint and conifer saplings.

Hatching signifies areas requiring new conifer saplings.

Access area marked by 4 arrows requires woodchips unless road base, blacktop, RAP, or concrete installed.

