

TOWN OF ORO VALLEY EASEMENT ACQUISITION AGREEMENT

This Easement Acquisition Agreement ("Agreement") is made by and between Oro Valley Retirement Residence LLC, a Washington limited liability company (the "Owner"), and the Town of Oro Valley, a political subdivision of the State of Arizona (the "Town").

1. **Property.** The Owner is the owner of a parcel of property within Oro Valley located at Parcels 224-30-3610, 224-30-367F and 224-30-360A (the Owner's "Property") as described in Exhibit "A", including all improvements located thereon.
2. **Easement Title.** The Town has determined the need to acquire easements on, over, under and through the Owner's Property. In lieu of court proceedings and further to its power of eminent domain, the Town agrees to acquire a **Drainage** Easement to the Property for Thirty Eight Thousand and Sixty Dollars (\$38,060.00). The **Drainage** Easement transferring said easement from Owner to the Town shall be in substantial conformance with the **Drainage** Easement form attached hereto as Exhibit "B".
3. **Drainage Easement.** The Owner shall convey to the Town the Property, free and clear of all liens and encumbrances.
4. **Forms.** Any and all other closing documents shall be done on forms to be provided by the Town's title company of choice. .
5. **Security Interest.** Monies payable under this Agreement may be due to holders (the "Lienholders") of certain notes secured by mortgages or deeds of trusts, up to and including the total amount of unpaid principal, interest and penalty on the notes, if any, and shall, upon demand by the Lienholders, be paid to the Lienholders. Owner shall obtain from the Lienholders releases for any fee transfer for the Property.
6. **Waiver.** The Owner accepts Thirty Eight Thousand and Sixty Dollars (\$38,060.00) as full and final payment for all damages resulting from the project. The Owner hereby agrees to release any and all civil and criminal claims that may exist now or in the future against the Town, its officers, agents or employees, their heirs or assigns arising out of the Town's ownership of the **Drainage** Easement. This waiver is for valuable consideration, given freely and covers any and all claims not only for Owner, but also for Owner's heirs and assigns.
7. **Closing.** Closing shall be on or before the 30th day after the date of execution of this Agreement.

8. **Environmental Representations.** The Owner hereby represents and warrants that, to the best of Owner's knowledge, no pollutants, contaminants, toxic or hazardous substances, wastes or materials have been stored, used or are located on the Property or within any surface or subsurface waters thereof; that no underground tanks have been located on the Property; that the Property is in compliance with all Federal, State and local environmental laws, regulations and ordinances; and that no legal action of any kind has been commenced or threatened with respect to the Property.
9. **Environmental Indemnification.** The Town and the Owner agree that neither party is assuming any obligation of the other party relating to any potential liability, if any, arising from the environmental condition of the Property, and each party shall remain responsible for its obligations as set forth by law.
10. **Environmental Inspection Rights.** The Owner shall permit Town to conduct such inspections of the Property as the Town deems necessary to determine the environmental condition of the Property. If the investigations reveal the presence of contamination or the need to conduct environmental clean up, Owner shall conduct the clean up of the Property adequate to bring the Property into compliance prior to closing or the Town may terminate this Agreement. If environmental inspection reveals possible contamination, the parties hereby mutually agree to extend date of closing for a reasonable time for Owner to complete environmental clean up.
11. **No Leases.** The Owner warrants that there are no oral or written leases on any portion of the Property.
12. **Closing Costs.** Expenses incidental to transfer the Slope Easement, including title reports, recording fees, escrow fees, releases and Owners Title Insurance Policy, shall be paid 100% by Town.
13. **Right of Entry.** The Owner hereby grants to Town, its agents and contractors a right-of-entry to the Property upon execution of this Agreement for the purposes of constructing drainage improvements located therein.
14. **No Sale.** The Owner shall not sell or encumber the Property before closing.
15. **Conflict of Interest.** This Agreement is subject to A.R.S. 38-511 which provides for cancellation of contracts by The Town of Oro Valley for certain conflicts of interest.
16. **Survival of Representation and Warranties.** All representations and warranties contained herein shall survive the closing.
17. **Entire Agreement.** This signed document shall constitute the entire Agreement between the parties and no modification or amendment to this Agreement shall be binding unless in writing and signed by both parties. The performance of this Agreement constitutes the

entire consideration by the Town, including all just compensation and severance damages to the remainder property and shall relieve the Town of all further obligation or claims relating to Property.

OWNER

Oro Valley Retirement Residences LLC, a Washington limited liability company
By: Hawthorn Management Services Corp., a Washington corporation
Its Manager



By: Barton G. Colson, President

STATE OF WASHINGTON)) ss
COUNTY OF CLARK)

On this 3rd day of October, 2011, before me the subscriber personally appeared Barton G. Colson, President of and Hawthorn Management Services * to me known and known by me to be the persons who executed the within Agreement and they duly acknowledged to me that they executed the same.

** Corp., the Manager of Oro Valley Retirement Residence Llc.*

Robin R. Goins
Notary Public for Washington

My Commission Expires: September 26, 2015

TOWN OF ORO VALLEY

NOTARY PUBLIC
STATE OF WASHINGTON
ROBIN R. GOINS
Commission Expires September 26, 2015

Dr. Satish I. Hiremath, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie K. Bower, Town Clerk

Tobin Rosen, Town Attorney

Date: _____

Date: _____

EXHIBIT "A"

Legal Description



Southwest Survey Solutions, LLC

P.O. Box 2128
Higley, AZ 85246
(O) 480-414-4121
(F) 888-870-6203
www.southwestsurvey.com

Owner: Oro Valley Retirement Residence, LLC & Pima County

PIN Numbers: 224-30-360B, 224-30-360A
224-30-367F, 224-30-3610

Purpose: Drainage Easement

Legal Descriptions: (#1) That portion of Block 3 of the Highlands, a subdivision in Pima County, Arizona, according to the map or plat thereof of record in the office of the County Recorder of Pima County, Arizona, in book 15 of map and plats, page 21, being more particularly described as follows:

Beginning at the Southwest corner of said block 3 said point also being the Southeast corner of the 45.00 foot wide drainageway as shown on said plat of the Highlands:

Thence North 40 degrees 42 minutes 05 seconds West (measured) (North 40 degrees 09 minutes 36 seconds West, record) Along the Westerly line of said Block 3 said line also being the Easterly line of said drainageway a distance of 57.96 feet (measured) to a point:

Thence North 85 degrees 06 minutes 58 seconds East (measured) a distance of 165.57 feet (measured) to a point at the intersection with the Easterly line of said block 3, said line also being the Westerly right of way line of Highlands Drive:

Thence Southerly along said Easterly line of block 3, said line being concave to the West having a central angle of 7 degrees 26 minutes 08 seconds (measured) with a radius of 170.00 feet (record and measured) an arc length of 22.06 feet (measured) to a point of compound curvature:

Thence Southwesterly along a curved line concave to the Northwest having a central angle of 90 degrees 00 minutes 00 seconds (record and measured) with a radius of 25.00 feet (record and measured) an arc length of 39.27 feet (record and measured) to a point of tangency, said point being on the South line of said block 3, said line also being the Northerly right of way line of Lambert Lane as it now exists:

Thence South 85 degrees 06 minutes 58 seconds West (measured) (South 85 degrees 39 minutes 25 seconds West, record) along the South line of said block 3 a distance of 108.08 feet (measured) (108.21 feet, record) to the point of beginning.

Containing: 6,907 sq. feet 0.16 acres

(#2) That portion of the 45.00 foot drainageway of the Highlands, a subdivision in Pima County, Arizona, according to the map or plat thereof of record in the office of the County Recorder of Pima County, Arizona in book 15 of map and plats, page 21, being more particularly described as follows:

Beginning at the Southeast corner of said 45.00 foot drainageway, said point also being the Southwest corner of block 3 as shown on said plat of the Highlands:

Thence North 40 degrees 42 minutes 03 seconds West (measured) (North 40 degrees 09 minutes 36 seconds West, record) along the Easterly line of said 45.00 drainageway said line also being the Westerly line of said block 3 a distance of 57.96 feet (measured) to a point:

Thence South 85 degrees 06 minutes 58 seconds West (measured) a distance of 55.49 feet (measured) to a point at the intersection with the Westerly Line of said 45.00 foot drainageway, said line also being the Easterly line of block 2 as shown on said plat of the Highlands:

Thence South 40 degrees 42 minutes 03 seconds East (measured) (South 40 degrees 09 minutes 36 seconds East, record) along the Westerly line of said 45.00 foot drainageway a distance of 57.96 feet (measured) to a point at the Southwest corner of said 45.00 foot drainageway said point also being the Southeast corner of said block 2:

Thence North 85 degrees 06 minutes 58 seconds East (measured) (North 85 degrees 39 minutes 25 seconds East, record) along the South line of said 45.00 foot drainageway said line also being the Northerly right of way line of Lambert Lane as it now exists, a distance of 55.49 feet (measured) to the point of beginning.

Containing: 2,608 sq. feet 0.06 acres

(#3) That portion of block 2 of the Highlands, a subdivision in Pima County, Arizona, according to the map or plat thereof of record in the office of the County Recorder of Pima County, Arizona, in book 15 of map and plats, page 21 being more particularly described as follows:

Beginning at the Southeast corner of said block 2 said point also being the Southwest corner of the 45.00 foot drainageway as shown on said plat of the Highlands:

Thence North 40 degrees 42 minutes 03 seconds West (measured) (North 40 degrees 09 minutes 36 seconds West, record) along the Easterly line of said block 2, said line also being the Westerly line of said 45.00 foot drainageway, a distance of 57.96 feet (measured) to a point:

Thence South 85 degrees 06 minutes 58 seconds West (measured) a distance of 51.92 feet (measured) to a point:

Thence South 25 degrees 12 minutes 12 seconds East (measured) a distance of 50.12 feet (measured) to a point at the intersection with the South line of said block 2, said line also being the Northerly right of way line of Lambert Lane as it now exists:

Thence North 85 degrees 06 minutes 58 seconds East (measured) (North 85 degrees 39 minutes 25 seconds East, record) along said South line of block 2 a distance of 68.43 feet (measured) to the point of beginning.

Containing: 2,828 sq. feet 0.06 acres



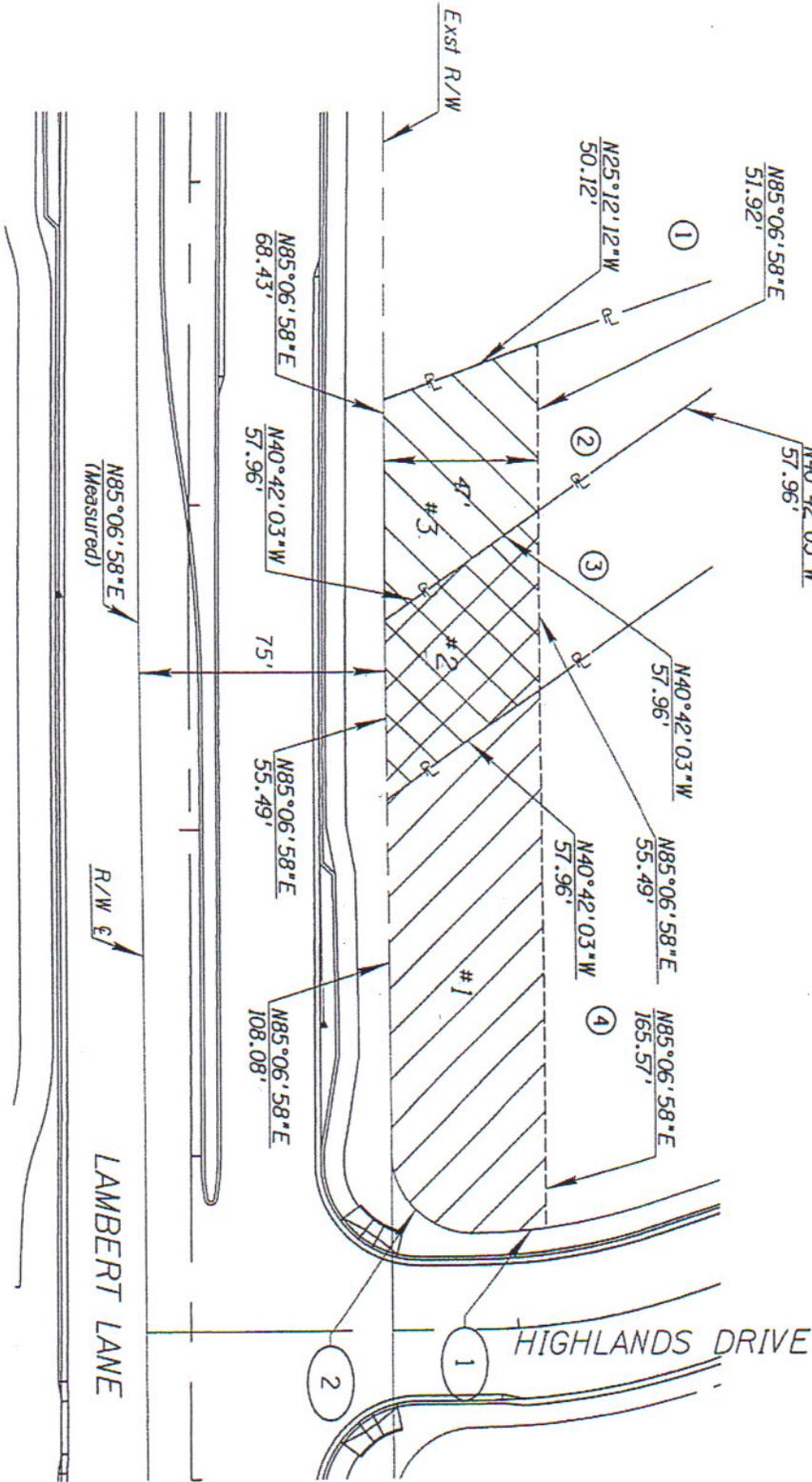
Lambert Lane

Parcel ID	Description
1 224-30-3608	Prima County
2 224-30-360A	Oro Valley Retirement Residence LLC
3 224-30-367F	Oro Valley Retirement Residence LLC
4 224-30-3610	Oro Valley Retirement Residence LLC

#	Sq Ft
# 1	6907 Sq Ft
# 2	2608 Sq Ft
# 3	2828 Sq Ft

CURVE DATA:

Curve #	R	L	D	T
1	170.00'	22.06'	07°26'08"	11.05'
2	25.00'	39.28'	90°00'00"	25.00'



Kittelison & Associates, Inc.
Transportation Engineering / Planning

NEW DRAINAGE EASEMENT
ORO VALLEY, AZ

FIGURE
S19

October 2010

EXHIBIT "B"

Drainage Easement

When recorded send to:
Joseph N. Andrews
Chief Civil Deputy Town Attorney
Town of Oro Valley
11000 N. La Canada Drive
Oro Valley, Arizona 85737

DRAINAGE EASEMENT

Oro Valley Retirement Residence LLC, a Washington limited liability company ("Grantors") do hereby convey to the Town of Oro Valley, a municipal corporation of the State of Arizona ("Grantee"), an easement for the maintenance of a channel, including but not limited to, drainage improvements over and across the property described on the attached Exhibit "A" (the "Property").

The Grantee shall have the right to maintain improvements within the Property and to enter upon the Property for the purpose of maintaining the easement and its improvements located thereon.

Grantors agree that no buildings, structures, fences or trees shall be placed upon the Property and that the natural contours of the Property shall not be excavated, filled or altered without the prior written approval of the Grantee.

All grants, covenants and conditions of this easement shall inure to the benefit of and be binding upon the successors in interest to the Grantee and Grantors.

IN WITNESS WHEREOF, Grantors have executed this easement this 3rd day of October, 2011.

GRANTORS

Oro Valley Retirement Residences LLC, a Washington limited liability company
By: Hawthorn Management Services Corp., a Washington corporation
Its Manager



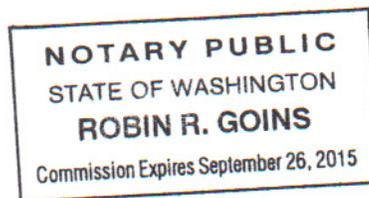
By: Barton G. Colson, President

STATE OF WASHINGTON)) ss
COUNTY OF CLARK))

On this 3rd day of October, 2011, Barton G. Colson,
known to me to be the persons whose name are subscribed to the within instrument,
personally appeared before me and acknowledged that he/~~she~~/they executed the same
for the purposes contained.

Given under my hand and seal on October 3rd, 2011.

Robin R. Goins
Notary Public for Washington



My Commission Expires: September 26, 2015

GRANTEE

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie K. Bower, Town Clerk

Tobin Rosen, Town Attorney

Date: _____

Date: _____

EXHIBIT "A"

Legal Description



Southwest Survey Solutions, LLC

P.O. Box 2128
Higley, AZ 85246
(O) 480-414-4121
(F) 888-870-6204
www.southwestsurvey.com

Owner: Oro Valley Retirement Residence, LLC & Pima County

PIN Numbers: 224-30-360B, 224-30-360A
224-30-367F, 224-30-3610

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Lambert Lane



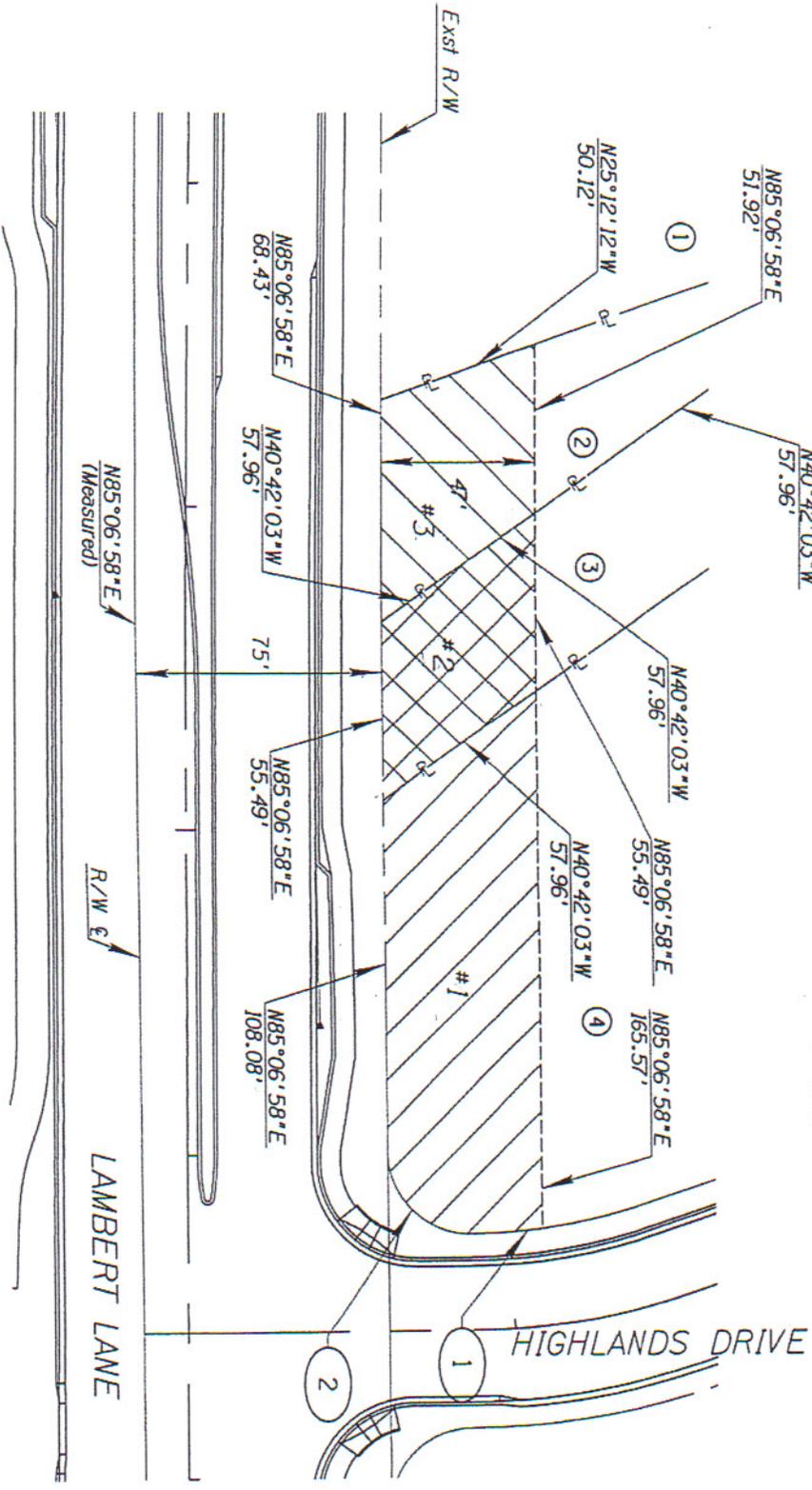
Kittelison & Associates, Inc.
Transportation Engineering / Planning

Parcel ID	Description
1 224-30-3608	Pima County
2 224-30-3604	Oro Valley Retirement Residence LLC
3 224-30-367F	Oro Valley Retirement Residence LLC
4 224-30-3610	Oro Valley Retirement Residence LLC

#	Sq Ft
#1	6907 Sq Ft
#2	2608 Sq Ft
#3	2828 Sq Ft

CURVE DATA:

Curve #	R	L	D	T
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NEW DRAINAGE EASEMENT
ORO VALLEY, AZ

FIGURE
S19

October 2010