

**DRIVEWAY MAINTENANCE AGREEMENT**

This document is being rerecorded to attach exhibit "A"

WHEREAS, ELK POINT, LLC (hereinafter referred to as "ELK POINT"), is the owner of four (4) parcels of real property, which are more particularly described on Exhibit "A," attached hereto, which Exhibit is incorporated herein as if set forth herein verbatim, which parcels of real property are zoned for single-family residential use; and

WHEREAS, the real properties described on Exhibit "A," attached hereto, are accessed by a common right-of-way and drainage ("driveway"); and

WHEREAS, ELK POINT desires to provide for the maintenance and use of said driveway by the parcels of real property described on Exhibit "A," attached hereto; and

WHEREAS, the covenants, terms and conditions of this Agreement shall run with the land and bind all future owners of the real properties described on Exhibit "A," attached hereto.

NOW, THEREFORE, ELK POINT does hereby provide for the maintenance and use of the driveway that is described on Exhibit "B," attached hereto, for the benefit of the real properties described on Exhibit "A," attached hereto, upon the terms and conditions hereinafter set out.

1. Each owner of the real properties described on Exhibit "A," attached hereto, shall have the right to access his or her parcel of real property off the driveway described on Exhibit "B," attached hereto. Each owner will only have the right to access his or her parcel of real property at one point or spot along the driveway described on Exhibit "B," attached hereto. The parcel(s) of real property can only be accessed off the

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driveway. All costs associated with said driveway, including maintenance, repair, or replacement shall be shared equally by each of the four (4) parcels of real property described on Exhibit "A," attached hereto. Any decisions or determinations with respect to maintenance, repair or replacement shall be made by majority vote, with each parcel of real property described on Exhibit "A," attached hereto, having one (1) vote. No owner of a parcel of real property described on Exhibit "A," shall unreasonably withhold or delay their consent to maintenance, repair or replacement. No overnight parking of vehicles is permitted on the common driveway.

2. Notwithstanding the foregoing, each owner of a parcel of real property described on Exhibit "A," shall be solely responsible for any maintenance, repair or replacement costs to the driveway that are required as a result of the negligent, reckless or intentional acts of said party, his or her agents, servants, contractors, guests, invitees, or licensees. If said party fails to maintain, repair or replace the damages to the driveway pursuant to the provisions of this paragraph 2, the other owners may then cause the driveway to be maintained, repaired or replaced, the costs of which shall be immediately reimbursed by the owner of the parcel who caused the damages to the driveway.

3. Any costs allocated to a party pursuant to this Agreement that are not paid within fifteen (15) days after request therefore has been made, shall thereafter bear interest at the rate of twelve percent (12%) per annum until paid, and such costs and accrued interest shall, in accordance with NRS 116.3116 through 116.31168, or California Civil Code Section 1367, or any replacement statutes, be a charge and continuing lien upon the property of the party so failing to make such payment, the lien

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to be effective upon the recordation of a notice of delinquency by any other owner of the parcels of real property described on Exhibit "A," attached hereto, and the same to be enforced in accordance with the provisions of NRS 116.3116 through 116.31168, or Section 1367 of the California Civil Code.

4. Each of the owners of the parcels of real property described on Exhibit "A," agree to indemnify and hold harmless the other owners of said parcels of real property against all liability for injury or damage to persons or property caused by the act or omission of said owner, its agents, servants, contractors, guests, invitees or licensee, on or upon the driveway area described on Exhibit "B," attached hereto.

5. Each owner of the parcels of real property described on Exhibit "A," attached hereto, shall obtain and maintain general liability insurance, insuring against any claims for personal injury, death or property damage occurring in, on or about the common driveway.

6. The rights and obligations of this Agreement shall run with the land, and shall benefit and burden the parcels described on Exhibit "A," attached hereto. Said rights and obligations shall be binding upon and inure to the benefit of, and be enforceable by, any of the owners of the real properties described on Exhibit "A," attached hereto.

7. Any lien rights granted or authorized under this Agreement shall be subordinate to any mortgage or deed of trust recorded against any of the parcels of real property described on Exhibit "A," attached hereto.

8. Venue for any dispute in connection with any of the terms and provisions of this Driveway Maintenance Agreement shall be exclusively in Douglas County, State

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of Nevada. In any Court action to enforce any of the terms, provisions or conditions hereof, the prevailing party shall be entitled to the award of reasonable attorney's fees, together with Court costs.

DATED: This 9 day of APRIL, 2002.

ELK POINT, LLC:

By Walter Burgess  
Walter Burgess

**ACKNOWLEDGMENT**

CALIFORNIA )  
STATE OF ~~NEVADA~~ )  
                  ORANGE ) ss.  
COUNTY OF ~~DOUGLAS~~ )

On the 9<sup>th</sup> day of APRIL, 2002, before me,  
M. KRISMAN, a Notary Public,

personally appeared WALTER BURGESS,  
personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be  
the person whose name is subscribed to the within instrument, and acknowledged to  
me that they executed the same in their authorized capacity, and that by their signature  
on this instrument, the person, or the entity upon behalf of which the person acted,  
executed this instrument.

WITNESS my hand and official seal.



M. KRISMAN  
NOTARY PUBLIC

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Roadway  
nv

**CANAAN CONSTRUCTION  
PRIVATE ACCESS EASEMENT  
LEGAL DESCRIPTION**

September 25, 2001

A 25 foot wide private access and public utility easement located within a portion of the Southeast one-quarter of Section 26, Township 12 North, Range 19 East, M.D.M., Douglas County, Nevada, being more particularly described as follows:

BEGINNING at a point on the Southwesterly right-of-way line of Foothill Road, as shown on the Record of Survey to Support a Lot Line Adjustment for Grant Barbour, Loring Sagan and Frank G. & Marjorie W. Geesaman, Document No. 512214 of the Douglas County Recorder's Office, said point bears N.  $38^{\circ}37'34''$  W., 2,615.87 feet from the Southeast corner of said Section 26;

thence S.  $43^{\circ}25'51''$  W., 435.58 feet;

thence S.  $50^{\circ}47'15''$  W., 122.09 feet;

thence 81.75 feet along the arc of a curve to the right having a central angle of  $41^{\circ}38'08''$  and a radius of 112.50 feet, (chord bears S.  $71^{\circ}36'20''$  W., 79.96 feet) to a point on the California and Nevada State line;

thence N.  $48^{\circ}38'03''$  W., along said State line, 70.71 feet;

thence 123.06 feet along the arc of a curve to the left having a central angle of  $80^{\circ}34'41''$  and a radius of 87.50 feet, (chord bears S.  $88^{\circ}55'24''$  E., 113.16 feet)

thence N.  $50^{\circ}47'15''$  E., 120.48 feet;

thence N.  $43^{\circ}25'51''$  E., 433.99 feet to a point on said right-of-way line;

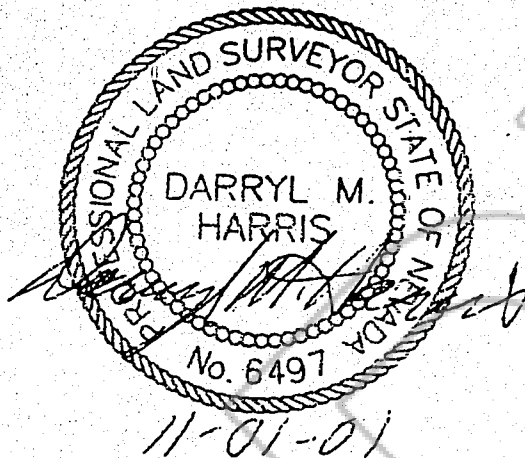
thence S.  $46^{\circ}31'52''$  E., along said right-of-way line, 25.00 feet to the POINT OF

BEGINNING.

Containing 16,210 square feet more or less.

**Basis of Bearing**

The South line of the Southeast one-quarter of said Section 26 as shown on the above mentioned Record of Survey, (N. 89°58'00" W.).



**PREPARED BY**

Darryl M. Harris, P.L.S.  
Resource Concepts, Inc.  
P.O. Box 11796  
212 Elk Point Road, Suite 441  
Zephyr Cove, NV 89448

REQUESTED BY  
*Laura Holken*  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2002 JUL 11 AM 9:08

LINDA SLATER  
RECORDER

*slaw* PAID *BL* DEPUTY

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**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Four parcels of land located within a portion of the Southeast one-quarter of Section 26, T.12 N., R.19 E., M.D.M., being more particularly described as follows:

**Nevada**

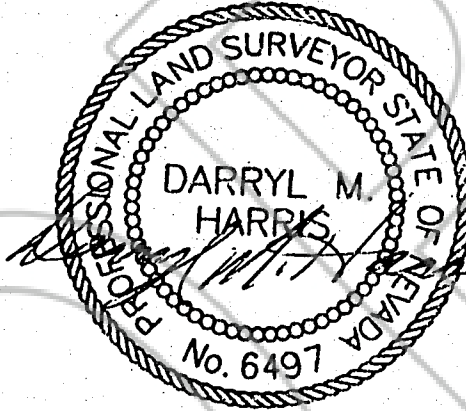
Parcel 1 and Parcel 2 of Final Parcel Map LDA 01-001, as recorded in Book 1101 at Page 7532, Document No.528446 of the Douglas County Recorder's Office;

**California**

Parcel 1 and Parcel 2 of the Record of Survey Map to Support a Lot Line Adjustment, as recorded in Book 4 at Page 157 of the Alpine County Recorder's Office.

**PREPARED BY:**

Darryl M. Harris, P.L.S. #6497  
Resource Concepts, Inc.  
P.O. Box 11796  
Zephyr Cove, NV 89448  
775 589-6001



7-25-02

REQUESTED BY  
**FIRST AMERICAN TITLE CO.**

IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2002 JUL 26 AM 11:11

LINDA SLATER  
RECORDER

\$20 PAID *KJ* DEPUTY

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