

RESOLUTION 2015-01

**ACCEPTING LICENSE AGREEMENT AND REMOVAL OF EASEMENT ENCROACHMENTS &
AUTHORIZING EXECUTION & RECORDATION APN 096-6630-031-000 GRANTED BY
ROBERT L., BEYER JR. & KERI L. BEYER**

WHEREAS, the Squaw Valley Public Service District ("District" hereinafter) is owner and holder of that Water Line Easement, granted and conveyed to District by the Painted Rock Estates Subdivision Map, filed November 3, 1998 in Book V of Maps, at Page 2, Placer County Records; owns and operates a sewer main line and manholes on and across the property; and

WHEREAS, Robert L. Beyer, Jr. and Keri L. Beyer ("Beyers" hereinafter) are the owners of that real property, located at 242 Shoshone Way, Olympic Valley, California (APN 096-630-031-000) attached hereto and incorporated herein; and

WHEREAS, boulders, retaining walls, trees and vegetation (the Encroachments) have been placed within and intrude upon the Water Line Easement described herein, which requires removal for purpose of District's access, use, maintenance, repair and protection of both its Easement and the water pipeline located therein; and

WHEREAS, said Encroachments obstruct and unreasonably interfere with District's right of access, use, maintenance and repair of the Easement and the pipeline located therein, increasing the cost and difficulty of future access, repair and/or replacement of the water pipeline; and

WHEREAS, the Beyers have executed and delivered to the District the License and Agreement for Removal of Easement Encroachments; and

WHEREAS, District wishes to accept the License and Agreement for Removal of Easement Encroachments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Squaw Valley Public Service District:

1. Does hereby accept the executed License and Agreement for Removal of Easement Encroachments, which document is attached hereto and incorporated herein.
2. The Board President and Secretary to the Board of the District are hereby authorized and directed to execute said document(s) on behalf of the District and cause said Grant of Easement to be duly recorded in the Official Records of the Office of the Recorder of Placer County, California.

PASSED AND ADOPTED this 27th day of January, 2015 at a regular meeting of the Board of Directors of the Squaw Valley Public Service District by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Eric Poulsen, Board Vice-President

ATTEST:

Kathryn Obayashi-Bartsch, Secretary to the Board

RECORDING REQUESTED BY:

Thomas S. Archer, Esq.
12020 Donner Pass Rd. Suite 2B
Truckee, CA 96161

**RECORDED AT REQUEST OF
AND WHEN RECORDED,
RETURN TO:**

Squaw Valley Public Service District
Post Office Box 2026
Squaw Valley, CA 96146-2026

**LICENSE AND AGREEMENT FOR REMOVAL
OF EASEMENT ENCROACHMENTS**

Affected Parcel: APN #096-6630-031-000

Owner: Robert L. Beyer, Jr., Trustee and Keri L. Beyer, Trustee

Easement Holder: Squaw Valley Public Service District

This Agreement is made and entered into as of the date of last signing by and between Robert L. Beyer, Jr., Trustee of the Robert L. Beyer, Jr. Qualified Personal Residence Trust, dated February 2, 2007 and Keri L. Beyer, Trustee of the Keri L. Beyer Qualified Personal Residence Trust, dated September 2, 2007, hereinafter referred to as "Beyer" and/or "Beyers", and the Squaw Valley Public Service District, a body politic organized pursuant to the California Water Code, hereinafter referred to as "District".

Recitals

WHEREAS, District is owner and holder of that Water Line Easement, granted and conveyed to District by the Painted Rock Estates Subdivision Map, filed November 3, 1998 in Book V of Maps, at Page 2, Placer County Records; and

WHEREAS, Beyers are the owners of that real property located at 242 Shoshone Way, Olympic Valley, California, more particularly described, as follows:

Lot 31 as shown and designated on that map entitled TRACK NO. 839 PLAT OF
PAINTED ROCK ESTATES, filed in the Office of the County Recorder of
Placer County, California, on November 3, 1998, in Book "V" of Maps at Page 2

Assessor's Parcel Number: 096-630-031-000

WHEREAS, the real property owned by Beyer is burdened by the aforementioned Water Line Easement, which is more particularly described on the Subdivision Map, attached as **Exhibit A** hereto and incorporated herein by this reference;

WHEREAS, boulders, retaining walls, trees and vegetation (the "Encroachments" herein) have been placed within and intrude upon the Water Line Easement described herein, which require removal for purpose of District's access, use, maintenance, repair and protection of both its Easement and the water pipeline located therein;

WHEREAS, Beyers have modified the natural terrain and constructed the Encroachments into and upon the Water Line Easement, including, but not limited to, boulders, rockery retaining walls, backfill, cobble, drainage, landscaping and irrigation systems, as depicted upon the Topographical Survey Map, attached hereto as **Exhibit B** and incorporated herein by this reference;

WHEREAS, said Encroachments obstruct and unreasonably interfere with District's right of access, use, maintenance and repair of the Easement and the pipeline located therein, increasing the cost and difficulty of future access, repair and/or replacement of the water pipeline;

WHEREAS, it would impose a present and extraordinary hardship upon the Beyers to demand removal of the encroaching Rockery Retaining Wall adjacent to Shoshone Way and designated as "Rock Slope Protection" on **Exhibit B** hereto; in that District has no present need or requirement to excavate, repair and/or replace the water pipeline located within the Easement, and

WHEREAS, District has no responsibility for the installation, construction, nor maintenance of the Encroachments;

IT IS THEREFORE AGREED, AS FOLLOWS:

1. Incorporation of Recitals. The Parties hereto agree to and incorporate the Recitals as set forth above.

2. District Easement Rights Confirmed. Beyers hereby acknowledge the right of District to access and to enter upon the Water Line Easement in order to inspect, maintain, clear the Encroachments and to repair District's Easement and its water pipeline. It is understood and agreed that District has the right of access to inspect, repair, maintain and replace the water pipeline and the public facilities located therein. Beyers additionally acknowledge the right of District to remove the Encroachments depicted upon the Topographical Survey Map, appended hereto as **Exhibit B** and incorporated herein.

3. Covenant Against Further Encroachment. Beyers hereby covenant and agree that they shall not construct, erect, nor cause to be constructed or erected, suffer or maintain any landscaping, plantings, placement of rocks or boulders, nor improvements of any kind, temporary or permanent, upon or within the Easement hereafter.

4. License to Maintain Existing Rockery Retaining Wall. In consideration of the agreement of District to refrain from requiring, mandating or undertaking removal of the encroaching Rockery Retaining Wall, also described as Rock Slope Protection, until such time as District shall be required to excavate, repair and/or replace its existing or future contemplated water line improvements within the Easement, Beyers are hereby granted a License to maintain the Rockery Retaining Wall/Rock Slope Protection, subject to the following terms, restrictions and conditions.

a. District shall be entitled to revoke the License for maintenance of the Rockery Retaining Wall as upon the giving of a Thirty (30) day written Notice of Revocation of the License. District covenants in good faith that it shall not give such notice unless and until such time as it is required to excavate, repair, replace or improve its sewer line or water facilities in the future.

b. Upon revocation of the License conferred hereby, District shall have the right to remove the Improvements, conduct such repairs, replacements or upgrades and improvement to its facilities, as it deems necessary and to excavate, compact and restore trenching and the area of disturbance within the Easement. District shall not be liable nor responsible for the cost of removal or reconstruction of any of

the Encroachments described herein or as otherwise having been erected or installed within the Easement by Beyers, their heirs, personal representatives, successors, transferees and assigns. Beyers shall be responsible for the following:

- i. The cost of removal of the Encroachments, including Rock Slope Protection;
 - ii. The cost of design, permitting and securing of governmental approvals for restoration of the Easement so as to prevent erosion or property damage to District's waterline, Beyers' property and/or that of its neighbors, and
 - iii. Restoration and reconstruction, which may include installation of drainage facilities, not in conflict with nor presenting an unreasonable interference with the access to and use of the Easement by District for the repair, maintenance, operation and enjoyment of its facilities located therein.
- c. The General Manager, when conditions necessitate, may declare an emergency and conduct such repairs or replacements at any time, without notice.

5. Waiver, Discharge and Release of Liability. Beyers, on behalf of themselves, their heirs, personal representatives, successors, transferees and assigns, hereby waive, discharge and release District, its directors, officers, agents and employees, and all others who may be secondarily liable, from or on account of any and all claims, damages, causes of action arising from or related to the exercise by District of its rights to access and to enter upon the Water Line Easement in order to inspect, maintain and repair its Easement and its facilities located therein; in connection with clearing and removal of trees, vegetation and brush and/or in connection with removal of the encroaching Improvements, with exception of any property damage or injury arising from the sole negligence of District. District shall not be liable for nor responsible to design, repair, construct nor restore any structure, drainage systems, features or the Improvements which may now or hereafter be located within the Easement and be required to be removed in connection with the exercise of District of its easement rights.

6. Waiver of Defenses. Beyers hereby waive any and all defenses, whether equitable or legal, to any action or proceeding as may be required to be commenced in order to sustain, uphold and/or declare the right of District to the free right of access, maintenance, inspection, repair, replacement and/or improvement of the Easement and the water pipeline and facilities located therein.

7. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and to their respective transferees, successors and assigns and the terms and conditions set forth herein shall be binding upon the real property upon which the Easement is located and shall run with the land.

8. Recording of Agreement. This Agreement shall be executed and notarized in recordable form. Each of the Parties consent and agree to the recording of this Agreement in the Recorder's Office of the County of Placer, State of California.

9. Entire Agreement. This Agreement contains the entire Agreement between the parties relating to the subject matter hereof and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged herein. This Agreement shall supersede any and all prior agreements with respect to the subject matter hereof.

10. Interpretation. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

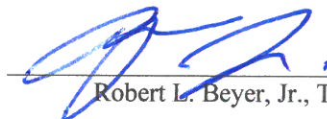
11. **Severability.** In the event any term, covenant, condition, provision or agreement herein contained is held to be invalid, void or otherwise unenforceable by any court of competent jurisdiction, the validity of any such term, covenant, condition, provision or agreement shall, in no way, affect any other term, covenant, condition, provision or agreement contained herein. Nothing contained in this Agreement shall be deemed to limit, restrict, or modify any right, duty or obligation given, granted or imposed upon the parties hereto, nor limit or restrict the power of authority of District to operate and maintain its public facilities for the benefit of the public, including the enactment of any rules, regulations, resolutions, policies or ordinances, and in the event that any part of the provisions, terms or conditions of this Agreement, or incorporated herein, be found unenforceable by a court of competent jurisdiction, such finding shall not affect the remaining parts, terms or conditions hereof.

12. **Attorney's Fees.** In the event of commencement of any action or proceeding in order to enforce the terms and conditions of this Agreement and/or to determine the respective rights, duties and obligations of the Parties, the prevailing Party shall be entitled to an award of its reasonable attorney's fees and costs incurred in connection therewith.

13. **Amendment.** No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the parties against which the enforcement of such modification, waiver, amendment, discharge or change may be sought.

Dated: 12/12/14

Robert L. Beyer, Jr. Qualified Personal Residence Trust


Robert L. Beyer, Jr., Trustee

Dated: Dec 16 '14

Keri L. Beyer Qualified Personal Residence Trust


Keri L. Beyer, Trustee

Dated: _____

Squaw Valley Public Service District

Dale Cox, Board President

Attest:

Kathy Obayashi-Bartsch, Board Secretary

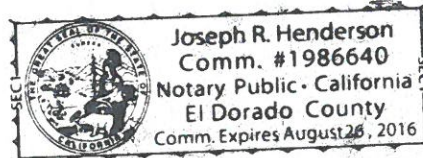
STATE OF CALIFORNIA)
) SS.
COUNTY OF El Dorado)


(Notary's Signature)



STATE OF Ark)
) ss.
COUNTY OF Sevier)

(Notary's Signature)



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officerpersonally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public*Place Notary Seal Above***OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

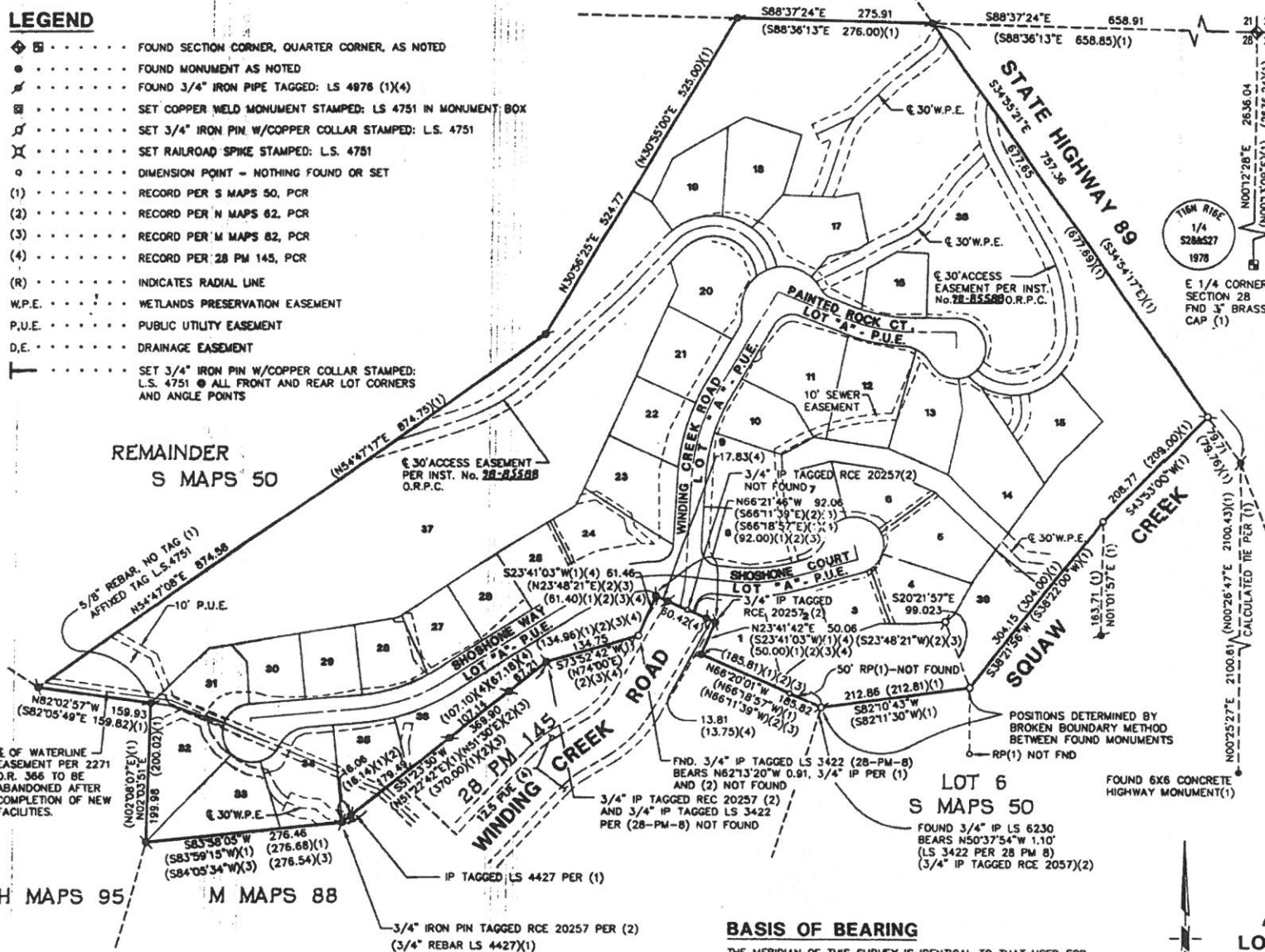
☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Exhibit A

LEGEND

- ◆ FOUND SECTION CORNER, QUARTER CORNER, AS NOTED
- FOUND MONUMENT AS NOTED
- ⌘ FOUND 3/4" IRON PIPE TAGGED: LS 4976 (1)(4)
- ⊠ SET COPPER WELD MONUMENT STAMPED: LS 4751 IN MONUMENT BOX
- ⌘ SET 3/4" IRON PIN W/ COPPER COLLAR STAMPED: L.S. 4751
- ⌘ SET RAILROAD SPIKE STAMPED: L.S. 4751
- DIMENSION POINT - NOTHING FOUND OR SET
- (1) RECORD PER S MAPS 50, PCR
- (2) RECORD PER N MAPS 62, PCR
- (3) RECORD PER M MAPS 82, PCR
- (4) RECORD PER 28 PM 145, PCR
- (R) INDICATES RADIAL LINE
- W.P.E. WETLANDS PRESERVATION EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- D.E. DRAINAGE EASEMENT
- ⌘ SET 3/4" IRON PIN W/ COPPER COLLAR STAMPED: L.S. 4751 @ ALL FRONT AND REAR LOT CORNERS AND ANGLE POINTS



NOTES

- FOR DELINEATION OF DRAINAGE AND SLOPE EASEMENTS, SEE SHEET 6.
- FOR BOUNDARY DETERMINATION, SEE SHEET 2.
- GROSS ACREAGE OF THE SITE SHOWN HEREON IS 20.50± AC.
- SOURCE OF METES AND BOUNDS: INSTRUMENT NO. 98-00314 O.R.P.C.
- EASEMENTS FOR THE INSTALLATION AND MAINTENANCE OF STORM DRAINAGE PIPES AND APPURTENANCES THERETO OVER THOSE STRIPS OF LAND DESIGNATED HEREON AS "DRAINAGE EASEMENTS" SHALL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
- COVENANTS, CONDITIONS AND RESTRICTIONS FOR THIS MAP OF PAINTED ROCK ESTATES ARE BEING RECORDED HERewith INSTRUMENT NO. 98-00937 O.R.P.C.
- LOTS 36, 37, 38 AND 39 ARE DEFINED AS OPEN SPACE LOTS THE PURPOSE OF SAID LOTS IS FOR THE PROTECTION OF WILDLIFE AND WATER QUALITY. THE PLACEMENT OF ANY FILL MATERIALS, LAWN CLIPPINGS, OIL, OR TRASH WITHIN THE OPEN SPACE LOTS IS PROHIBITED, NOR SHALL ANY GRADING OR ALTERATION BE PERMITTED IN THESE AREAS. MAINTENANCE OF OPEN SPACE LOTS SHALL BE THE HOMEOWNERS' ASSOCIATION RESPONSIBILITY. A PROVISION FOR THE ENFORCEMENT OF THIS RESTRICTION BY THE HOMEOWNERS' ASSOCIATION SHALL PROVIDED.
- LEGAL ACCESS TO WINDING CREEK ROAD IS GUARANTEED BY PLACER TITLE COMPANY'S PRELIMINARY TITLE REPORT NO. 1051 ON FILE WITH THE PLACER COUNTY SURVEYOR. SAID ACCESS IS APPURTENANT TO THE LOTS SHOWN HEREON.
- WETLANDS PRESERVATION EASEMENTS AS SHOWN HEREON ARE THE PROTECTION OF WETLANDS HABITATS. ADDITIONAL PROVISION OF EASEMENT RESTRICTIONS ARE CONTAINED WITHIN THE COVEI CONDITIONS, AND RESTRICTIONS RECORDED CONCURRENTLY HERewith.
- THE EASEMENTS RECORDED IN 219 O.R. 462 LIES ENTIRELY WITHIN STATE HIGHWAY 89 AS SHOWN HEREON.
- THE EASEMENTS RECORDED IN 279 O.R. 477, 1112 O.R. 22, 11 O.R. 314, 1130 O.R. 396, 2143 O.R. 658 AND INSTRUMENT NO. 92-016449 O.R.P.C. INSTRUMENT NO. 93-60255 O.R.P.C. DO NOT EFFECT LOT 7, S MAPS 50.

TRACT NO. 839 PLAT OF PAINTED ROCK ESTATES

A PLANNED DEVELOPMENT
A DIVISION OF LOT 7, S MAPS 50
LOCATED IN SEC 28, T16N, R16E, M
PLACER COUNTY, CALIFORNIA
SCALE: 1"=100' OCTOBER, 1998

ANDREGG, INC.
SURVEYING • MAPPING • GEOMATICS
AUBURN, CALIFORNIA
(530) 885-7072

SHEET 2 OF 6 SHEETS

10

BASIS OF BEARING

THE MERIDIAN OF THIS SURVEY IS IDENTICAL TO THAT USED FOR THE MAP FILED IN BOOK 5 OF MAPS AT PAGE 50, PLACER COUNTY RECORDS AND IS BASED ON MONUMENTS SHOWN HEREON AS FOUND.

Exhibit B

