

## SHARED ACCESS EASEMENT AGREEMENT

1. **Effective Date.** The effective date of this Agreement is \_\_\_\_\_, 2022.

2. **Owners.** The parties to this Agreement (the "Owners") are as follows:

Juliette Holm, Independent Executor of the  
Estate of Victor Thomas Holm, Deceased  
761 N. Creekside Drive

Prescott, AZ 86303

Carolyn Marie Holm

4163 Beach Drive SW #201  
Seattle, WA 98116

Dwight Patrick Holm

749 Marsolan  
Solana Beach, CA 92075

Mark Lawrence Holm

2925 Colard Lane  
Lyons, CO 80540

Ryan Michael Long

c/o Carolyn Holm  
4163 Beach Drive SW #201  
Seattle, WA 98116

Kevin Allen Long  
1204 Serenity Road  
Fischer, TX 78623

3. **Recitals.** Owners own as joint tenants that certain tract of land said to contain 84.4 acres (the "Property") in Comal County, Texas, described on **Exhibit A** attached. Owners contemplate dividing the Property into several distinct "flag lots", each having no less than 40' of frontage on Shellyholm Road. Because of the natural topography of the Property and to facilitate access to the building sites on several of the flag lots proposed to be created, Owners desire to impose an ingress/egress easement on a portion of the Property described on **Exhibit B** and depicted on **Exhibit B-1** attached (the "Easement Property") in accordance with the terms and provisions set forth below.

4. **Consideration.** Ten Dollars and other good and valuable consideration and the mutual promises and agreements herein contained.

5. **Grant of Easement.** Subject to the terms and conditions set forth herein, each and every Owner of the Property grants to those Owners who own lots to be created within the Property which include or adjoin, in whole or in part, the Easement Property (the "Holders") an easement on, over and across the Easement Property for pedestrian and vehicular ingress and egress to and from Shellyholm Road and the balance of the Property and portions thereof owned by Holders (the "Easement"). The following terms and provisions apply to the Easement:
- A. *Character of Easement.* The Easement granted is appurtenant to and runs with the Property and portions thereof owned by Holders, whether or not such Easement is referred to any conveyance of the Property or any portion thereof, unless expressly excluded.
  - B. *Duration.* The Easement is perpetual.
  - C. *Exclusiveness.* The Easement is exclusively for the use of the Owners who are Holders with respect to the Property. No Holder may convey ingress or egress rights to a person or entity who is not a Holder of any portion of the Property. No Owner whose lot within the Property does not include or adjoin in whole or in part the Easement Property may use or enjoy the Easement and is not a Holder as defined herein.
  - D. *Improvement of Easement Property.* Any one or more Holders have the right to construct a driveway on the Easement Property, together with any culverts, drainage and utility facilities over, under and across all or any portion of the Easement Property. All matters concerning such driveway and related facilities, its configuration, design and construction to be at the sole discretion and expense of the first Holder of the Easement who elects to construct a driveway on the Easement Property. Notwithstanding the generality of the foregoing, no Holder may permit any driveway or other improvements on the Easement Property to obstruct or divert the drainage of surface water across the Easement Property in a manner that causes flooding of the Property. Any other Holder has the right to use the driveway constructed by another Holder, including the right to extend, widen or upgrade such driveway, as long as the level of the improved surface remains constant, natural surface water drainage is not impacted, and the ingress/egress rights of others under this Agreement are not impaired. Holders are encouraged to cooperate and work together regarding improvement and on-going maintenance of the Easement Property and any driveway improvements thereon. Holders must maintain the natural vegetative cover within the Easement Property to the extent reasonably practicable.
  - E. *Prohibited Use.* No structure of any kind or character may be constructed on the Easement Property. Parking of vehicles on the Easement Property is prohibited. No trees or other vegetation may be planted on the Easement Property which obstructs any driveway or drainage facility located thereon.
6. **Attorney's Fees.** Any party to this Agreement who is the prevailing party in any legal proceedings against any other party brought under or in connection with this Agreement or the subject matter hereof, will be additionally entitled to recover court costs and reasonable attorney fees, and all other litigation expenses, including deposition costs, travel and expert witness fees from the non-prevailing party.

7. **Binding Effect.** This Agreement is binding upon and inures to the benefit of the parties hereto and their respective heirs, executors, representatives, successors and assigns.
8. **Choice of Law.** This Agreement is subject to and governed by the laws of the State of Texas, excluding any conflicts-of-law rule or principle that might refer the construction or interpretation of this Agreement to the laws of another state. Each party hereby submits to the jurisdiction of the state and federal courts in the State of Texas and to venue in the county or counties in which the Easement Property is situated.
9. **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and constitute one and the same instrument.
10. **Effect of Waiver or Consent.** No waiver or consent, express or implied, by any party to or of any breach or default by any party in the performance by such party of its obligations hereunder may be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such party of the same or any other obligations of such party hereunder. Failure on the part of a party to complain of any act or any party or to declare any party in default, irrespective of how long such failure continues, will not constitute a waiver by such party of its rights hereunder until the applicable statute of limitation period has run.
11. **Further Assurances.** In connection with this Agreement as well as all transactions contemplated by this Agreement, each signatory party hereto agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and all such transactions.
12. **Indemnity.** Each party hereby agrees to protect, indemnify and hold harmless the other party from and against any and all losses, costs (including, without limitation, the costs of litigation and attorney's fees), claims, causes of action, damages and liabilities that are attributable to the breach by the indemnifying party of any of the provisions of this Agreement or which are suffered or incurred by the indemnified party as a result of the negligent or intentional act or omission of the indemnifying party or the heirs, successors, assigns and invitees of the indemnifying party.
13. **Integration.** This Agreement contains the complete agreement between the parties and cannot be varied except by the written agreement of the parties. The parties agree that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.



14. **Legal Construction.** In case any one or more of the provisions contained in this Agreement is for any reason found to be invalid, illegal or unenforceable in any respect, to the extent such invalidity or unenforceability does not destroy the basis of the bargain among the parties, such invalidity, illegality or unenforceability will not affect any other provision hereof and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein. Whenever required by the context, as used in this Agreement, the singular number includes the plural and the neuter includes the masculine or feminine gender, and vice versa. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent or for any purpose, to limit or define the text of any section. This Agreement may not be construed more or less favorably between the parties by reason of authorship or origin of language.
15. **Notices.** Any notice or communication required or permitted hereunder will be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, registered or certified mail, and addressed to the intended recipient at the address shown herein, and if not so shown, then at the last known address according to the records of the party delivering the notice. Notice given in any other manner will be effective only if and when received by the addressee. Any address for notice may be changed by written notice delivered as provided herein.
16. **Recitals.** Any recitals in this Agreement are represented by the parties hereto to be accurate, and constitute a part of the substantive agreement.
17. **Equitable Rights of Enforcement.** In the event of any interference or threatened interference with the Easement, such Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting such interference and commanding compliance hereof, which restraining orders and injunctions will be obtainable upon proof of the existence of such interference or threatened interference, and without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties hereto or those benefited hereby; provided, however, nothing herein may be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

[signature and acknowledgement pages follow]

Carolyn Marie Holm  
Carolyn Marie Holm

STATE OF WASHINGTON §  
COUNTY OF King §

Before me, the undersigned authority, on this day personally appeared Carolyn Marie Holm, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes, consideration and in the capacity therein expressed.

Given under my hand and seal of office on this the 1<sup>st</sup> day of March, 2022.



Michelle Chui  
Notary Public, State of Washington





