

**DRAINAGE EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT made this 3 day of January, <sup>5th</sup>~~2019~~<sup>2020</sup> ("Effective Date"), by and between REDSTONE DEVELOPMENT, LLC, ("Grantor"), whose address is 27824 Wells Creek Road, Wamego Kansas, 66547 and ARRAN ESTATES HOMEOWNERS ASSOCIATION, INC. ("Grantee"), whose address is 2937 Brodick Way, Grand Junction, CO 81504.

WHEREAS, Grantee desires to acquire a drainage easement ("Easement") for the purpose of the maintenance of surface drainage, a drainage pipe and appurtenant drainage facilities on and through the property more particularly described and outlined in Exhibit A and Exhibit A-1 ("hereafter Property"), attached hereto and incorporated herein by this reference; and

WHEREAS, Grantor is willing to grant a drainage easement to Grantee for the aforesaid purposes on the terms and conditions set forth hereinbelow.

NOW THEREFORE, Grantor for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant to Grantee the easement rights herein granted and do hereby covenant and agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey unto Grantee, its successors, assigns, lessees, licensees and agents, a drainage easement for the purpose of providing the maintenance of any surface drainage and/or drainage pipe and appurtenant drainage facilities. Grantee shall also have the specific rights of ingress and egress, consistent with this Easement Agreement, for the construction, reconstruction, operation and maintenance of any surface drainage and/or drainage pipe and appurtenant drainage facilities, consistent with the easement provided herein. Subject to the other terms and conditions of this Easement Agreement, Grantee shall also have the right to remove impediments to operation and maintenance of the Property such as trees, asphalt and sidewalks. Grantee further agrees all construction, reconstruction, operation, maintenance, removal and any other activities which disturb the Property will be coordinated with Grantor so as to minimize any disruption to Grantor's property.

2. Operation and Maintenance.

- a. The operation, maintenance and repair of the drainage facilities described herein and located within the Property shall be the responsibility of the Grantee.
- b. Grantee shall protect the Property, and the adjacent lands of Grantor over which Grantee has rights of ingress and egress, from damage caused, in whole or in part, by acts or omissions of Grantee, its employees, agents, contractors, subcontractors, assigns, lessees, licensees and agents. Any damage to the Property shall be repaired to bring the Property to the same condition as existed prior to the damage and subsequent repair.
- c. Grantee shall not cause or permit to be caused by any of its employees, agents, contractors, subcontractors, successors, assigns, lessees or licensees, any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic materials, a hazardous or toxic substance, or other similar term governed by law.
- d. Grantor will not build or place any structures that will hinder Grantee's use and ability to maintain the Easement with the exception that privacy fencing may be constructed on the Property so long as such fencing complies with all City ordinances and codes. Such fencing shall not hinder Grantee's use and ability to maintain the Easement as provided herein.

3. Waiver. The failure of either party to enforce any of their rights under this Agreement upon any occasion shall not be deemed a waiver of such rights on any subsequent occasion(s). The waiver, either express or implied, by any party of any of the rights, terms or conditions in this Agreement shall not be deemed as or constitute a waiver of any other rights, terms or conditions in this Agreement. Any waiver, in order to be valid and effective, must be in writing.

4. Merger of Prior Agreements. This Agreement contains the sole and entire agreement and understanding of the parties with respect to its entire subject matter. All prior discussions, negotiations, commitments and understandings relating to the subject of this Agreement are merged into it.

5. Amendments. This Agreement may only be amended by the written agreement of both parties. This Agreement cannot be amended or terminated orally.

6. Construction. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa; and the masculine gender shall include the feminine and neuter genders and vice versa. The provisions of this Agreement have been independently, separately and freely negotiated by the parties as if drafted by both of them. The parties waive any statutory or common law presumption that would serve to have this Agreement construed in favor of or against either party.

7. Applicable Law and Attorney Fees. This Agreement and the rights of the parties under it shall be governed by and interpreted in accordance with the laws of the State of Colorado, by the District Court of Mesa County, Colorado. In the event of a dispute involving or related to any term or condition of this Agreement, the non-breaching party shall be awarded its reasonable costs and attorney fees, including post-judgment collection costs, in addition to actual damages.

8. Binding Effect. This Agreement shall be binding upon the heirs, executors, administrators, personal representatives, guardians, agents or assignees of each party to the extent and in the manner in which it is binding upon the parties.

REDSTONE DEVELOPMENT, LLC

By: [Signature]  
Stephen Stremel, Manager

STATE OF KANSAS )  
 ) ss.  
COUNTY OF Riley )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of January, ~~2019~~ 2020,  
by Stephen Stremel, Manager of Redstone Development, LLC.

My commission expires: 04/05/2022

Witness my hand and official seal.

SEAL



[Signature]  
Notary Public

ARRAN ESTATES HOMEOWNERS ASSOCIATION, INC.

By: \_\_\_\_\_  
Maxwell Forest Sneddon, President

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF MESA                     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019,  
by Maxwell Forest Sneddon, President of Arran Estates Homeowners Association, Inc.

My commission expires: \_\_\_\_\_

Witness my hand and official seal.

SEAL

\_\_\_\_\_  
Notary Public



## EXHIBIT A

### EASEMENT DESCRIPTION

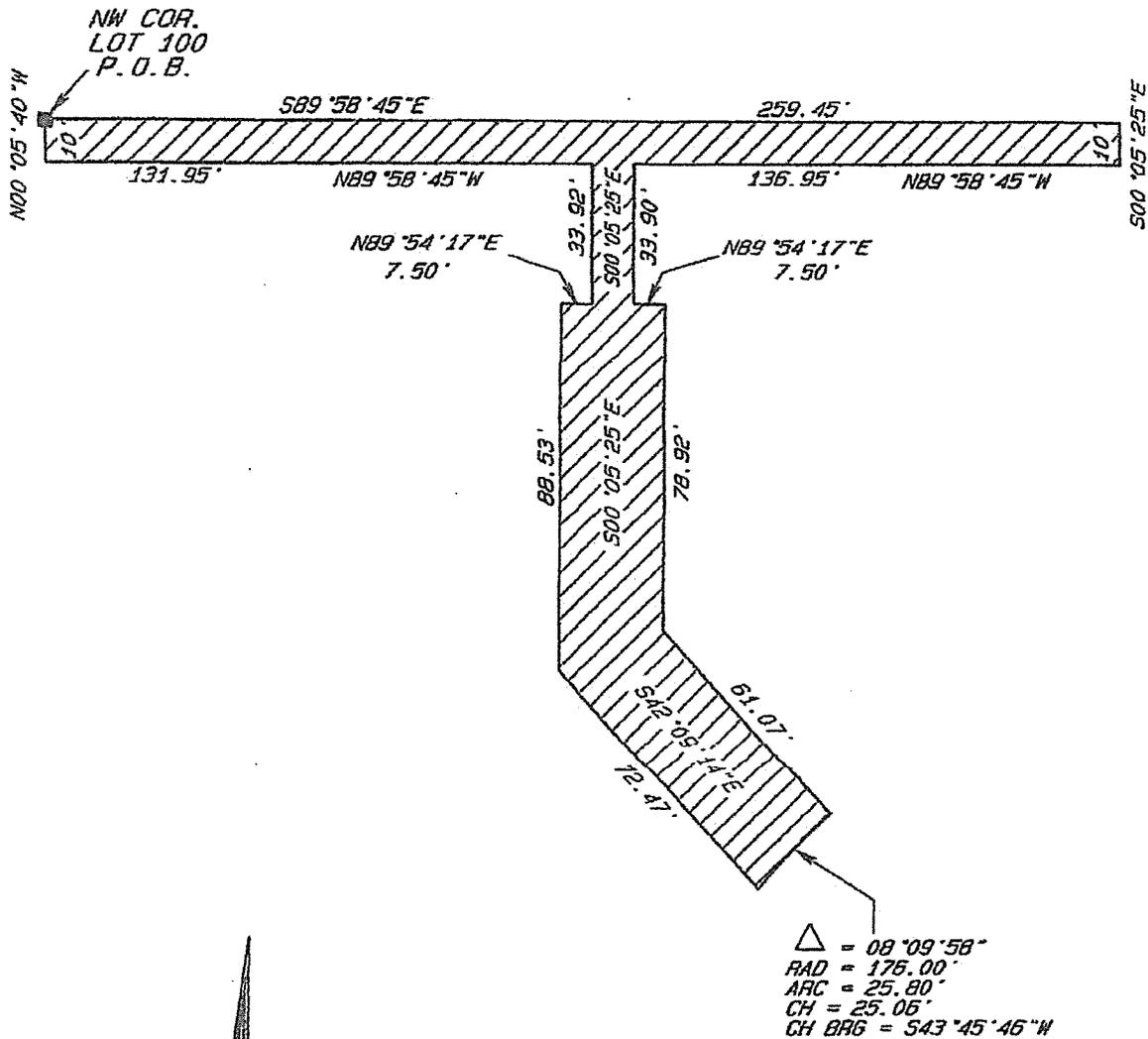
A strip of land for a Drainage Easement, situate in Lot 100, Enclave Subdivision Filing 1 as recorded under Reception No. 2873021, City of Grand Junction, Mesa County, Colorado, being described as follows;

Beginning at the northwest corner of said Lot 100;  
thence S89°58'45"E a distance of 259.45 feet along the north line of said Lot 100;  
thence S00°05'25"E a distance of 10.00 feet;  
thence N89°58'45"W a distance of 136.95 feet;  
thence S00°05'25"E a distance of 33.90 feet;  
thence N89°54'17"E a distance of 7.50 feet;  
thence S00°05'25"E a distance of 78.92 feet;  
thence S42°09'14"E a distance of 61.07 feet;  
thence along a non-tangent curve to the left 25.80 feet, having a central angle of 08°09'58" and a radius of 176.00 feet, the chord bears S43°45'46"W a distance of 25.06 feet;  
thence N42°09'14"W a distance of 72.47 feet;  
thence N00°05'25"W a distance of 88.53 feet;  
thence N89°54'17"E a distance of 7.50 feet;  
thence S00°05'25"E a distance of 33.92 feet;  
thence N89°58'45"W a distance of 131.95 feet to the west line of said Lot 100;  
thence N00°05'40"W a distance of 10.00 feet to the point of beginning.

These descriptions were written by:  
Michael W. Drissel PLS  
118 Ouray Ave.  
Grand Junction, CO. 81501

# EXHIBIT A--1

LOCATED IN LOT 100, ENCLAVE SUBDIVISION FILING 1,  
RECORDED UNDER RECEPTION NO. 2873021  
DRAINAGE EASEMENT



NOT TO SCALE  
LINEAR UNITS = U. S. SURVEY FEET  
P. O. B. = POINT OF BEGINNING

D H SURVEYS, INC.  
970-245-8749  
JOB #813-17-49