

**AGREEMENT TO PROVIDE RIGHT-OF-WAY  
EASEMENT FOR LOTS 86, 94 & 96**

This AGREEMENT TO PROVIDE RIGHT-OF-WAY EASEMENT FOR ACCESS TO LOTS 86, 94 & 96 ("EASEMENT") is entered into by Double Canyon, LLC ("Double Canyon"), Thomas and Katherine Kirchhoff ("Kirchhoff") and Arthur and Kathryn Zwern ("Zwern") on this 29 day of July 2003. Double Canyon, Kirchhoff, and Zwern are occasionally referred to herein as "Party" or "Parties."

**RECITALS**

A. Double Canyon owns that parcel of real estate commonly referred to as Lot 86 and bearing Tax ID Number SS-72-5 located in Browns Canyon of Summit County, Utah.

B. Kirchhoff is the owner of that parcel of real estate commonly referred to as Lot 94 and bearing Tax ID Number SS-78-1 located in Browns Canyon of Summit County, Utah.

C. Zwern is the owner of that parcel of real estate commonly referred to as Lot 96 and bearing Tax ID Number SS-78-3 located in Browns Canyon of Summit County, Utah.

D. The Parties desire to acquire a right-of-way easement across Lots 86 and 94 that will provide the Parties with residential driveway access from Browns Canyon Road.

E. The Parties are willing to provide a limited right-of-way easement across Lots 86 and 94 to subject to the terms set forth below.

**TERMS**

NOW THEREFORE, the parties to this EASEMENT for good and valuable consideration, the receipt of which is acknowledged by each Party, hereby agree as follows:

1. Lots 86, and 94 Shall be Burdened by a Limited Right-of-Way Easement. The Parties agree that Lot 86, and 94 shall each be burdened by a right-of-way easement for ingress and egress. This right-of-way easement ("Easement") shall be at least 30 feet wide and shall allow the Parties to use the Easement for normal residential and residential construction vehicle traffic along that path that is described in Exhibit "A" to this EASEMENT. The Parties agree that the Easement shall not exclude any of the Parties from traveling on and/or across the Easement at their discretion.

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ALAN SPRIGGS, SUMMIT CO RECORDER  
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REQUEST: EQUITY TITLE

2. Initial Location of Easement. The Parties agree that the Easement shall initially be located to correspond to the legal description set forth in Exhibit "A" to this EASEMENT.

3. The Burdened Parties Shall have the Right to Relocate the Easement. The owners of Lot 86, and Lot 94 reserve the right to relocate the Easement on their respective lots so long as the relocated Easement is recorded and provides the same functional right-of-way to the Parties as the Easement that is described in Exhibit "A" to this EASEMENT. In the event that one of the burdened Parties determines to relocate that portion of that Easement on that Party's lot, that Party shall consult with the other Parties and shall work with the Parties to relocate the Easement in a manner that maximizes the enjoyment and economic value of both the burdened and benefited properties.

4. Responsibility for Initial Construction Costs. The Parties agree that Zwern and/or any future owner of Lot 96 shall be responsible for all costs associated with the initial construction of the path/road ("Roadway") that will run over the Easement. The Parties estimate that the cost for initially constructing the Easement path/road will be approximately \$30,000; however, the Parties acknowledge that this estimate is not binding.

5. Approval of Construction Plans for Path/Road. The Parties agree that prior to the commencement of construction of the Roadway, the Parties must unanimously agree to those construction plans. In the event that any Party objects to the construction plans, the objecting Party shall set forth those objections in writing and the Parties shall work together to resolve the objections.

6. Transfer of Easement. The Parties agree that after completion of initial construction, the Easement shall be transferred to that homeowner's association or other organizational entity ("Roadway Association") that is created to govern the use, maintenance and repair of the Roadway. Upon transfer of the ownership of the Easement to the Roadway Association, the Roadway Association shall assume responsibility for maintaining and repairing the Roadway, and the Roadway Association shall assume responsibility for all costs associated with the maintenance and/or repair of the Roadway.

7. Liability for Damage Caused by Roadway Construction Activity. The Parties agree that Zwern and/or any future owner of Lot 96 shall be responsible for any damage that occurs to Lot 86 and Lot 94 that is caused by construction activity associated with the construction of the Roadway. In the event that an owner of Lot 86 or Lot 94 becomes aware of any actual or threatened damage to one of those lots by planned or ongoing construction activity, that Party shall notify the other Parties and take reasonable steps to mitigate damage.

8. Indemnification for Liability that Arises from Use of the Roadway. Each Party using the Roadway ("Using Party") agrees to indemnify and hold the other Parties harmless for any and all damages, injury or loss that results from use of the Roadway by the Using Party or

any invitee of the Using Party, unless the damage, injury or loss is caused by gross negligence or intentional misconduct of a Party.

9. Entire Agreement. Each Party to this EASEMENT understands, acknowledges, and agrees that this EASEMENT constitutes the entire Agreement among the Parties regarding the subject matter hereof, and that this EASEMENT may not be altered, amended, modified, or otherwise changed in any respect whatsoever except in a writing executed by all parties.

10. Place of Execution. The Parties agree that this EASEMENT has been executed in Summit County, Utah and that the subject of this EASEMENT concerns property located in Summit County, Utah.

11. Counterparts and Captions. This EASEMENT may be executed in counterparts, each of which will be deemed an original and together constitute the same EASEMENT whether both parties execute each counterpart. The execution of any counterpart may be communicated by facsimile transmission. Captions are for convenience only and do not express, limit or expand any provision or the intent of this EASEMENT.

12. No Admission of Liability. It is hereby expressly understood by the parties that this settlement is a compromise of disputed claims, and that by entering into this EASEMENT the parties do not admit any liability.

13. Enforcement. Enforcement of this EASEMENT shall be governed by the laws of the State of Utah, and any action concerning this EASEMENT must be brought in Utah state courts or in the United States Court for the District of Utah.

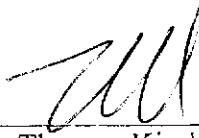
14. Approvals from Government Agencies. The grant of any and all rights of use, installation, construction, or connection found in this EASEMENT and all agreements entered into concurrently with the entry of this EASEMENT is subject to the approval of all government agencies having jurisdiction over the use, installation, construction, or connection at issue. The Parties make no warranties regarding the likelihood of receiving the necessary approvals from any of these governmental agencies and has no obligation to incur any costs or to make any modifications to its property to facilitate or obtain the necessary approvals.

15. Incorporation of Exhibits. The Exhibits attached hereto are hereby incorporated.

16. Binding Effect. This EASEMENT shall burden and/or benefit the real property described herein and run with the land identified in this EASEMENT as Lots 86, 94 and 96 and shall be binding upon the Parties, their present and future agents, employees, successors, future owners of the benefited real property, and assigns, and their legal representatives to the same extent as if they had executed this EASEMENT.

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IN WITNESS WHEREOF, the parties hereto have executed this EASEMENT as of the date first above written.

By: 

Thomas Kirchhoff, on behalf of  
Double Canyon, LLC  
Lot 86 - Tax ID# SS-72-5

By: 

Arthur Zwern,  
Lot 96 - Tax ID# SS-78-3

X

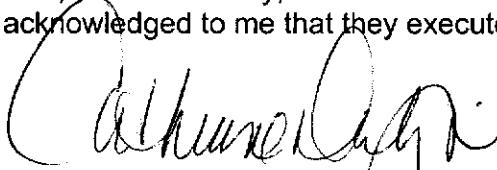
  
Kelley Anne ZuberBy: 

Thomas Kirchhoff,  
Lot 94 - Tax ID# SS-78-1

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STATE OF UTAH )  
COUNTY OF SUMMIT )  
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On the 29th day of July, 2003, personally appeared before me Thomas Kirchoff on behalf of Double Canyon LLC, and individually, and Arthur Zwern and Kathryn Zwern, signers of the within instrument, who duly acknowledged to me that they executed the same.

  
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Notary Public  
Residing in: Sandy, UT  
My commission expires: 5/26/04

RECORDERS NOTE  
DUE TO THE COLOR OF THE INK  
OF THE NOTARY SEAL AFFIXED  
TO THIS DOCUMENT, THE  
SEAL MAY BE UNSATISFACTORY  
FOR COPYING.

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