

**ACCESS EASEMENT AGREEMENT
(Cemetery Property)**

THIS ACCESS AGREEMENT ("Agreement") is made this 14th day of July, 2005 ("**Effective Date**"), by and between Idarado Legacy, LLC, a Colorado limited liability company ("**Grantor**") and Lone Tree Cemetery District ("**Grantee**"). Grantor and Grantee are sometimes collectively referred to as the "**Parties**" and sometimes individually referred to as a "**Party**". Idarado Legacy Owners Association, Inc. ("**Association**") each join in and consent to the terms, conditions and provisions stated in this Declaration for the purposes stated herein.

RECITALS

A. Grantor is the owner of certain real property interests located in San Miguel County, Colorado, described as Lot L-1, Idarado Legacy Subdivision ("**Grantor Property**") according to the Final Record Plat of Declarant Subdivision recorded February 10, 2004 in Plat Book 1 at Page 3238, Reception No. 364049 in the Office of the Clerk and Recorder of San Miguel County, Colorado ("**Official Records**") ("**Plat**"), as amended by the First Amendment to the Plat ("**First Plat Amendment**") recorded on November 1, 2004 in Plat Book 1, at Page 3368, Reception No. 370139 in the Official Records, as amended by the Second Amendment to the Plat ("**Second Plat Amendment**") recorded on August 18, 2005 in Plat Book 1, at Page 3508, Reception No. 377041 in the Official Records, as may be further amended, and according to the Declaration of Covenants, Conditions and Restrictions for Declarant Subdivision ("**CCR's**"), recorded in the Official Records at Reception No. 367146, as amended. The Idarado Legacy Subdivision is referred to as the "**Community**". Grantor also caused to be created the Association to exist and operate in accordance with the Governing Documents.

B. Grantee is the owner of certain property generally known and described as the Lone Tree Cemetery ("**Grantee Property**").

C. Grantor has agreed to grant to Grantee an easement ("**Easement**") over a portion of the Grantor Property at such locations and for such uses as stated in this Agreement to serve the Grantee Property.

D. Grantor has agreed to design and construct a certain access driveway ("**Cemetery Access Driveway**") to provide vehicular access to and from the Grantee Property and East Colorado Avenue over the Easement

E. Grantor desires by this instrument (a) to establish and to grant to Grantee the Easement, and (b) to establish certain restrictions with respect to the Easement.

F. Grantee desires by this instrument (a) to accept said Easement subject to the restrictions set forth herein, and (b) to assume certain responsibilities in connection therewith.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

G:\Clients\Idarado.5264\Easements\Cemetery\access easement.final.doc

1. **Grant and Use of Easement.**

1.1. Grantor hereby grants and conveys to Grantee, its successors, transferees, designees and assigns, at no cost, a perpetual, nonexclusive easement ("**Cemetery Access Easement**" or "**Easement**") over and across a portion of the Grantor Property ("**Cemetery Access Easement Area**" or "**Easement Area**") as such Cemetery Access Easement Area is depicted on attached **Exhibit "A"** and described on attached **Exhibit "B"**.

1.2. Grantee, for itself and its successors, designees and assigns, hereby accepts the Easement in an "as is" condition, subject to the restrictions herein contained, and subject to all patent or latent defects, conditions, circumstances or problems of any kind or nature.

1.3. Grantor authorizes the Grantee to utilize the Cemetery Access Easement Area for the following purposes ("**Allowed Uses**"):

1.3.1. For vehicular access to and from Grantee Property, provided that no temporary or permanent parking shall occur within the Cemetery Access Easement Area or anywhere else in the Community; and

1.3.2. To maintain, repair and replace the Cemetery Access Driveway.

1.4. Grantor agrees to construct the Cemetery Access Driveway and undertake associated grading in accordance with plans and specifications ("**Cemetery Access Driveway Plans**") depicted on attached **Exhibit "C"**, subject to field modifications deemed necessary by Grantor. Grantor shall complete construction of the Cemetery Access Driveway, at its cost, on or before September 1, 2006. Grantor is authorized to remove any existing improvements associated with the existing access to the Cemetery over the Grantor Property, provided that Grantor replace any such improvements with similar improvements.

1.5. Grantee hereby grants a temporary easement to Grantor ("**Grantee Temporary Construction Easement**") over and across that portion of the Cemetery Access Easement Area located on the Grantee Property and depicted as such on attached **Exhibit "A"** to enable Grantor to access upon and construct the portions of the Cemetery Access Driveway on the Grantee Property. The Cemetery Access Easement will commence as of the Effective Date and will expire upon the completion of the Cemetery Access Driveway. Grantee Temporary Construction Easement

1.6. Grantee acknowledges and agrees that a portion of the Cemetery Access Easement Area lies over Liberty Bell Lane, which is a private, road being constructed by Grantor and operated and maintained by the Association. Grantee shall abide by any reasonable rules and regulations imposed by the Association concerning the use of Liberty Bell Lane that are applicable to other owners of lots in the Community using Liberty Bell Lane. Provided, however, that should the Association adopt rules and regulations for Liberty Bell Lane pertaining to motor vehicle weight restrictions, the Grantee, as well as its authorized agents, shall be exempt from compliance with such restrictions, subject to the Grantee and/or its authorized agents being liable to the Association for the cost of repairing any damage to Liberty Bell Lane that are directly caused by their operation of motor vehicles on Liberty Bell Lane. Grantee shall not be obligated to pay the Association costs and expenses for its use of that portion of the Easement that lies over and across Liberty Bell Lane.

1.7. Grantee hereby disclaims any right, title or interest, including easement rights or interests, in any other portion of the Grantor Property, including, specifically, the location of the existing driveway serving the Grantee Property.

1.8. Grantee acknowledges and agrees that there will be a temporary interruption to the use of access to and from Grantee Property during the construction of the Cemetery Access Driveway, during which time, Grantee shall not be able to use the access off of Grantor Property for access to the Grantee Property. Grantor shall provide Grantee with written notice of such temporary interruption to the use of the access prior to the beginning of any such interruption, which notice shall indicate the time period of the temporary interruption to Grantee's use of the access.

1.9. This Cemetery Access Easement is granted subject to all prior encumbrances and other matters of record, burdening and affecting Grantor Property, in San Miguel County, Colorado.

1.10. Grantee is not and shall not be construed as the agent of Grantor in contracting for any improvements to the Cemetery Access Easement Area, and shall have no authority to pledge, mortgage, hypothecate or otherwise encumber any interest in the Cemetery Access Easement Area or any other property of Grantor, except for Grantee's easement rights hereunder.

1.11. Grantor hereby expressly reserves for itself and for the Association and all owners of lots and parcels in the Community the right to: (A) use and enjoy the land covered by the Cemetery Access Easement Area for all lawful purposes that will not unreasonably interfere with the rights hereby granted to Grantee; (B) grant additional easements or rights-of-way upon or across the Cemetery Access Easement Area to other persons or entities; and (C) to relocate the Improvements within the Cemetery Access Easement Area at Grantor's sole cost and expense as may be necessary or desirable, provided that Grantee shall have reasonably similar access to the Grantee Property. Notwithstanding any provision herein to the contrary, neither the Grantor, the Association, nor the owners of lots and parcels in the Community, or their invitees, shall have the right to park motor vehicles, on a temporary or permanent basis, within or upon that portion of the Cemetery Access Easement Area described as the Cemetery Access Driveway, located between Liberty Bell Lane and the Grantee's Property, as depicted on **Exhibit "C"**.

2. **Maintenance of the Improvements.** Grantee, without cost to Grantor, is responsible for necessary maintenance and repair of the Cemetery Access Driveway to keep the Cemetery Access Driveway in a good, clean, attractive and safe condition.

3. **Miscellaneous.**

3.1. **Run With The Land. Heirs, Successors and Assigns.** The easements, benefits and rights granted and agreed to herein and the burdens, duties and obligations imposed and agreed to herein shall run with the Cemetery Access Easement Area. Further, the easements, benefits and rights granted and agreed to herein and the burdens, duties and obligations imposed and agreed to herein shall be binding upon and shall inure to the benefit of, and be a burden upon, the heirs, designees, successors and assigns of the Parties.

3.2. **Recordation.** This Agreement is intended to be recorded by the Parties in the office of the Clerk and Recorder of San Miguel County, Colorado.

3.3. **Effective Upon Execution.** This Agreement shall not be binding or effective on any party until executed on its behalf. The Parties acknowledge and agree that all obligations of Grantee herein and hereunder shall apply to Grantee with equal force and effect to, and Grantee shall be responsible for the actions or inactions of Grantee's employees, representatives, agents, contractors, subcontractors, suppliers and materialmen.

3.4. **Insurance.** Grantee shall keep and maintain, at their sole cost and expense, a commercial general liability insurance coverage for the Cemetery Access Easement Area and the Cemetery Access Driveway containing minimum limits per occurrence of \$1,000,000 and \$2,000,000 in the aggregate. Such policy shall include a provision requiring a minimum of thirty (30) days notice to Grantor of any change or cancellation. Grantor shall be named as an additional insured as its respective interest shall appear on such policy. The amount of the coverage shall be reviewed as necessary and any changes mutually agreed upon, at least every five years, and adjusted to keep pace with the market for similar uses and activities, but in no event will the amount of the coverage be less than the amount stated above.

3.5. **Indemnification.** By accepting the Cemetery Access Easement granted herein, Grantee hereby agrees to defend and hold harmless Grantor and its successors and assigns in the record ownership of the Grantor Property, or any part thereof, to the fullest extent allowed under Colorado law, from and against any and all claims, demands, causes of action, damages, losses, liabilities, costs and expenses of any kind or nature (including those involving death, personal injury or property damage and including reasonable attorney's fees) arising from or incurred in any way in connection with the use of the Cemetery Access Easement by Grantee, excepting any such claims or losses which are proximately caused by the willful, intentional, reckless, or negligent acts of Grantor, its agents or employees. The Grantee's maintenance of commercial general liability insurance coverage in accordance with section 3.4 hereinabove shall be deemed to fully satisfy its indemnification obligation to the Grantor.

3.6. **Further Assurances.** Recognizing that the Parties hereto may find it necessary from time to time to establish to lenders, mortgagees, accountants or other persons or parties of the then current status of performance hereunder, each Party bound or benefited by this Agreement agrees, upon written request, that it will from time to time, with reasonable promptness, furnish a written statement in recordable form on the status of any matter relating to this Agreement.

3.7. **Governing Law. Enforcement.** This Agreement and the rights and obligations of the Parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of Colorado. In the event of any interference or threatened interference with the Cemetery Access Easement herein granted or with the other rights and obligations of the Parties hereunder, a party may pursue all available remedies, including, without limitation, injunctive relief or specific performance to ensure performance of another Parties obligations hereunder. In any action for enforcement of rights hereunder, the prevailing party shall be entitled to an award for recovery of their costs and fees, including reasonable attorney fees. Except as may be expressly otherwise stated or provided, with respect to all required acts of the Parties, time is of the essence.

3.8. **Waiver of Jury Trial.** Each Party hereto waives its right to a jury trial in the event of any litigation arising out of this Agreement.

3.9. **Signatories.** The undersigned represent and warrant that they are authorized to execute this Agreement on behalf of their respective principals.

3.10. **Authorization.** The Parties hereto warrant they are fully authorized to execute this Agreement and have taken all actions necessary to obtain such authorization.

3.11. **Captions.** Captions are for convenience only and are not to be construed as defining or limiting in any way the scope of intent of the provisions of such sections.

3.12. **Severability.** If any provision of this Agreement shall be found invalid or unenforceable, this shall not affect the validity of the remaining provisions of this Easement Agreement, and the remaining provisions shall remain in full force and effect.

3.13. **Entire Agreement.** This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and no other representations, promises, agreements or understandings or obligations with respect to the payment of consideration or agreements to undertake other actions regarding the subject matter hereof shall be of any force or effect unless in writing, executed by all Parties hereto and dated after the date hereof.

3.14. **Modifications and Waivers.** No change, modification or waiver of any provision of this Agreement shall be valid or binding unless it is in writing, dated subsequent to the date hereof and signed by the Parties hereto. No waiver of any breach, term or condition of this Agreement by any Party shall constitute a subsequent waiver of the same or any other breach, term or condition.

3.15. **Notice.** All notices, demands or writings in this Agreement provided to be given or made or sent that may be given or made or sent by either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and delivered either by Fax, Email or United States Mail (certified, return receipt requests and postage pre-paid), and addressed to the party, at the below stated mailing address, email address or fax number. The mailing address, email address or fax number to which any notice, demand or writing may be changed by sending written notice to each Party notifying the party of the change.

If To Grantor:

Idarado Legacy, LLC
P.O. Box 1039
Telluride, CO 81435

With a copy to:

Idarado Legacy Owners Association, Inc.
P.O. Box 1039
Telluride, CO 81435

And a copy to:

Thomas G. Kennedy
P.O. Box 3081
Telluride, CO 81435

If To Grantee:

P. O. Box 3665
Telluride, Co. 81435

with a copy to:

San Miguel County Attorney
P.O. Box 791
Telluride, CO 81435

3.16. **Counterparts and Facsimile Copies.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Facsimile copies of any Party's signature hereon shall be deemed an original for all purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

GRANTOR:

IDARADO LEGACY, LLC,
a Colorado limited liability company

By: CLH-Telluride Associates, LLC,
a Colorado limited liability company,
Member of Idarado Legacy, LLC

By: Wildcat Land Company, its Manager

By: *William R. Hegberg*
William R. Hegberg, President

Date: 7/14/05



MY COMMISSION EXPIRES 4/5/2008

STATE OF COLORADO)
COUNTY OF San Miguel) ss.

Acknowledged, subscribed and sworn to before me this 14th day of July, 2005 by
William R. Hegberg, President of Wildcat Land Company.

Witness my hand and official seal.

J. Dolan
Notary Public

My commission expires: 4/5/08

ASSOCIATION CONSENT:

Idarado Legacy Homeowners Association,
a Colorado nonprofit corporation

By: [Signature]
J. Christopher Chaffin, President

Date: 7/14/05

STATE OF COLORADO)
) ss.
COUNTY OF San Miguel



MY COMMISSION EXPIRES 4/5/2008

Acknowledged, subscribed and sworn to before me this 14th day of July, 2005 by
J. Christopher Chaffin, President of Idarado Legacy Owners Association.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires: 4/5/08.

Exhibit "A"
ACCESS EASEMENT AGREEMENT
(Depiction of Easement Area)

Z:\OBS2003\03043 Idarado\dwg\Second Amendment July 2005\Easement Exhibits\Cemetery Eas.dwg, 07/19/2005 04:29:12 PM, df

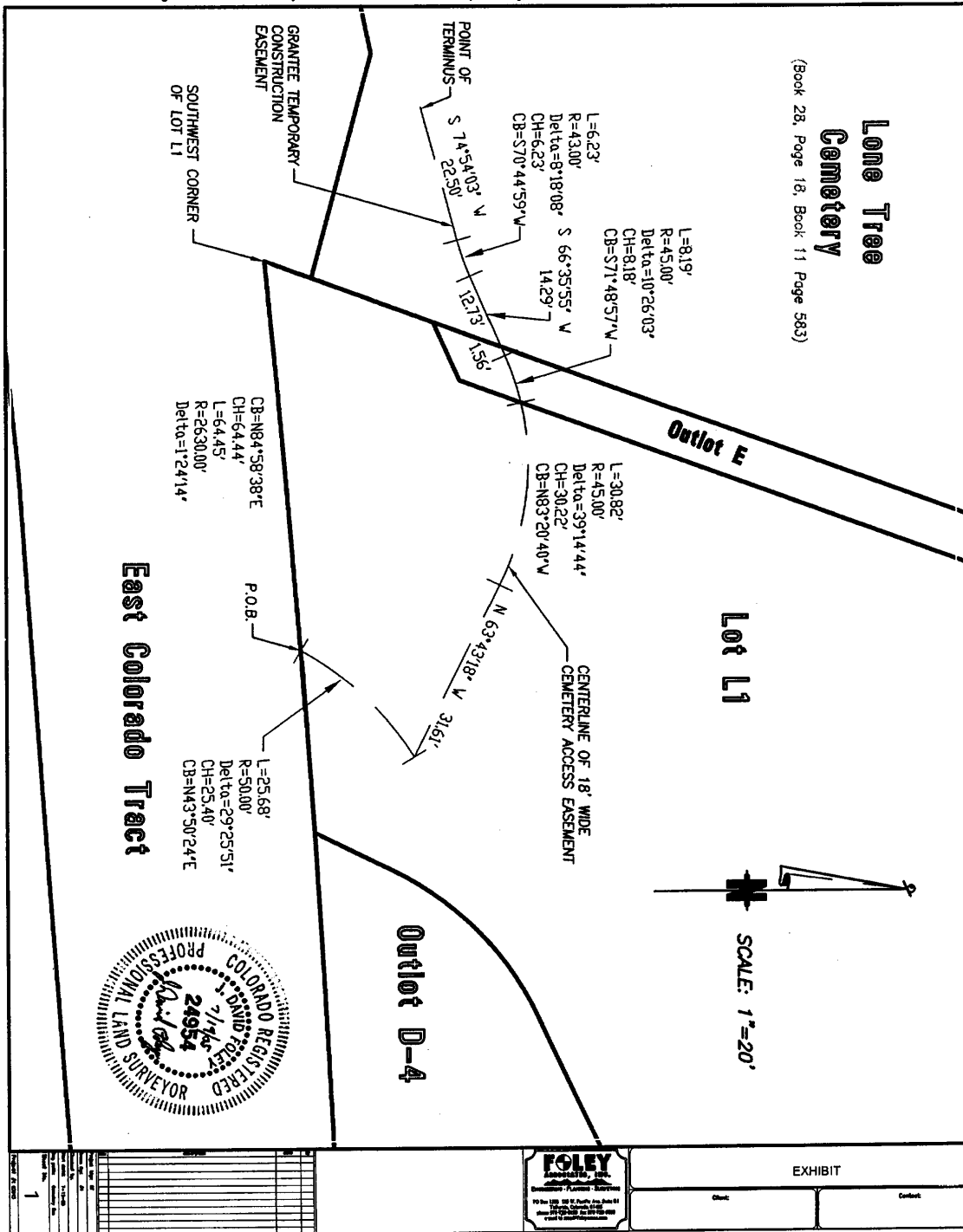


	EXHIBIT	
	Sheet	Contact

Exhibit "B"
ACCESS EASEMENT AGREEMENT
(Legal Description of Easement Area)

FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385
TELLURIDE, CO 81435
970-728-6153

PROPERTY DESCRIPTION

A strip of land 18 feet wide, lying 9 feet on both sides of the following described centerline, located on a part of Lot L1 and Outlot E as shown on the Second Amendment to the Final Idarado Subdivision Exemption Plat and Plan for Cluster Development Lots Located within Sections 5 and 6, T.42N., R.8W., N.M.P.M., San Miguel County, Colorado and a part of the Lone Tree Cemetery as filed at Book 28, Page 18 and Book 11, Page 583 in the office of the Clerk and Recorder, San Miguel County, Colorado described as follows:

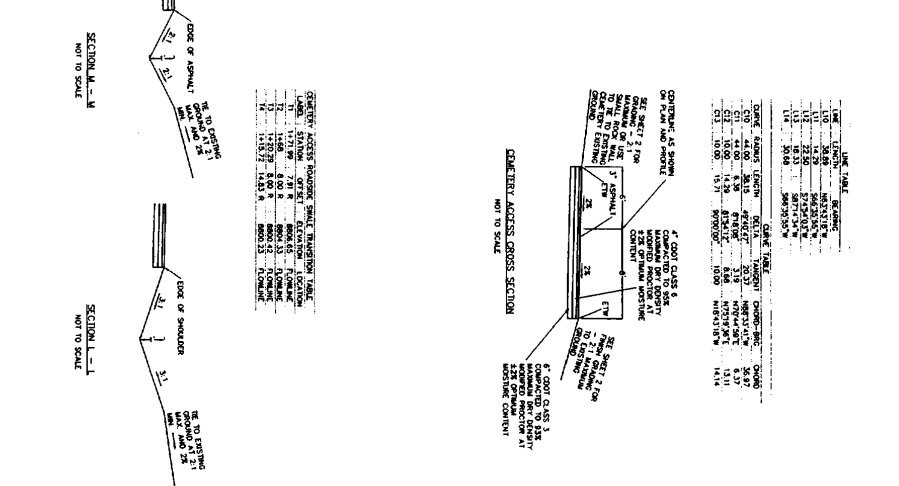
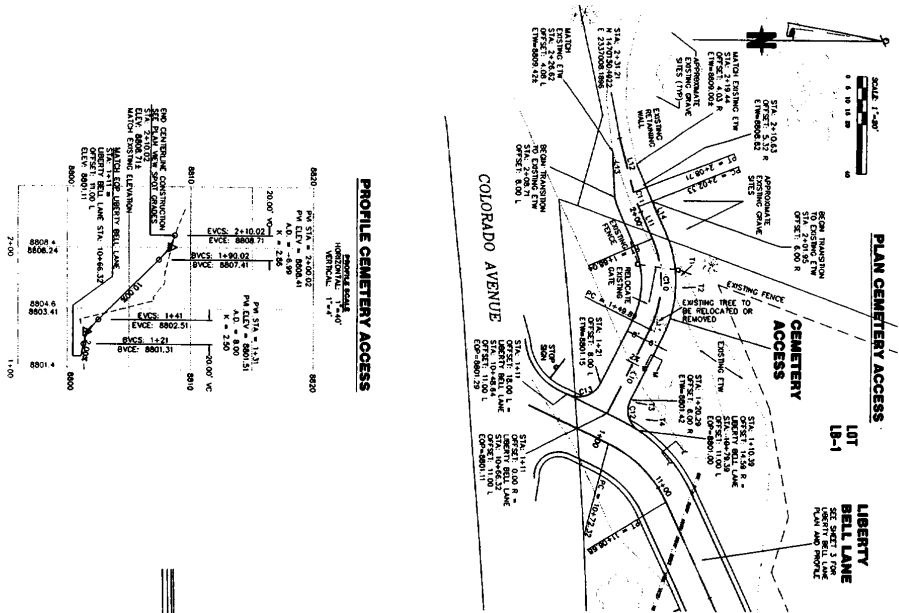
Commencing at the southwest corner of said Lot L1; thence easterly 64.45 feet along a curve concave to the south, having a radius of 2630.00 feet, an included angle of $1^{\circ}24'14''$, a chord bearing $N 84^{\circ}58'38'' E$ and a chord length of 64.44 feet to the POINT OF BEGINNING; thence along a non-tangential curve, concave to the southeast, having a length of 25.68 feet, a radius of 50.00 feet, an included angle of $29^{\circ}25'51''$, a chord bearing of $N 43^{\circ}50'24'' W$ and a chord length of 25.40 feet; thence $N 63^{\circ}43'18'' W$ a distance of 31.61 feet; thence along a tangential curve, concave to the southwest, having a length of 30.82 feet, a radius of 45.00 feet, an included angle of $39^{\circ}14'44''$, a chord bearing of $N 83^{\circ}20'40'' W$ and a chord length of 30.22 feet to a point on the westerly boundary of said Lot L1; thence continuing along a tangential curve, concave to the southeast, having a length of 8.19 feet, a radius of 45.00 feet, an included angle of $10^{\circ}26'03''$, a chord bearing of $S 71^{\circ}48'57'' W$ and a chord length of 8.18 feet; thence $S 66^{\circ}35'55'' W$ a distance of 1.56 feet to a point on the westerly boundary of said Outlot E; thence continuing $S 66^{\circ}35'55'' W$ a distance of 12.73 feet; thence along a tangential curve, concave to the northwest, having a length of 6.23 feet, a radius of 43.00 feet, an included angle of $08^{\circ}18'08''$, a chord bearing of $S 70^{\circ}44'59'' W$ and a chord length of 6.23 feet; thence $S 74^{\circ}54'03'' W$ a distance of 22.50 feet to the POINT OF TERMINUS.



J. David Foley,

P.L.S. #24954

Exhibit "C"
ACCESS EASEMENT AGREEMENT
(Depiction of Cemetery Access Driveway Plans)

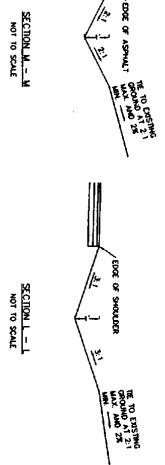


CEMETERY ACCESS ROADWAY SMALL TRANSPORTATION TABLE

ITEM	DESCRIPTION	QUANTITY	UNIT	AMOUNT
1	ASPHALT	1,100	SQ YD	1,100
2	GRAVEL	1,100	CY	1,100
3	CONCRETE	1,100	SQ YD	1,100
4	PAVING	1,100	SQ YD	1,100
5	LANDSCAPING	1,100	SQ YD	1,100
6	UTILITIES	1,100	SQ YD	1,100
7	CONCRETE	1,100	SQ YD	1,100
8	PAVING	1,100	SQ YD	1,100
9	LANDSCAPING	1,100	SQ YD	1,100
10	UTILITIES	1,100	SQ YD	1,100

CEMETERY ACCESS CROSS SECTION

ITEM	DESCRIPTION	QUANTITY	UNIT	AMOUNT
1	ASPHALT	1,100	SQ YD	1,100
2	GRAVEL	1,100	CY	1,100
3	CONCRETE	1,100	SQ YD	1,100
4	PAVING	1,100	SQ YD	1,100
5	LANDSCAPING	1,100	SQ YD	1,100
6	UTILITIES	1,100	SQ YD	1,100
7	CONCRETE	1,100	SQ YD	1,100
8	PAVING	1,100	SQ YD	1,100
9	LANDSCAPING	1,100	SQ YD	1,100
10	UTILITIES	1,100	SQ YD	1,100



- NOTES**
1. ALL DIMENSIONS TO CENTERLINE UNLESS NOTED OTHERWISE.
 2. FURNISHING GRADE.
 3. ELEVATIONS OF FINISHED SURFACE.
 4. ELEVATIONS OF EXISTING SURFACE.
 5. SPOT ELEVATIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
 6. ALL RETAINED GRADE (NOT INCLUDING ANY FOUNDATIONS).

THIS PLAN HAS BEEN REDUCED TO 11 X 17 HALF SCALE

DESIGNED BY ANDREW J. ANDERSON, LICENSED PROFESSIONAL ENGINEER, NO. 32734

1-800-422-1887

FOR MORE INFORMATION CONTACT US AT 1-800-422-1887

<p>FOLEY ASSOCIATES, INC.</p> <p>Engineers & Planners - Surveyors</p> <p>PO Box 1380 120 S. Pacific Ave. Suite 811 Portland, Oregon 97209 Phone 503-726-1555 Fax 503-726-5500</p>		<p>DARADO LEGACY PHASE II CONSTRUCTION PLANS</p> <p>CEMETERY ACCESS PLAN AND PROFILE</p> <p>Client: DARADO LEGACY, LLC 100 S. 10th St., Suite 100 Portland, OR 97209</p> <p>Contact: DARRIN DREYER 503-255-1100 503-255-1100</p>														
<p>DATE: 8/18/05</p> <p>SCALE: 1/4" = 1'-0"</p> <p>PROJECT: CEMETERY ACCESS</p> <p>REVISIONS:</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>8/18/05</td> <td>CEMETERY ACCESS REVISIONS</td> </tr> <tr> <td>2</td> <td>8/18/05</td> <td>CEMETERY ACCESS REVISIONS PER COUNTY COMMISSIONERS</td> </tr> <tr> <td>3</td> <td>8/18/05</td> <td>CEMETERY ACCESS REVISIONS PER COUNTY COMMISSIONERS</td> </tr> <tr> <td>4</td> <td>8/18/05</td> <td>CEMETERY ACCESS REVISIONS PER CEMETERY BOARD COMMISSIONERS</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	8/18/05	CEMETERY ACCESS REVISIONS	2	8/18/05	CEMETERY ACCESS REVISIONS PER COUNTY COMMISSIONERS	3	8/18/05	CEMETERY ACCESS REVISIONS PER COUNTY COMMISSIONERS	4	8/18/05	CEMETERY ACCESS REVISIONS PER CEMETERY BOARD COMMISSIONERS	<p>Sheet No. 3</p> <p>Total # Sheets 2</p>
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