

AGREEMENT

THIS AGREEMENT is made and entered into this 28 day of April, 1995 by and between ROBB ENTERPRISES, a Colorado general partnership (hereinafter "Robb"), TRU-WORTH, LTD., a Colorado limited partnership (hereinafter "Tru-Worth"), W. THOMAS LUNNEN, as managing partner for Robert W. Rohe and Richard Paulsen (hereinafter collectively referred to as "Lunnen"), and ELK SPRINGS RANCH HOMEOWNERS ASSOCIATION, a Colorado non-profit corporation (hereinafter "Elk Springs");

WHEREAS, Lunnen has heretofore sold certain real property located in Montezuma County, Colorado to Tru-Worth pursuant to a closing which occurred on February 28, 1995, said property being more specifically described on Exhibit A hereto attached, the contents of which are incorporated by reference herein; and

WHEREAS, Tru-Worth is under contract to purchase additional adjacent property from Robb under a contract scheduled to close May 1, 1995, said additional property being more specifically described on Exhibit B hereto attached, the contents of which are incorporated by reference herein; and

WHEREAS, Lunnen and Elk Springs have heretofore granted to Tru-Worth, Ltd., access and utility easements over and across Elk Springs Drive conditioned upon Tru-Worth's agreement not to subdivide parcels into configurations of less than 35 acres; and

WHEREAS, Lunnen and Elk Springs have agreed to grant similar access and utility easements to Tru-Worth with respect to the property to be acquired from Robb and described on Exhibit B hereto attached, subject to the same condition with respect to the size of parcels to be benefited by said access and utility easements; and

WHEREAS, Lunnen and Elk Springs have agreed to provide similar access and utility easements over and across Elk Springs Drive for the benefit of Robb with respect to property to be retained by Robb, conditional upon Robb's agreement not to subdivide said property into parcels less than 35 acres in size; and

WHEREAS, the access and utility easements as above-described are being granted by Lunnen and Elk Springs in partial consideration of the agreement of Tru-Worth and Robb to contribute toward maintenance expenses of Elk Springs Drive as well as the costs of installation of acceleration and deceleration lanes at the point of intersection of Elk Springs Drive and U. S. Highway No. 160; and

WHEREAS, Lunnen has heretofore filed suit against Robb in Case No. 95-CV-15 now pending in the District Court in and for Montezuma County, Colorado, denominated as *W. Thomas Lunnen, Richard Paulsen and Robert W. Rohe, Plaintiffs v. Wayne Robb, d/b/a Robb Enterprises, Defendant*, which litigation involves, among other issues, a boundary/fence line dispute involving the southern boundary of Lots 7, 8 and 9, Elk Springs Ranch according

to the plat thereof recorded in the offices of the Montezuma County Clerk and Recorder's office at Reception No. 434591 (Plat Book 12, Page 50), and the adjacent northern boundary of the Robb property located in Section 6, Township 34 North, Range 12 West, N.M.P.M., Montezuma County, Colorado; and

WHEREAS, it is the mutual desire of the parties hereto through this agreement to confirm their understanding and agreement with respect to the access and utility easements to be granted by Lunnen and Elk Springs in favor of Tru-Worth and Robb, to confirm the obligations of Robb and Tru-Worth with respect to their proportional maintenance obligations of Elk Springs Drive as well as their proportional obligations to contribute to acceleration and deceleration lanes in conjunction with the access onto U.S. Highway No. 160; and to resolve the boundary dispute involving the southern boundary of Lots 7, 8 and 9, Elk Springs Ranch and the adjacent northern boundary of the Robb property within Section 6 of Township 34 North, Range 12 West, N.M.P.M., Montezuma County, Colorado;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, CONDITIONS AND OBLIGATIONS HEREIN CONTAINED, THE PARTIES AGREE:

1. Lunnen and Elk Springs agree that they will execute and deliver a non-exclusive access and utility easement, 40 feet in width, for the benefit of Tru-Worth, Ltd., its successor and assigns, over and across the easement known as Elk Springs Drive, according to the recorded plat thereof in the offices of the Montezuma County Clerk and Recorder at Reception No. 434591 (Plat Book 12, Page 50) which access and utility easement shall be for the benefit of the property described on Exhibit B hereto attached, the contents of which are incorporated by reference herein. The easement to be granted shall be conditional upon the grantees agreement not to subdivide the benefited property into parcels of less than 35 acres in size and to pay their agreed share of maintenance expenses for Elk Springs Drive and their proportional share of the costs of acceleration and deceleration lanes as described in paragraph 6 below.

2. Lunnen and Elk Springs agree that they will execute and deliver a non-exclusive access and utility easement, 40 feet in width, for the benefit of Robb Enterprises, its successors and assigns, over and across the easement known as Elk Springs Drive, according to the recorded plat thereof in the offices of the Montezuma County Clerk and Recorder at Reception No. 434591 (Plat Book 12, Page 50) which access and utility easement shall be for the benefit of the property described on Exhibit C hereto attached, the contents of which are incorporated by reference herein. The easement to be granted shall be conditional upon the grantees agreement not to subdivide the benefited property into parcels of less than 35 acres in size.

3. Lunnen further agrees to acquire for the benefit of Tru-Worth and Robb, their respective successors and assigns, non-exclusive access and utility easements over, under and across a portion of Lot 1, Elk Springs Ranch, according to the plat thereof recorded in the offices of the Montezuma County, Colorado Clerk and Recorder on September 2, 1993 at Reception No. 434591 (Plat Book 12, Page 50). The easement to be granted pursuant to this paragraph shall extend over that portion of Lot 1 which is located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$.

SW¼ of Section 32, Township 36 North, Range 12 West, N.M.P.M., and which lies east of Elk Springs Drive, as constructed. The easements in favor of Tru-Worth, Ltd. and Robb Enterprises shall be in the form attached hereto as Exhibits D and E, respectively.

4. In consideration of the easements hereinabove described, Robb agrees to acknowledge the surveyed southern boundary of Lots 7, 8 and 9, Elk Springs Ranch, as the true boundary between the subdivision and adjacent property owned by Robb located within Section 6, Township 34 North, Range 12 West, N.M.P.M., Montezuma County, Colorado and agrees to execute and deliver a quit claim deed for the benefit of Lunnen conveying any and all right, title or interest which Robb may hold in and to Lots 7, 8 and 9, Elk Springs Ranch, as described in the plat thereof recorded with the Montezuma County, Colorado Clerk and Recorder on September 2, 1993 at Reception No. 434591 (Plat Book 12, Page 50).

5. Upon execution of this Agreement, Lunnen shall file with the District Court in and for Montezuma County, Colorado a Notice to Dismiss with Prejudice pursuant to C.R.C.P. 41 pertaining to Case No. 95-CV-15 denominated as *W. Thomas Lunnen, Richard Paulsen and Robert W. Rohe, Plaintiffs v. Wayne Robb, d/b/a Robb Enterprises, Defendant.*

6. Lunnen, Elk Springs and Tru-Worth have previously agreed to an allocation of financial responsibility for maintenance of Elk Springs Drive and for the construction of acceleration and deceleration lanes at the point of intersection of Elk Springs Drive and U.S. Highway No. 160 pursuant to the terms of a Closing Agreement dated February 28, 1995. In accordance with the terms of that Closing Agreement, the financial responsibility of the parties for maintenance and construction of acceleration and deceleration lanes is as follows:

	Maintenance	Acceleration & Deceleration Lanes
Tru-Worth	60%	74%
Lunnen/Elk Springs	40%	26%

In consideration of the access and utility easements granted pursuant to the terms of this agreement, Robb agrees that it will assume responsibility for 15% of the maintenance costs of Elk Springs Drive and 15% of the costs of construction of acceleration and deceleration lanes at the point of intersection of Elk Springs Drive and U.S. Highway No. 160. All parties further agree, however, that Tru-Worth will assume and perform the obligations of Robb with respect to the maintenance of Elk Springs Drive and the construction of acceleration and deceleration lanes as hereinabove described, and upon the assumption of such obligations by Tru-Worth, Lunnen and Elk Springs agree that Robb shall be released from any responsibilities for the above-described maintenance and construction costs.

Lunnen, Elk Springs and Tru-Worth have further agreed in the Closing Agreement of February 28, 1995 that any contributions from Robb Enterprises with respect to the maintenance of Elk Springs Drive and the construction of acceleration and deceleration lanes,

whether or not ultimately assumed by Tru-Worth, will be allocated between Lunnan, Elk Springs and Tru-Worth, as follows:

Robb Enterprises Contribution for Maintenance of Elk Springs Drive		Robb Enterprises Contribution for Construction of Acceleration & Deceleration Lanes
Tru-Worth Credit	50%	1/3
Lunnan/Elk Springs Credit	50%	2/3

Accordingly, after allocation of the credits for maintenance and construction costs allocated to Robb, all parties agree that the proportional responsibility for maintenance of Elk Springs Drive and construction of acceleration and deceleration lanes shall be as follows:

	Maintenance	Acceleration & Deceleration Lanes
Tru-Worth	67½%	84%
Lunnan/Elk Springs	32½%	16%
Robb	0 %	0%

7. The terms of this agreement shall be binding upon the respective parties hereto, their heirs, successors and assigns.

8. The parties agree to execute and deliver any and all documents necessary to effectuate the terms of this agreement, without additional consideration.

9. This agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Colorado.

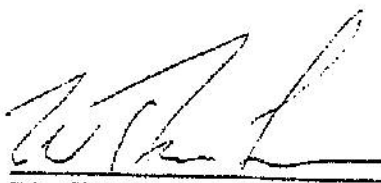
10. In the event of any dispute arising between the parties with respect to the interpretation or enforcement of the terms of this agreement, the prevailing party in any such dispute or litigation shall be entitled to recover reasonable attorney's fees, in addition to its costs and expenses reasonably incurred.

11. This agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all such counterparts taken together shall constitute a single original.

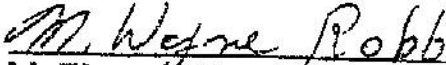
12. Execution and delivery of a copy of this agreement bearing a facsimile signature shall, for all purposes, be valid and enforceable as an original signature of the party or parties subscribing said agreement.

13. The terms of this agreement constitute the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and may not be modified or contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this agreement and all schedules and exhibits hereto attached, all of which are incorporated by reference herein, shall constitute the exclusive statement of their agreement. No provision of this agreement may be amended except by an agreement in writing signed by the parties hereto or their successors in interest.

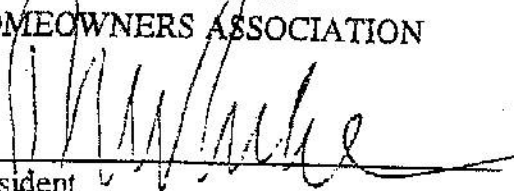
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above-written.



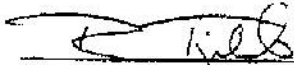
W. THOMAS LUNNEN, Managing
Partner for Robert W. Rohe and
Richard Paulsen

ROBB ENTERPRISES,
a Colorado general partnership


M. Wayne Robb

ELK SPRINGS RANCH
HOMEOWNERS ASSOCIATION


President

TRU-WORTH, LTD., a Colorado
limited partnership
Ron Trujillo, Inc., General Partner


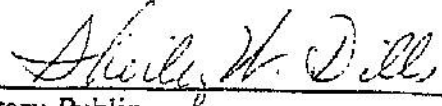
Ron Trujillo, President

STATE OF COLORADO)
) ss.
COUNTY OF MONTEZUMA)

The foregoing Agreement was subscribed and sworn to before me this 16th day of ~~April~~ ^{May} 1995 by W. Wayne Robb, as General Partner for Robb Enterprises, Inc.

Witness my hand and official seal.

My commission expires: 4/26/96



Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)

The foregoing Agreement was subscribed and sworn to before me this 1st day of ~~April~~ ^{May}, 1995 by Ron Trujillo, as President of Ron Trujillo, Inc., General Partner for Tru-Worth, Ltd., a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: 4/26/96

Shirley H. Dells
Notary Public

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

The foregoing Agreement was subscribed and sworn to before me this _____ day of April, 1995 by W. Thomas Lunnen, Managing Partner for Robert W. Rohe and Richard Paulsen.

Witness my hand and official seal.

My commission expires: _____

Notary Public

STATE OF)
) ss.
COUNTY OF)

The foregoing Agreement was subscribed and sworn to before me this _____ day of April, 1995 by _____ as President of Elk Springs Ranch Homeowners Association.

Witness my hand and official seal.

My commission expires: _____

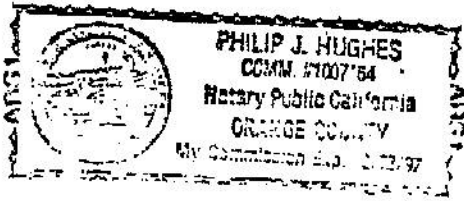
Notary Public

State of CALIFORNIA
County of ORANGE

On 29 APRIL 1995 before me, PHILIP J. HUGHES, NOTARY PUBLIC
(DATE) (NAME/TITLE OF OFFICER-I.E. "JANE DOE, NOTARY PUBLIC")
personally appeared U. THOMAS LUNDEN and
(NAME(S) OF SIGNER(S))

ROBERT W. ROHE

personally known to me -OR- 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.



Witness my hand and official seal.

(SEAL)

Philip J. Hughes
(SIGNATURE OF NOTARY)

RIGHT THUMBPRINT (Optional)
TOP OF THUMB HERE

CAPACITY CLAIMED BY SIGNER(S)
 INDIVIDUAL(S)
 CORPORATE DIRECTORS

OFFICER(S) PRESIDENT
(TITLE(S))
 PARTNER(S) LIMITED GENERAL
 ATTORNEY IN FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER: _____

SIGNER IS REPRESENTING:
(Name of Person(s) or Entity(ies))

RIGHT THUMBPRINT (Optional)
TOP OF THUMB HERE

CAPACITY CLAIMED BY SIGNER(S)
 INDIVIDUAL(S)
 CORPORATE _____

OFFICER(S) _____
(TITLE(S))
 PARTNER(S) LIMITED GENERAL
 ATTORNEY IN FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER: _____

SIGNER IS REPRESENTING:
(Name of Person(s) or Entity(ies))

ATTENTION NOTARY

The information requested below and in the column to the right is OPTIONAL. Recording of this document is not required by law and is also optional. It could, however, prevent fraudulent attachment of this certificate to any unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:
Title or Type of Document _____
Number of Pages _____ Date of Document _____
Signer(s) Other Than Named Above _____

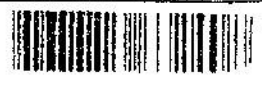


EXHIBIT A

Township 35 North, Range 12 West, N.M.P.M., Montezuma County, Colorado:

Section 6:	Lots 5, 6 and 7
Section 7:	Lots 1 and 2
Section 18:	Lots 1 and 2

Township 35 North, Range 13 West, N.M.P.M., Montezuma County, Colorado:

Section 1:	SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$
Section 12:	E $\frac{1}{2}$
Section 13:	NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$
Section 14:	E $\frac{1}{2}$ SE $\frac{1}{4}$

LESS AND EXCEPT any portion of the above described property lying in Elk Springs Ranch according to the final plat filed for record September 2, 1993 in Plat Book 12 at Page 50.

EXHIBIT B

Township 35 North, Range 12 West, N.M.P.M., Montezuma and La Plata Counties,
Colorado:

Section 6: S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the E $\frac{1}{2}$ SW $\frac{1}{4}$

Section 5: Lot 4 and that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ lying in Montezuma County

Section 7: Lot 3

EXHIBIT C

Township 35 North, Range 12 West, N.M.P.M., Montezuma and La Plata Counties,
Colorado:

Section 7: NW¼ SE¼
Section 18: E½ NW¼, NE¼ SW¼