

**WHEN RECORDED, RETURN TO:**

Pinal County Clerk of the Board

P.O. Box 827

Florence, Arizona 85132

**TEMPORARY DRAINAGE EASEMENT AGREEMENT**

**THIS TEMPORARY DRAINAGE EASEMENT AGREEMENT ("Agreement")** is made and entered into this \_\_\_\_\_ day \_\_\_\_\_ of 2023, by and between **Magma Ranch III – Phoenix, LLC, a Delaware limited liability company, ("Grantor")** and **Pinal County, Arizona**, a political subdivision of the State of Arizona ("**Grantee**").

**RECITALS**

A. Grantor is the owner of certain real property located in Pinal County, Arizona, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Easement Area**").

B. Grantee desires to obtain from Grantor, and Grantor is willing to grant to Grantee, an easement for drainage over and under the Easement Area, pursuant to the terms and conditions more particularly set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, and its successors and assigns, a temporary non-exclusive easement (the "**Temporary Easement**") in, on, over, under and across the Easement Area for purposes of construction, installation, use, maintenance, repair, replacement and operation of a surface storm water channel and other drainage facilities and drains, and all related facilities (collectively, the "**Drainage Improvements**") and for purposes of drainage, diversion, and/or acceptance of storm water runoff. The easement granted herein shall include the right of reasonable ingress and egress with respect to the Drainage Improvements as may be required to construct, install, maintain and operate the same. No buildings or structures or other above ground improvements other than the Drainage Improvements shall be erected, constructed or placed on or within the Easement Area that would impede the flow of water over, under or through the Easement Area, or that would materially reduce the retention capacity of the Easement Area.

2. Termination. The rights, easements and privileges herein granted and conveyed are temporary and shall terminate upon the recording in the Official Records of Pinal County, Arizona of a subdivision plat and/or map of dedication or other instrument, approved by Pinal County or any other governmental entity having authority over the Easement Area, dedicating, granting or otherwise creating a permanent drainage easement that is generally comparable to the

drainage provided by the Easement Area hereunder. Upon the occurrence of any of the foregoing, the rights, easements and privileges granted and conveyed in this Agreement shall be deemed terminated and of no further force or effect.

3. Grantor Confirmation of Termination. The Provisions of Paragraph 2 above are intended to be self-operative and any title insurer can rely on any termination effected by said paragraph when issuing any commitment to insure, or when issuing a title policy in respect of, any portion of the Easement Area. Nevertheless, notwithstanding that a specific termination instrument is not required to be recorded, to confirm the termination of the rights, easements and privileges herein granted and conveyed, Grantee shall deliver to Grantor, upon the termination of the Temporary Easement in accordance with Paragraph 2 above, an instrument to be recorded in the office of the County Recorder of Pinal County, Arizona, confirming that the Temporary Easement created hereby has been terminated in its entirety pursuant to the provisions of Paragraph 2 above.

4. Maintenance. Grantee shall be responsible, at its sole cost and expense, for all cleaning, maintenance and repair of the Easement Area and the Drainage Improvements, which shall be cleaned and maintained in good condition and repair as reasonably necessary to ensure that the same can be properly utilized for the purposes intended hereby.

5. Grantors' Reservations. Grantor shall retain and hereby reserves all of its rights to use the Easement Area and, without limiting the foregoing, reserves the right to grant others the right to use the Easement Area, in any manner so long as such use is not inconsistent with, and does not unreasonably interfere with, the enjoyment of the rights, easements and privileges herein created.

6. Improvements. Any Drainage Improvements constructed within the Temporary Easement shall be constructed in compliance with all applicable codes, ordinances and regulations. Grantee shall cause all work with respect to the construction and installation of the Drainage Improvements to be conducted and completed in a diligent, good and workmanlike manner and at Grantee's sole cost and expense. Notwithstanding anything contained herein to the contrary, Grantee shall not be required to construct a fully landscaped storm water drainage channel and Grantor acknowledges and agrees that Grantee intends to install a temporary drainage channel within the Easement Area, not fully landscaped and improved.

7. Easement Runs With Land. The Temporary Easement is for the benefit of Grantee and burdens the Easement Area. The rights and obligations of this Agreement shall run with the land. The acceptance by any person or entity of any interest in the Easement Area, or any portion of any of them, constitutes an agreement by such person or entity to perform all obligations imposed hereby and not to use, occupy or allow any use or occupancy of its property in a manner that would violate or breach any of the provisions of this Agreement.

8. Default. Grantee shall be deemed to be in default under this Agreement if Grantee fails to perform any obligations required to be performed by Grantee hereunder and such failure continues for a period of thirty (30) days after written notice thereof from Grantor, or, if any failure cannot reasonably be cured within thirty (30) days after the notice thereof from Grantor, then Grantee shall be in default if it fails during such time period to commence the cure of such breach and, thereafter, to pursue diligently the same to completion. In the event Grantee is in default hereunder, Grantor shall have the right, in addition to other all rights and remedies which may be available at law or in equity, to terminate this Agreement, in which event all rights granted to Grantee hereunder shall immediately terminate and Grantee shall thereafter have no further rights in and to the Easement Area.

9. Successors and Assigns. 15+ This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. No third party shall be entitled to enforce any term, covenant or condition of this Agreement, or have any rights hereunder.

10. Amendment. This Agreement may only be amended by a document recorded in the office of the County Recorder of Pinal County, Arizona, executed by the parties to this Agreement.

11. Severability. If any term or provision of this Agreement shall, to any extent be invalid or unenforceable under applicable law, then the remaining terms and provisions of this Agreement shall not be affected thereby, and each of such remaining terms and provisions shall be valid and enforced to the extent permitted by law.

12. Governing Law. This Agreement shall be effective from and after the date this instrument is recorded in the office of the County Recorder of Pinal County, Arizona. This Agreement shall be construed, governed and enforced in accordance with the laws of the State of Arizona.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which in the aggregate shall constitute one and the same instrument.

DATED as of the day and year first above written.

**GRANTOR(s):**  
**Magma Ranch III – Phoenix, LLC, a Delaware limited liability company**

By: \_\_\_\_\_

Wesley Huang

Its: Authorized Signatory

State of ~~ARIZONA~~ New York )  
 ) ss.  
County of NEW YORK )

The foregoing document was acknowledged before me this 25 day of MAY, 2023, by Wesley Huang, as the Authorized Signatory of Magma Ranch III – Phoenix, LLC, a Delaware limited liability company, for and on behalf thereof.

ASHLEIGH BECKER  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01BE6434767  
Qualified in Queens County  
Commission Expires 6/13/2026

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

My Commission Expires: 6/13/26

**GRANTEE:**

PINAL COUNTY, ARIZONA, a political  
subdivision of the State of Arizona

\_\_\_\_\_  
Chairman of the Board

**ATTEST:**

\_\_\_\_\_  
Deputy/Clerk of the Board

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Deputy County Attorney

**EXHIBIT A**  
**[Legal Description – Temporary Drainage Easement]**

**See following pages.**



ONE COMPANY.  
INFINITE SOLUTIONS.

**LEGAL DESCRIPTION  
TEMPORARY DRAINAGE EASEMENT (2)  
MAGMA RANCH III-PHOENIX LLC  
APN 210-38-003A  
PINAL COUNTY, ARIZONA**

**LOCATED WITHIN A PORTION OF THE EAST HALF OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 9 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA.**

**MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT A FOUND MONUMENT IN HAND HOLE ACCEPTED AS THE SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 9 EAST, FROM WHICH A FOUND MONUMENT CAP FLUSH ACCEPTED AS THE EAST QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 9 EAST, THEREOF BEARS, N00°08'30"W A DISTANCE OF 2644.33 FEET;**

**THENCE, ALONG THE EAST LINE OF SAID SECTION 19, N00°08'30"W A DISTANCE OF 2498.21 FEET;**

**THENCE, LEAVING SAID EAST LINE, N90°00'00"W A DISTANCE OF 1214.09 FEET TO THE POINT OF BEGINNING;**

**THENCE, S75°00'29"W A DISTANCE OF 163.03 FEET;**

**THENCE, N35°17'03"W A DISTANCE OF 57.90 FEET;**

**THENCE, N52°39'31"E A DISTANCE OF 237.01 FEET;**

**THENCE, S00°57'47"E A DISTANCE OF 148.87 FEET TO THE POINT OF BEGINNING.**





ONE COMPANY.  
INFINITE SOLUTIONS.

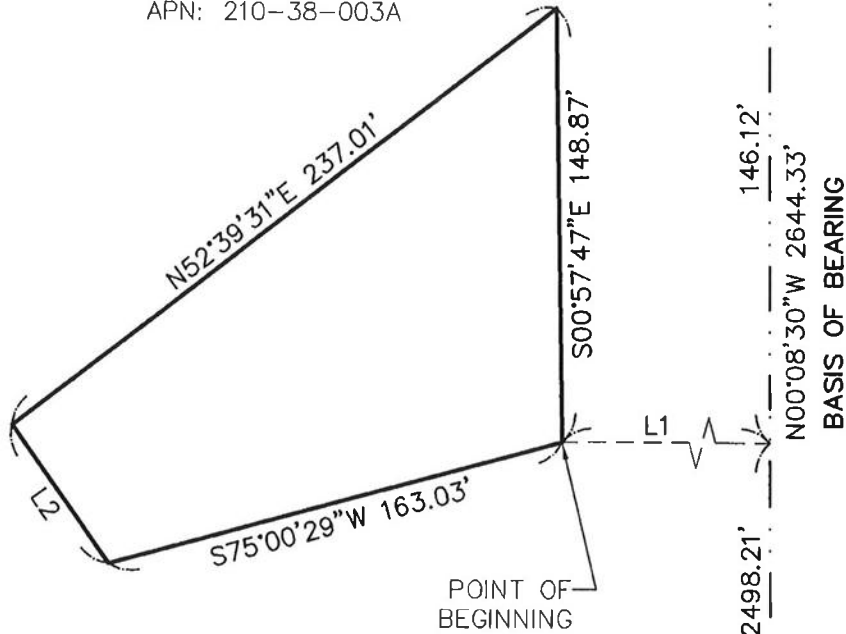
**THE ABOVE DESCRIBED PARCEL CONTAINS A COMPUTED AREA OF 18631 SQUARE FEET OR 0.43 ACRES, MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, OR RIGHTS OF WAY OF RECORD OR OTHERWISE.**

**THE DESCRIPTION SHOWN HEREON IS NOT TO BE USED TO VIOLATE ANY SUBDIVISION REGULATIONS OF THE STATE, COUNTY AND/OR MUNICIPALITY OR ANY OTHER LAND DIVISION RESTRICTIONS.**

**PREPARED BY:  
ATWELL, LLC  
4700 E. SOUTHERN AVENUE  
MESA, ARIZONA 85206  
PROJECT NO. 21001929  
APRIL 18<sup>TH</sup>, 2023**

E1/4 COR SEC. 19, T.3S., R.9E.  
FND MONUMENT CAP FLUSH

MAGMA RANCH  
III-PHOENIX LLC  
APN: 210-38-003A



LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N90°00'00\"W	1214.09'
L2	N35°17'03\"W	57.90'

SE COR SEC. 19, T.3S., R.9E.  
FND MONUMENT CAP IN HANDHOLE  
"POINT OF COMMENCEMENT"



Scale: 1"=60'

JOB NO. 21001929 DATE: 04-18-2023 SHEET 3 OF 3



EXHIBIT "A"  
TEMPORARY DRAINAGE EASEMENT (2)  
MAGMA RANCH III-PHOENIX LLC  
APN 210-38-003A  
PINAL COUNTY, ARIZONA