

**When recorded please mail to:**  
Kristi Salskov, CMC, Town Clerk  
Town of Pinetop-Lakeside  
325 W. White Mountain Blvd.  
Lakeside, AZ 85929

**TOWN OF PINETOP-LAKESIDE**

**RESOLUTION NO. 24-1709**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, NAVAJO COUNTY, ARIZONA, APPROVING TO ACCEPT A RIGHT-OF-WAY DEDICATION AGREEMENT AND DEDICATION DEED FROM PORTER MOUNTAIN FELLOWSHIP, S.B.C. OVER APN 212-65-006 TO PROVIDE SECONDARY ACCESS TO BLUE RIDGE ELEMENTARY SCHOOL THROUGH COMMERCE DRIVE.**

**WHEREAS,** the Town of Pinetop-Lakeside determined that consistent secondary access for Emergency Services was needed as part of the Porter Mountain Improvement Project; and

**WHEREAS,** Blueridge Unified School District #32 has already dedicated their Right-of-Way portion for the secondary access ; and

**WHEREAS,** Porter Mountain Fellowship has agreed to dedicate the necessary remaining portion of Right-of-Way over their property to the Town for the appraised amount of \$40,923.00. (Exhibit A)

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Pinetop-Lakeside, Navajo County, Arizona, hereby approve a Right-of-Way Dedication Agreement and accept Dedication Deed from Porter Mountain Fellowship, S.B.C.; and authorize the Town Manager to execute all documents necessary in connection with this agreement.

**PASSED AND ADOPTED** by the Town Council of the Town of Pinetop-Lakeside, Navajo County, Arizona this 16<sup>th</sup> day of May 2024.



ATTEST:

Kristi Salskov  
Kristi Salskov, CMC  
Town Clerk

**TOWN OF PINETOP-LAKESIDE**

Stephanie Irwin

Stephanie Irwin, Mayor

APPROVED AS TO FORM:

William Sims

William J. Sims, III  
Town Attorney

EXHIBIT A

Right-of-Way Agreement and Dedication Deed

When Recorded Mail Original To:

Kristi Salskov, CMC, Town Clerk  
Town of Pinetop-Lakeside  
325 W. White Mountain Blvd.  
Lakeside, AZ 85929

**DEDICATION AGREEMENT AND DEED OF DEDICATION  
NO AFFIDAVIT NECESSARY – SEE A.R.S. § 11-1134 A3**

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THIS DEDICATION AGREEMENT AND DEED OF DEDICATION (the "Agreement") is entered into as of May \_\_, 2024, by and between Porter Mountain Fellowship, S.B.C., an Arizona non-profit corporation ("Grantor"), and TOWN OF PINETOP-LAKESIDE, an Arizona municipal corporation ("Grantee" or the "Town"). Grantor and Grantee are collectively referred to herein as the "Parties" and individually as a "Party".

RECITALS

A. WHEREAS, Grantor is the owner of certain real property located in the Town of Pinetop-Lakeside, Navajo County, State of Arizona, and as identified and legally described herein at **Exhibit A** ("Grantor's Property").

B. WHEREAS, Grantor is willing to dedicate a public use right-of-way over Grantor's Property, as identified herein and legally described at **Exhibit B** (the "Right-of-Way").

C. WHEREAS, Grantee desires to acquire from Grantor a dedication of the Right-of-Way.

D. WHEREAS, in connection with such an acquisition, Grantee has committed currently to make certain Minimum Improvements (as herein defined) to the Right-of-Way, and has further agreed that, except as otherwise provided herein, when Grantor's Property is finally developed, Grantee shall not, to the extent permitted by law and except as more fully set forth hereinbelow, require any other "through roadways" which traverse, from north to south, or east to west, across Grantor's Property as a condition to approval of any plats, issuance of any material permits or municipal decisions relating to other similar developmental items respecting Grantor's Property.

**NOW, THEREFORE**, in consideration of the sum of Ten and No/100 Dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree as follows:

## AGREEMENT

1. Recitals. The foregoing Recitals are true, correct and incorporated herein by reference.

2. Right-of-Way Dedication. Grantor hereby agrees to make and does hereby make and grant and convey to Grantee, its successors and assigns, a permanent dedication of that portion of the Grantor Property as identified herein at **Exhibit B**. This Agreement shall constitute a deed and conveyance of title to the Right-of-Way from Grantor to Town for the purposes herein stated. Grantee shall prepare, or cause to prepare, a survey of the property anticipated for this dedication at its sole expense.

This Agreement anticipates that the dedication of the Right-of-Way is being made to afford Grantee an opportunity to make certain current improvements to the Right-of-Way to emergency access in and through the Right-of-Way for the benefit of the Town community, and Grantee shall maintain the same for the benefit of the Town community. As consideration for and of Grantor's dedication of the Right-of-Way, Grantee shall, at a minimum and within a reasonable time from the date hereof, construct the Minimum Improvements according to the plans for the Porter Mountain Road Improvements project. Grantee shall provide all ongoing maintenance to the Right-of-Way and Drainage Improvements at Grantee's own expense.

Grantee accepts the dedication of the Right-of-Way from Grantor made hereby as the final, permanent and, to the extent permitted by law, the only through access right-of-way to be sought by Grantee in relation to Grantor's Property.

3. Mortgage and Lease Subordination. Any mortgage, deed of trust, lease or sublease affecting any portion of Grantor's Property, including the Right-of-Way, shall be subject and subordinate to this Agreement, and any party foreclosing any such mortgage or deed of trust, or acquiring title by deed in lieu of foreclosure or in lieu of trustee's sale, will acquire title subject to all of the terms and provisions of this Agreement. Grantor represents and warrants to Grantee that there is no presently existing mortgage or deed of trust lien or lease or sublease on Grantor's Property, other than a mortgage or deed of trust lien that is expressly subordinate to this Agreement.

4. Miscellaneous.

(a)Indemnification. To the extent permitted by law, Grantee shall and does hereby indemnify and shall defend Grantor and its officers, directors, shareholders, trustees, partners, managers, members, attorneys, employees, agents, successors and assigns (collectively, "Indemnitee") from and against, and holds Indemnitee and the Grantor's Property harmless from and against, any and all costs, expenses (including, without limitation, reasonable attorneys' fees), damages, claims, liabilities, liens, encumbrances and charges arising from any entry onto, installation upon, or maintenance of the Right-of-Way, by Grantee or Grantee's employees, agents or contractors. Grantee shall repair any damage to the Grantor's Property as a result of or caused by the entry onto, installation upon, or maintenance of Right-of-Way by Grantee or Grantee's employees, agents or contractors. To the extent permitted by law, Grantee shall and

does hereby indemnify and shall defend Indemnitee from and against, and holds Indemnitee and the Grantor's Property harmless from and against, any and all costs, expenses (including, without limitation, reasonable attorneys' fees), damages, claims, liabilities, liens, encumbrances and charges arising from any 3rd party claims in connection with the installation of the Minimum Improvements and in connection with 3rd party claims arising out of the maintenance, or the future use of the Right-of-Way as described herein that arise out of the negligence or willful misconduct of the Grantee or any of its employees, agents or contractors, except for claims arising out of actions or omissions of Grantor or its employees, agents or contractors.

(b) Right-of-Way Conveyed "AS IS". Grantee acknowledges that, except for the specific representations set forth in section 3 above, (the "Grantor Representations"): (a) Grantee is receiving conveyance of the Right-of-Way solely in reliance on Grantee's own investigation and inspection of the Right-of-Way; and (b) no representations, claims or warranties of any kind whatsoever, express or implied, concerning the Right-of-Way or its fitness, condition or suitability for any use or purpose, including, without limitation, the environmental condition of the Right-of-Way, have been made by Grantor or any party acting on behalf of Grantor. Grantee further acknowledges that Grantee has or will have inspected the property to the extent that Grantee deems appropriate including, without limitation, inspection regarding the physical condition of the property, asbestos, waste, hazardous and toxic substances and pollutants and contaminants waste, soil conditions, zoning regulation, laws, ordinances, and other governmental requirements and compliance with building codes. Grantee agrees to bear the risk of all matters referred to in this Section 4(b) and any adverse consequence or condition with respect to any such matters following the closing. Grantee is receiving conveyance of the Right-of-Way "as is" and "where is" with any and all damage, faults and defects.

(c) Default; Remedies. Any alleged, actual or threatened breach hereunder shall entitle the non-defaulting Party to exercise any and all rights and remedies then available to it at law or in equity. All such rights and remedies being intended to be cumulative, non-exclusive and exercisable singularly, consecutively or concurrently with any others.

(d) Invalidity. If any terms, provisions or covenants contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term, provision and condition hereof shall be valid and enforceable to the fullest extent permitted by law.

(e) Final Agreement of the Parties. This Agreement is an integrated agreement and hereby expresses the Parties' complete agreement and understanding. Any and all prior or contemporaneous oral agreements or prior written agreements between the Parties regarding the subject matter hereof are merged herein and hereby extinguished. Any modification or waiver of any term of this Agreement, including a modification or waiver of this term, must be in writing signed by the Party or Parties against which enforcement of the modification or waiver is sought.

(f) Additional Acts. The Parties hereto agree to execute such additional documents and instruments and to perform such additional acts as may be reasonably necessary to carry out the purpose and intent of this Agreement.

(g) Non-Waiver. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver, including a waiver of this term. No waiver by any Party of a breach of this Agreement will be construed as a waiver of a succeeding breach of the same or any other covenant of this Agreement. No delay or failure by either Party to exercise any right under this Agreement and no partial or single exercise of that right shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

(h) Covenants Run With The Land. All of the provisions, agreements, rights, powers, covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the Parties, and their respective heirs, successors (by merger, consolidation or otherwise) and assigns, and all other persons or entities acquiring Grantor's Property, including the Access Area and the Right-of-Way, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall constitute equitable servitudes and be covenants running with the land pursuant to applicable law. All of the provisions, agreements, rights, powers, covenants, conditions and obligations contained in this Agreement shall be a condition implied in any conveyance or other instrument affecting the title to Grantor's Property or any portion thereof. Town shall, reasonably promptly, record this Agreement in the public records of Navajo County, Arizona and shall provide a recorded copy to Grantor at the address set forth herein.

(i) Counterparts. This Agreement may be executed in two or more counterparts and each such counterpart, when taken together with all other counterparts, shall be deemed one and the same original instrument.

(j) Assignment. Grantee shall have no right to assign its interest in this Agreement without the prior written consent of Grantor, which consent shall not be unreasonably withheld, delayed or conditioned.

(k) Attorney's Fees. If any action is brought by either party to enforce or interpret any provisions hereof or rights arising hereunder, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to final judgment.

(l) Notice and Notice Addresses.

Any notice by Grantor to Grantee/Town connected to this Agreement shall be directed by certified mail to:

Town of Pinetop-Lakeside  
325 W White Mountain Blvd.  
Lakeside, AZ 85929  
Attn: Town Clerk

Any notice by Grantee to Grantor connected to this Agreement shall be directed by certified mail to:

Porter Mountain Fellowship, S.B.C.  
P.O. Box 1777

(m) Arizona Law to Apply. This Agreement is to be construed under and in accordance with the internal laws of the State of Arizona for contracts made or to be performed therein, without giving effect to the principles of conflicts of law thereof, and all monetary obligations of Grantor and Grantee (including, without limitation, any monetary obligation of Grantor or Grantee for damages for any breach of the respective covenants, duties, or obligations of Grantor or Grantee under this Agreement) are performable exclusively in Navajo County, Arizona. This Agreement is also to be construed under the laws of the United States pertaining to transactions in Arizona.

(n) Cancellation for Conflict of Interest. Pursuant to the provisions of A.R.S. § 38-511, Grantee may cancel this Agreement, without penalty or obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of Grantee is, at any time while the Agreement or any extension thereof is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party to the contract with respect to the subject matter of the Agreement.

(o) No Israel Boycott. The Parties agree that they are not currently engaged in and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35- 393.

(p) General Rules of Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared or drafted the executed Agreement or any earlier draft of the same or any of its Exhibits.

(q) Authority. Each Party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each Party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

GRANTOR: PORTER MOUNTAIN FELLOWSHIP, S.B.C., an Arizona non-profit corporation

By: \_\_\_\_\_  
Dr. James Stansberry, Pastor

By: \_\_\_\_\_  
Mike Desmond, Treasurer

By: \_\_\_\_\_  
Richard Wallace, Deacon

STATE OF ARIZONA )  
 ) ss.  
County of Navajo )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of May \_\_, 2024 , by DR. JAMES STANSBERRY, acting as Pastor of Porter Mountain Fellowship, S.B.C., an Arizona non-profit corporation, MIKE DESMOND acting as Treasurer of Porter Mountain Fellowship, S.B.C., an Arizona non-profit corporation, and RICHARD WALLACE, acting as Deacon of Porter Mountain Fellowship, S.B.C., an Arizona non-profit corporation for and on behalf of the corporation.

\_\_\_\_\_  
Notary Seal/Stamp

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

GRANTEE: TOWN OF PINETOP-LAKESIDE, an Arizona municipal corporation

By: \_\_\_\_\_  
Keith Johnson, Town Manager

STATE OF ARIZONA )  
 ) ss.  
County of Navajo )

The foregoing instrument was acknowledged before me this \_\_\_ day of May \_\_, 2024, by Keith Johnson, acting as Town Manager for and on behalf of TOWN OF PINETOP-LAKESIDE, an Arizona municipal corporation.

\_\_\_\_\_  
Notary Seal/Stamp

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

**EXHIBIT A**

**LEGAL DESCRIPTION**

**LOT 6, TOWN OF PINETOP-LAKESIDE COMMERCE PARK, ACCORDING TO BOOK 18 OF PLATS, PAGE 73, AND AMENDED IN BOOK 22 OF PLATS, PAGE 25, RECORDS OF NAVAJO COUNTY, ARIZONA.**

**APN: 212-65-006**

# EXHIBIT B LEGAL DESCRIPTION RIGHT OF WAY

A PORTION OF LOT 6 OF TOWN OF PINETOP-LAKESIDE COMMERCE PARK RECORDED IN BOOK 18 OF MAPS AND PLATS, PAGE 73, NAVAJO COUNTY RECORDS LOCATED IN SECTION 23, TOWNSHIP 9 NORTH, RANGE 22 EAST, OF THE GILA AND SALT RIVER MERIDIAN, NAVAJO COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL, FROM WHICH THE SOUTHWEST CORNER OF SAID PARCEL BEARS SOUTH 00°33'04" EAST, A DISTANCE OF 280.00 FEET;

THENCE ALONG THE NORTH LINE OF SAID LOT 6, NORTH 89°36'04" EAST, A DISTANCE OF 62.60 FEET;

THENCE LEAVING SAID NORTH LINE, SOUTH 00°00'00" EAST, A DISTANCE OF 17.22 FEET;

THENCE SOUTH 39°22'38" WEST, A DISTANCE OF 19.37 FEET;

THENCE SOUTH 00°33'04" EAST, A DISTANCE OF 188.80 FEET;

THENCE SOUTH 34°53'03" EAST, A DISTANCE OF 18.31 FEET;

THENCE SOUTH 00°33'04" EAST, A DISTANCE OF 44.27 FEET TO THE SOUTH LINE OF SAID LOT 6;

THENCE ALONG SAID SOUTH LINE, SOUTH 89°51'51" WEST, A DISTANCE OF 60.33 FEET TO THE WEST LINE OF SAID LOT 6;

THENCE ALONG SAID WEST LINE, NORTH 00°33'04" WEST, A DISTANCE OF 280.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,849 SQUARE FEET OR 0.341 ACRES,  
MORE OR LESS.



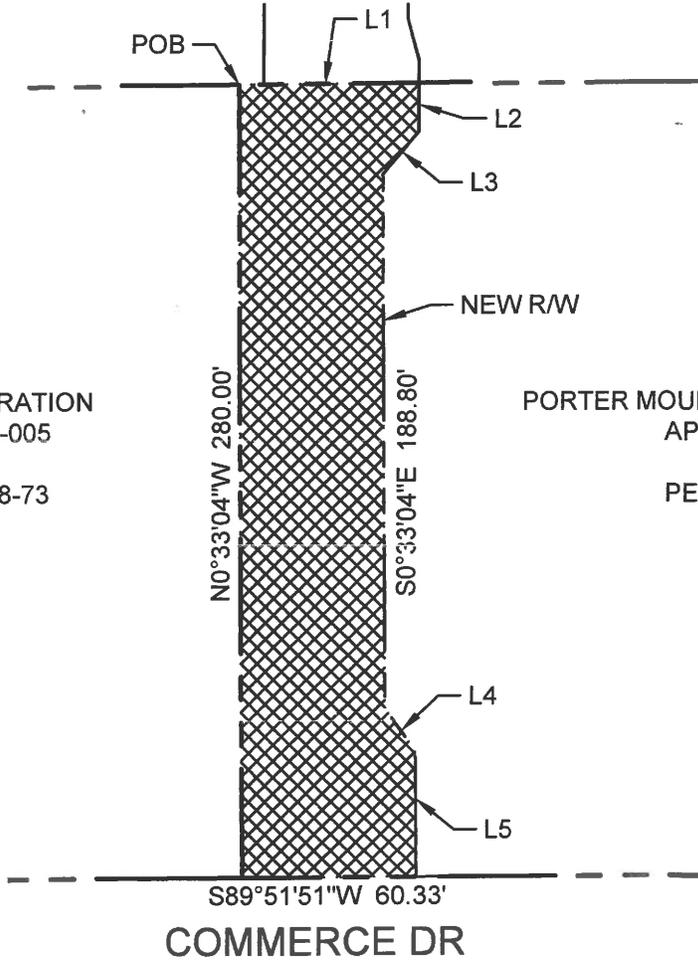
CHAD W. HUBER  
RLS 35316  
7740 N. 16TH STREET, SUITE 300  
PHOENIX, ARIZONA 85020  
PH. 602-837-5511  
chad.huber@kimley-horn.com

<b>Kimley»Horn</b>					
7740 N. 16TH ST, Suite 300 PHOENIX, AZ 85020			Tel. No. (602) 837-5511		
<u>Scale</u>	<u>Drawn by</u>	<u>Checked by</u>	<u>Date</u>	<u>Project No.</u>	<u>Sheet No.</u>
N/A	CWH	CWH	03/14/2024	281056010	1 OF 2

# EXHIBIT B



BLUE RIDGE SCHOOL DISTRICT #32  
APN: 212-01-029



LENEA CORPORATION  
APN: 212-65-005  
LOT 5  
PER PLAT 18-73

PORTER MOUNTAIN FELLOWSHIP SBC  
APN: 212-65-006  
LOT 6  
PER PLAT 18-73

 RIGHT OF WAY  
14,849 SQ.FT. MORE OR LESS

LINE TABLE

- L1 = N89°36'04"E 62.60'
- L2 = S00°00'00"E 17.22'
- L3 = S39°22'38"W 19.37'
- L4 = S34°53'03"E 18.31'
- L5 = S00°33'04"E 44.27'



CHAD W. HUBER  
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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N.T.S.	CWH	CWH	03/14/2024	291056010	2 OF 2