

AMENDMENT OF EASEMENT AGREEMENT

I. RECITALS

A. LAWRENCE P. FRANK, JR. and ALYCE K. FRANK, husband and wife, and MELISSA FRANK, a married woman dealing with her sole and separate property (hereinafter collectively "Franks") entered into an Easement Agreement with WILLIAM B. ACHEFF, a single person (hereinafter "Acheff"), whereby the Franks granted Acheff a seventeen foot (17') wide easement for access and underground utilities through their property. The Franks' property burdened by the easement and Acheff's 19.197 acre tract (mistakenly referred to on the first page of the Easement Agreement as a 19.159 acre tract) benefitted by the easement are more particularly described in the recorded Easement Agreement between the parties, filed in Book M-150, pages 27-36, records of Taos County, New Mexico.

B. The Easement Agreement between the Franks and Acheff stated, in relevant part:

"Limitations of Easement. In addition to the foregoing limitation of use to access and underground utilities, the foregoing grant of easement is additionally limited to a) to benefit Acheff's Exhibit B tract only and b) for only so long as no more than one single family residence, together with one guest house and customary residential out buildings such as one barn, one well house, and one garage, are constructed on Acheff's Exhibit B tract. **In the event Acheff shall exceed said limitations of use, or any of them, the foregoing grant of easement shall thereupon terminate."** (Emphasis added).

C. Acheff subsequently divided the 19.197 acre tract into a 16.195 acre tract and a 3.002 acre tract. The 16.195 acre tract is currently owned by RICHARD P. GILBERT, a single person (hereinafter "Gilbert"). See Warranty Deed into Gilbert filed in Book 482, pages 418-420, records of Taos County, New Mexico. The 3.002 acre tract is currently owned by Robert Geoffrey Strickland and Margaret A. Strickland, a married couple (hereinafter collectively "Strickland"). See Warranty Deed filed in Book A-232, pages 697-699, records of Taos County, New Mexico.

D. No access and underground utility easement has been granted through Gilbert's 16.195 acre tract to Strickland's 3.002 acre tract. Instead, the Strickland 3.002 acre tract is accessed from Altilla Road in Sandia Canyon.

E. The 29.370 acre tract burdened by the seventeen foot (17') wide easement granted in the Easement Agreement is now owned by MELISSA FRANK, Trustee of the 2004 Melissa Frank Revocable Trust under trust agreement dated May 14, 2004 (hereinafter