



DECLARATION OF EASEMENT

This grant of easement (the "Easement") dated as of the 14th day of January, 2021 is by and between Michael Stevens and Catherine Stevens, husband and wife, of 1030 San Lu Rae Drive, Grand Rapids, MI 49506 (the "Owners"), and the Township of Clearwater, Kalkaska County, of 5440 River Street, Rapid City, MI ("Clearwater Township").

1. Background.

- 1.1 Owners own multiple adjacent parcels of land in Clearwater Township, Kalkaska County, Michigan, described on the attached Exhibit "A" (the "Property"), which includes a 66 foot wide portion of Glade Valley Road running 0.26 mile northeast from Valley Road containing a bridge ("the Old Iron Bridge"), (collectively the "Property");
- 1.2 Clearwater Township has determined that it cannot justify the cost to maintain properly the Old Iron Bridge and is in the process of relinquishing jurisdiction and ownership of that portion of Glade Valley Road, including the Old Iron Bridge;
- 1.3 Neither Clearwater Township nor the Owners want to cause a loss of public access to the Rapid River through the 0.26 mile section of Glade Valley Road, or to the Old Iron Bridge;
- 1.4 Clearwater Township has negotiated with the Owners to retain rights of public access to the Old Iron Bridge and the waters of the Rapid River over that portion of 0.26 mile of Glade Valley Road northeast from Valley Road in order to prevent the loss of public access to the Rapid River caused by the relinquishment of jurisdiction by Clearwater Township; and
- 1.5 In conjunction with the terms of the resolution and dismissal of pending litigation captioned *Michael Stevens and Catherine Stevens v. Clearwater Township, 46th Judicial Circuit Court, Case no. 2019-13283-CH*, Owners intend to declare, grant, convey, and establish to Clearwater Township the right to make available to the public a perpetual easement and right of way to the north end of the Old Iron Bridge for the purposes described below.

2. **Consideration.** Consideration for this Easement shall be the mutual obligations and grants contained herein, as well as the obligations contained in the Consent Judgment entered by the Circuit Court of the County of Kalkaska, Case No. 19-13283. As further consideration, Owners have paid the sum of One Dollar (\$1.00) the receipt of which is hereby acknowledged by Clearwater Township.

NO TRANSFER TAX REQUIRED. MCL 207.505(a) and (j); MCL 207.526(a) and (l)

3. **Easement Area.** The portions of the Property that is the subject of this Easement (the "Easement Area") consist of the following areas identified on the drawing attached as Exhibit "B" and described as follows:

- A. **Riparian Corridor.** The "Riparian Corridor" shall be defined as the bed and south bank of the Rapid River running through the Property. If the location or shape of the Rapid River changes, the Riparian Corridor will likewise change location or shape in accordance with the flow of the river.
- B. **Outside the Riparian Corridor.** Sites for vehicular ingress and egress up to a gate to be installed by Owners at or about the current location of the UPS Box located south of the Old Iron Bridge that services the Owners' residence, together with parking in the area where there is currently a natural parking lot; and pedestrian access from the gate to the north end of the Old Iron Bridge.

4. **Purposes.** The purposes of the Easement are to provide the following (collectively the "Easement Objectives"):

- 3.1 Public access to the Riparian Corridor for recreational fishing;
- 3.2 Public access to the Riparian Corridor for non-motorized boating; and
- 3.3 Public Access to and over the Property outside the Riparian Corridor for recreational use, such as walking, observation, fishing, and boating in the Rapid River.

5. **Grant of Easement for Public Access.** For good and valuable consideration, receipt and sufficiency of which is acknowledged, the undersigned Owners, intending to be legally bound, hereby declare, grant, convey, and establish to Clearwater Township a perpetual easement and right of way over the Easement Area for purposes described in the foregoing Easement Objectives.

6. **Grant of Easement for Other Purposes.** The following rights are included in this grant of easement:

- 6.1 **Accessory Facilities.** The right to install, construct, maintain, repair, and replace accessory facilities, either within the Riparian Corridor or outside the Riparian Corridor in the locations identified in the Easement Area, or such other locations as are mutually agreeable to the Owners and Clearwater Township. The phrase “Accessory Facilities” means temporary or permanent structures and improvements used or usable in connection with the Easement Objectives; for example, a parking lot, driveway, trail, footpath, steps, or other access way connecting the Riparian Corridor with the public right of way and signage to mark the Easement Area and provide information regarding applicable time, place, and manner restrictions.

7. **Rights of Owners.** The Easement granted to Clearwater Township is non-exclusive. The Owners are permitted to continue to use the Easement Area so long as Owners’ use is, and remains consistent with, the Easement Objectives and rights granted to Clearwater Township in Article 3.

8. **Enforcement.** Clearwater Township may, in addition to other remedies available at law or in equity, compel Owners to make the Easement Area available for the Easement Objectives set forth in Article 3 by exercising any one or more of the following remedies, without the need to show that a civil action for damages is not available to furnish compensation:

- 7.1 **Injunctive Relief.** Seek injunctive relief to specifically enforce the terms of this Easement; to restrain present or future violations of the Easement and/or compel restoration of access to the Accessory Facilities or other resources destroyed or altered as a result of the violation.
- 7.2 **Self-Help.** Enter the Property and remove the barrier to the access provided under this Easement and do such other things as are reasonably necessary to protect and preserve the rights of Clearwater Township under this Easement.
- 7.3 **Fees.** No person is permitted to charge a fee for access to or use of the Easement Area.
- 7.4 **Costs and Expenses.** All costs and expenses associated with Accessory Facilities are to be borne by Clearwater Township.

9. **Public Use At Its Own Risk.** Use of the Easement Area by members of the general public is at their own risk. Neither Clearwater Township nor the Owners, by entering into this Agreement, assume any duty to, or for the benefit of, the general public for defects in the location, design, installation, maintenance, or repair of Accessory Facilities; for any unsafe conditions within the Easement Area; or the failure to inspect for, or warn against, possible unsafe conditions; or to close the Easement Area to the public access when unsafe conditions may be present. Clearwater Township will endeavor to repair any damaged Accessory Facilities, but has no

duty to do so unless and until Clearwater Township receives actual notice of the need to repair an unreasonably dangerous condition.

9. **Beneficiaries.** The rights of Clearwater Township under this Easement may be exercised by Clearwater Township and any member of the public (a “Beneficiary”), and includes any contractors, agents, and employees of Clearwater Township.

10. **Interest in Realty.** This Easement is a burden and servitude on the Easement Area running with the land and binding upon the undersigned Owners upon recordation with the Kankaska County Register of Deeds Office. All subsequent owners of the Easement Area, or any portion of the Easement Area, are bound by its terms whether or not the owners had actual notice of this Easement and whether or not the Clearwater Township resolution for relinquishment of jurisdiction specifically referred to the transfer being under, and subject to, this Easement. The rights and responsibilities set forth in this Easement shall inure to and bind the parties hereto and their respective personal representatives, successors, and assigns.

11. **Amendment.** This Easement may be amended only by written agreement signed by the Owners and Clearwater Township and recorded with the Kankaska County Register of Deeds. No amendment, waiver, interpretation, or other decision by Clearwater Township is valid or effective unless it is in writing and signed by an authorized signatory for Clearwater Township. This requirement may not be changed by oral agreement. The grant of an amendment or waiver in any instance does not imply that amendment or waiver will be granted in any other instance.

12. **Governing Law.** This Easement shall be governed by and interpreted in accordance with Michigan law.

13. **Severability.** If any portion of this Easement is determined to be invalid, illegal, or unenforceable, the remaining portions of this Easement remain valid, binding, and enforceable. To the extent permitted by applicable law, the parties waive any provisions of applicable law that render any provision of this Easement invalid, illegal, or unenforceable in any respect.

[Remainder of Page Intentionally Left Blank; Signatures To Follow]

The undersigned Owners and Clearwater Township, by their respective, duly authorized representatives, have signed and delivered this Declaration of Easement as of the date first stated above.

OWNERS

Dated: 1-22-2022

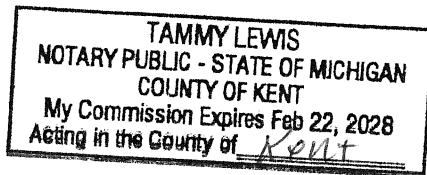
Michael Stevens
Michael Stevens

Dated: 1-22-2022

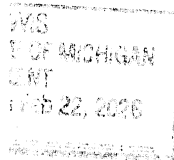
Catherine Stevens
Catherine Stevens

STATE OF MICHIGAN }
COUNTY OF Kent } ss.

The foregoing instrument was acknowledged before me this 22nd day of January, 2022, by Michael Stevens and Catherine Stevens, husband and wife.



Tammy Lewis
Tammy Lewis
Notary Public, State of Michigan
Kent County, Michigan
My commission expires: 2-22-28
Acting in Kent



Dated: February 18th 2022

CLEARWATER TOWNSHIP

By: Thomas J. Backers
Thomas J. Backers
Its: Supervisor

STATE OF MICHIGAN }
COUNTY OF Kalkaska } ss.

The foregoing instrument was acknowledged before me this 18th day of February, 2022 by Thomas J. Backers, as Supervisor of Clearwater Township.



Notary Public, State of Michigan

_____, Michigan

My commission expires:

Acting in

DEBORAH L. HILL

NOTARY PUBLIC - STATE OF MICHIGAN

COUNTY OF KALKASKA

MY COMMISSION EXPIRES 11/18/2024

ACTING IN THE COUNTY OF

[Remainder of Page Intentionally Left Blank]

When Recorded Return To: Bradley D. Wierda, Esq. Smith & Johnson, Attorneys, P.C. 603 Bay Street - P.O. Box 705 Traverse City, MI 49685-0705	Send Subsequent Tax Bills To: Grantee	Drafted By: Bradley D. Wierda, Esq. Smith & Johnson, Attorneys, P.C. 603 Bay Street - P.O. Box 705 Traverse City, MI 49685-0705
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This instrument was prepared at the specific request of the parties based solely on information supplied by one or more of the parties to this conveyance, and without examination of title or abstract. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided, the parties hereto signifying their assent to this disclaimer by the grantor's execution and the grantee's acceptance of this instrument.

Exhibit "A"

This Grant of Easement effects the following land situated in the Township of Clearwater, County of Kalkaska, State of Michigan, fully described as follows:

PARCEL 13:

That part of the Northeast 1/4 of the Northwest 1/4 of Section 15, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan, described as commencing at the North 1/4 corner of said Section 15; thence South 00 degrees 21 minutes 10 seconds East along the North-South 1/4 line of said Section, 1040.88 feet to the centerline of the Rapid River and the Point of Beginning, said point being South 00 degrees 21 minutes 10 seconds East 126.24 feet from a set iron, also being North 89 degrees 54 minutes 11 seconds East 70.19 feet from a set iron, also being North 00 degrees 21 minutes 10 seconds West 84.39 feet from a set iron; thence continuing South 00 degrees 21 minutes 10 seconds East along said North-South 1/4 line 273.95 feet to the North 1/8 line of said Section 15; thence South 89 degrees 54 minutes 11 seconds West along said North 1/8 line, 864.38 feet to the centerline of Glade Valley Road; thence North 21 degrees 01 minutes 15 seconds East along said centerline, 293.66 feet; thence North 89 degrees 54 minutes 11 seconds East 757.35 feet to said Point of Beginning.

Tax Parcel No. 004-015-009-01

AND

Parcel 1:

A part of the South 1/2 of the Northwest 1/4 and part of the North 1/2 of the Southwest 1/4, Section 10, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan, described as: Commencing at the West 1/4 corner of said Section 10; thence South 37 degrees 39 minutes 55 seconds East 292.66 feet; thence South 53 degrees 19 minutes 05 seconds East 216.83 feet; thence South 61 degrees 39 minutes 49 seconds East 414.24 feet; thence South 80 degrees 12 minutes 34 seconds East 69.79 feet; thence South 64 degrees 49 minutes 39 seconds East 115.41 feet; thence North 01 degrees 34 minutes 52 seconds East 146.50 feet; thence South 55 degrees 53 minutes 32 seconds East 448.74 feet to the point of beginning; thence North 02 degrees 11 minutes 55 seconds East 1453.88 feet; thence along the centerline of Plum Valley Road, South 77 degrees 48 minutes 59 seconds East 27.85 feet; thence continuing along said centerline Southeasterly on an arc left, having an arc length of 255.27 feet, a radius of 2354.49 feet and a long chord that bears South 80 degrees 55 minutes 21 seconds East 255.15 feet; thence South 00 degrees 10 minutes 39 seconds East 1646.13 feet; thence North 54 degrees 50 minutes 55 seconds West 415.88 feet to the point of beginning.

Tax Parcel No. 004-010-008-05

AND

Parcel 2:

A part of the West 1/2 of Section 10, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan, described as: Commencing at the East 1/4 corner of Section 10; thence North 89 degrees 47 minutes 42 seconds West 1983.02 feet along the East-West 1/4 line;

thence South 00 degrees 16 minutes 39 seconds East 1320.37 feet to the South 1/8 line; thence South 89 degrees 59 minutes 22 seconds West 658.00 feet along the South 118 line to the South 1/8 corner on the North-South 114 line; thence North 89 degrees 41 minutes 32 seconds West 42.88 feet along the South 1/8 line; thence North 00 degrees 17 minutes 42 seconds West 400.54 feet to the Southeast corner of Parcel 8, thence South 88 degrees 09 minutes 44 seconds West 994.28 feet to the Southwest corner of Lot 6 and the point of beginning; thence North 00 degrees 10 minutes 39 seconds West 1646.13 feet, to the centerline of Plum Valley Road; thence South 84 degrees 01 minutes 42 seconds East 332.16 feet along the centerline of Plum Valley Road; thence South 84 degrees 01 minutes 42 seconds East 332.16 feet along the centerline of Plum Valley Road; thence South 00 degrees 12 minutes 52 seconds East 1600.94 feet; thence South 88 degrees 09 minutes 44 seconds West 331.43 feet to the point of beginning.

Tax Parcel No. 004-010-008-06

AND

Parcel 7:

Part of the Northeast 1/4 of the Northwest 1/4 of Section 14, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan, more fully described as: Beginning at the North 114 of said Section 14; thence South 00 degrees 49 minutes 55 seconds East 327.03 feet along the North-South 114 line of said Section 14; thence North 89 degrees 41 minutes 30 seconds West 1342.52 feet to the West 1/8 line of said Section 14; thence North 00 degrees 58 minutes West 328.18 feet along said 1/8 line to the North line of said Section 14; thence South 89 degrees 38 minutes 35 seconds East 1343.32 feet along said Section line to the point of beginning.

Tax Parcel No. 004-014-012-00

AND

Parcel 8:

Part of Northeast 1/4 of the Northwest 114 of Section 14, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan, more fully described as: Commencing at the North 1/4 corner of said Section 14; thence South 00 degrees 49 minutes 55 seconds East 327.03 feet along the North-South 1/4 line of said Section 14 to the point of beginning; thence South 00 degrees 49 minutes 55 seconds East 327.00 feet along said 1/4 line; thence North 89 degrees 44 minutes 30 seconds West 1341.73 feet to the West 118 line of said Section 14; thence North 00 degrees 58 minutes West 328.20 feet along said 118 line; thence South 89 degrees 41 minutes 30 seconds East 1342.52 feet to the point of beginning.

Tax Parcel No. 004-014-013-00

AND

PARCEL 1:

A part of the South 1/2 of the Northwest 1/4 and part of the North 1/2 of the Southwest 1/4, Section 10, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan, described as:

Commencing at the West 1/4 corner of said Section 10; thence South 37 degrees 39 minutes 55 seconds East 292.66 feet; thence South 53 degrees 19 minutes 05 seconds East 216.83 feet; thence South 61 degrees 39 minutes 49 seconds East 414.24 feet; thence South 80 degrees 12 minutes 34 seconds East 69.79 feet; thence South 64 degrees 49 minutes 39 seconds East 115.41 feet; thence North 01 degrees 34 minutes 52 seconds East 146.50 feet; thence South 55 degrees 53 minutes 32 seconds East 448.74 feet to the point of beginning; thence North 02 degrees 11 minutes 55 seconds East 1453.88 feet; thence along the centerline of Plum Valley Road, South 77 degrees 48 minutes 59 seconds East 27.85 feet; thence continuing along said centerline Southeasterly on an arc left, having an arc length of 255.27 feet, a radius of 2354.49 feet and a long chord that bears South 80 degrees 55 minutes 21 seconds East 255.15 feet; thence South 00 degrees 10 minutes 39 seconds East 1646.13 feet; thence North 54 degrees 50 minutes 55 seconds West 415.88 feet to the point of beginning.

PARCEL 3:

A Part of the Southwest 1/4 of Section 10, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County,

Michigan described as follows: Commencing at the East 1/4 corner of Section 10; thence North 89 degrees 47 minutes 42 seconds West 1983.02 feet along the East-West 1/4 line; thence South 00 degrees 16 minutes 39 seconds East 1320.37 feet to the South 1/8 line; thence North 89 degrees 59 minutes 22 seconds West 658.00 feet along the South 1/8 line to the South 1/8 corner on the North-South 1/4 line; thence South 89 degrees 41 minutes 32 seconds West 42.88 feet along the South 1/8 line to the Southeast corner of parcel and the point of beginning; thence North 89 degrees 41 minutes 32 seconds West 1460.21 feet along the South 1/8 line; thence North 37 degrees 38 minutes 45 seconds East 562.89 feet; thence South 54 degrees 50 minutes 55 seconds East 147.48; thence North 88 degrees 09 minutes 44 seconds East 994.28 feet; thence South 00 degrees 17 minutes 42 seconds East 400.54 feet to the point of beginning.

Tax Parcel No. 004-010-008-16

AND

PARCEL 4:

The Southeast 1/4 of the Southwest 1/4, Section 10, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan.

Tax Parcel No. 004-010-019-00

AND

PARCEL 5:

The Southwest 1/4 of the Southeast 1/4 of Section 10, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan.

Tax Parcel No. 004-010-020-00

AND

PARCEL 6:

The Southeast 1/4 of the Southeast 1/4, Section 10, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan.

Tax Parcel No. 004-010-021-00

AND

PARCEL 9:

The Northwest 1/4 of the Northwest 1/4 of Section 14, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan.

Tax Parcel No. 004-014-014-00

AND

PARCEL 10:

The Southwest 1/4 of the Northwest 1/4 of Section 14, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan.

Tax Parcel No. 004-014-015-00

AND

PARCEL 11:

The North 1/2 of the Northeast 1/4 of Section 15, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan.

Tax Parcel No. 004-015-001-00

AND

PARCEL 12:

That part of the Northeast 1/4 of the Northwest 1/4 of Section 15, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan, described as commencing at the North 1/4 corner of said Section 15; thence South 00 degrees 21 minutes 10 seconds East along the North-South 1/4 line of said Section 446.43 feet to the Point of Beginning; thence continuing South 00 degrees 21 minutes 10 seconds East along said North-South 1/4 line, 594.45 feet to the centerline of Rapid River, said point being South 00 degrees 21 minutes 13 seconds East 126.24 feet from a set iron, also being North 89 degrees 54 minutes 11 seconds East 70.19 feet from a set iron, also being North 00 degrees 21 minutes 10 seconds West 84.39 feet from a set iron; thence South 89 degrees 54 minutes 11 seconds West parallel with the North 1/8 line of said Section, 757.35 feet to the centerline of Glade Valley Road; thence South 21 degrees 01 minutes 15 seconds West along said centerline 293.66 feet to the North 1/8 line of said Section 15; thence South 89 degrees 54 minutes 11 seconds West along said North 1/8 line, 99.18 feet to the centerline of Valley Road; thence North 63 degrees 29 minutes 42 seconds West along said centerline, 408.20 feet to the West 1/8 line of said Section 15; thence North 00 degrees 30 minutes 21 seconds West along said West 1/8 line, 37.04 feet to the

Northerly Right-of-way of Valley Road; thence South 63 degrees 29 minutes 42 seconds East along said Right-of-way, 125.00 feet; thence North 00 degrees 30 minutes 21 seconds West 200.00 feet; thence North 63 degrees 29 minutes 42 seconds West 125.00 feet to said West 1/8 line; thence North 00 degrees 30 minutes 21 seconds West along said West 1/8 line 902.36 feet to the North line of said Section 15; thence South 89 degrees 46 minutes 48 seconds East along said North line 779.72 feet to the centerline of Rapid River, said point being South 89 degrees 46 minutes 48 seconds East 58.45 feet from a set iron and North 89 degrees 46 minutes 48 seconds West 62.50 feet from a set iron; thence South 15 degrees 27 minutes 45 seconds East along said centerline of river, 140.41 feet to a point which is West 31.00 feet from a set iron; thence South 18 degrees 09 minutes 02 seconds East along said river centerline 368.63 feet to the centerline of an existing bridge also being the centerline of Glade Valley Road; thence North 78 degrees 08 minutes 45 seconds East along said road centerline 76.44 feet; thence North 54 degrees 31 minutes 26 seconds East along said road centerline 38.81 feet; thence South 89 degrees 46 minutes 51 seconds East 295.16 feet to the said Point of Beginning;

EXCEPT:

Commencing at the Northwest corner of Section 15, Town 28 North, Range 8 West, Clearwater Township, Kalkaska County, Michigan; thence South 89 degrees 46 minutes 48 seconds East 1330.82 feet along the North line of said Section 15; thence South 00 degrees 30 minutes 21 seconds East 885.52 feet along the 1/8 line of said Section 15 to a point 216.84 feet North from the Northerly right-of-way of Valley Road; thence South 63 degrees 29 minutes 42 seconds East 141.84 feet parallel with the Northerly right-of-way of Valley Road; thence South 00 degrees 30 minutes 21 seconds East 216.84 feet parallel with the 1/8 line; thence North 63 degrees 29 minutes 42 seconds West 16.84 feet along the Northerly right-of-way of Valley Road; thence North 00 degrees 30 minutes 21 seconds West 200.00 feet parallel with the 1/8 line; thence North 63 degrees 29 minutes 42 seconds West 125.00 feet parallel with the Northerly right-of-way of Valley Road; thence North 00 degrees 30 minutes 21 seconds West 16.84 feet along the 1/8 line to the Point of Beginning, being a part of the Northeast 1/4 of the Northwest 1/4 of said Section 15, Town 28 North, Range 8 West.

Tax Parcel No. 004-015-009-10

AND

That part of the Northeast 1/4 of the Northwest 1/4 of Section 15, T28H-R8W described as a 66 foot wide easement, the centerline of which is described as being a strip of land 66 feet in width, lying 66 feet on each side of and adjacent to a line described as commencing at the North 1/4 corner of said section 15; thence S25° 58' W, 335.19 feet; thence S40° 38' 32" W, 17.95 feet to the centerline of Glade Valley Road and the Point of Beginning; thence continuing S40° 38' 32" W along said centerline, 118.50 feet; thence S54° 31' 26" W along said centerline, 108.47 feet; thence 78° 08' 45" W along said centerline, 101.21 feet; thence 42° 15' 58" W along said centerline, 237.66 feet; thence S29° 55' 26" W along said centerline, 127.27 feet; thence S14° 13' 10" W along said centerline, 84.05 feet; thence S25° 01' 57" W along said centerline, 89.05 feet; thence S21° 01' 15" W along said centerline, 405.07 feet to the North 1/8 line of said section 15; thence continuing S21° 01' 15" W along said centerline, 11.47 feet to the Northerly right-of-way line of Valley Road and the Point of Ending. Containing 0.26 miles of centerline or 1372.8 feet. SUBJECT TO easements and restrictions of record.

Tax Parcel No. 004-015-009-30

Exhibit "B"

