

7M 5149670C

Recording requested by and
when recorded, return to:
Bank of America Nevada
Commercial Loan Service Center
P.O. Box 20000
Reno, Nevada 89520
Attn: #8906 Trudy

**AMENDMENT TO DEED OF TRUST
AND ASSIGNMENT OF RENTS**

THIS AMENDMENT TO DEED OF TRUST AND ASSIGNMENT OF RENTS (hereinafter called "Amendment") is made as of November 4, 1993 by and among TOPAZ LODGE, INC., a Nevada corporation, whose address is P.O. Box 187, Gardnerville, Nevada 89410 ("Trustor") and BANK OF AMERICA NEVADA, a Nevada banking corporation, formerly known as Valley Bank of Nevada, successor by merger to Security Pacific Bank Nevada, whose address is P.O. Box 20000, Reno, Nevada 89520 ("Beneficiary"), with reference to the following facts and purposes:

RECITALS

A. Topaz Lodge Enterprises, a general partnership ("Original Trustor") executed and delivered to Western Title Company, Inc. as trustee, for the benefit of Beneficiary, a Deed of Trust and Security Agreement and Fixture Filing with Assignment of Rents dated April 1, 1992 ("Deed of Trust"), affecting the real property described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property") which Deed of Trust was recorded April 3, 1992, in Book 492, pages 707-733, as Instrument No. 275019 in the official records of Douglas County, Nevada, together with a separate Assignment of Leases and Rents dated April 1, 1992 ("Assignment of Rents"), also affecting the Property, which Assignment of Rents was recorded April 3, 1992 in Book 492, pages 742-752, as Instrument No. 275021, in the official records of Douglas County, Nevada.

B. The Deed of Trust and Assignment of Rents secured the obligations of Original Trustor under (i) that certain Promissory Note dated as of April 1, 1992, executed by Original Trustor to the order of Beneficiary ("Original Note") and (ii) that certain Loan Agreement dated as of April 1, 1992 executed by Original Trustor and Beneficiary ("Loan Agreement").

C. Original Trustor has transferred the Property to Trustor, and Original Trustor, Trustor, and Beneficiary have executed that certain Assumption and Modification Agreement, Consent to Transfer, of even date herewith ("Assumption") amending and modifying the terms of the Original Note and Loan Agreement, and providing for the Assumption of all the obligations of Original Trustor under the Original Note, Loan Agreement, Assignment and Deed of Trust by Trustor.

D. The parties hereto desire to execute, deliver and record this Amendment to reflect the Assumption.

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WITNESSETH:

NOW THEREFORE, in consideration of the foregoing recitals, the Trustor and the Beneficiary hereby agree as follows:

1. Deed of Trust. With reference to the Deed of Trust:

(a) The Assumption constitutes an assumption by Trustor of all obligations of Original Trustor under the Original Note, Loan Agreement and Deed of Trust, and as such, all references to the defined term "Trustor" shall include and refer to the Trustor.

(b) Trustor and Beneficiary jointly affirm, reaffirm and agree that the Deed of Trust secures the full performance of each and every obligation secured by the Deed of Trust, including the Assumption, and continues to be effective as, and to constitute, a lien and charge on the Property to the full extent of all obligations secured thereby.

(c) This Amendment shall not prejudice any present or future rights, remedies, benefits or powers belonging or accruing to Beneficiary or Trustee under the terms of the Deed of Trust, and without limitation of the foregoing, Beneficiary reserves all rights which it has against any guarantor, co-signer or endorser of the Original Note.

(d) In the event of any conflict between the terms of the Deed of Trust and the provisions of this Amendment, the terms of this Amendment shall control. This Amendment shall be deemed to form a part of the Deed of Trust, and except as specifically supplemented herein, the terms of the Deed of Trust shall remain unaffected and unchanged by reason of this Amendment.

2. Assignment of Rents. With reference to the Assignment of Rents:

(a) The Assumption constitutes an assumption by Trustor of all obligations of Original Trustor under the Original Note, Loan Agreement and Assignment of Rents, and as such, all references to the defined term "Assignor" shall include and refer to the Trustor.

(b) Trustor and Beneficiary jointly affirm, reaffirm and agree that the Assignment of Rents secures the full performance of each and every obligation secured by the Assignment of Rents, including the Assumption, and continues to be effective as, and do constitute, a lien and charge in the Property to the full extent of all obligations secured thereby.

(c) This Amendment shall not prejudice any present or future rights, remedies, benefits or powers belonging or accruing to Beneficiary under the terms of the Assignment of Rents, and without limitation of the foregoing, Beneficiary reserves all rights which it has against any guarantor, co-signer or endorser of the Original Note.

(d) In the event of any conflict between the terms of the Assignment of Rents and the provisions of this Amendment, the terms of this Amendment shall control. This Amendment shall be deemed to form a part of the Assignment of Rents, and except as specifically supplemented herein, the terms of the Assignment of Rents shall remain unaffected and unchanged by reason of this Amendment.

3. Further Assurances.

(a) At its sole cost and without expense to the Trustee or the Beneficiary, Trustor shall do, execute, acknowledge and deliver any and all such further acts, deeds, conveyances, notices, requests for notices, financing statements, continuation statements, certificates, assignments, notices of assignments, agreements, instruments and further assurances as the Trustee or the Beneficiary shall from time to time require, for the better assuring, conveying, assigning, transferring, confirming and perfecting unto the Trustee and the Beneficiary the property and rights conveyed or assigned by the Deed of Trust, as supplemented hereby, or which the Trustor may be or may hereafter become bound to convey or assign to the Trustee or Beneficiary, or for carrying out the intention or facilitating the performance of the terms of the Deed of Trust, as supplemented hereby.

(b) Trustor shall forthwith upon the execution and delivery of this Amendment and thereafter from time to time, cause this Amendment and each instrument of further assurance to be filed, registered, recorded, given or delivered in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien of the Deed of Trust, as amended hereby upon, and the title of the Trustee and/or the Beneficiary to, THE PROPERTY, and/or leases, rents, income and profits.

4. Heirs, Successors and Assigns. All covenants and agreement contained in this Amendment, by or on behalf of Trustor or Beneficiary shall bind and insure to the benefit of their respective heirs, successors and assigns, whether so expressed or not.

5. Headings. The headings of the articles, sections, paragraphs and subdivisions of this Amendment are for convenience of reference only, are not to be considered a part hereof, and shall not limit or expand or otherwise affect any of the terms hereof.

6. Invalid Provisions to Affect No Others. In the event that any of the covenants, agreements, terms or provisions contained in the Assumption, this Amendment or in any related agreement shall be invalid, illegal or unenforceable in any respect, the validity of the lien hereof and the remaining covenants, agreements, terms or provisions contained herein or in the Assumption or in any related document shall be in no way affected, prejudiced or disturbed thereby. To the extent permitted by law, Trustor waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

7. **Changes and Priority Over Intervening Liens.** As set forth in the Deed of Trust and Assumption, this Amendment shall be and remain superior to the rights of the holder of any subordinate lien or encumbrance.

8. **Governing Law.** This Amendment is made by Trustor and accepted by Beneficiary in the State of Nevada, under the laws of such state and shall be construed, interpreted, enforced and governed by and in accordance with the laws of such state.


9. **Context.** In this Amendment, whenever the context so requires, the neuter includes the masculine and feminine, and the singular including the plural, and vice versa.

10. **Interpretation.** As used in this Amendment unless the context clearly requires otherwise: The terms "herein" or "hereunder" and similar terms without reference to a particular paragraph shall refer to the entire Amendment and not just to the paragraph in which such terms appear; the term "lien" shall also mean a security interest, and the term "security interest" shall also mean a lien.


IN WITNESS WHEREOF, Trustor and Beneficiary have executed this Amendment the day and year first above written.

"TRUSTOR"

TOPAZ LODGE, INC., a Nevada corporation

By: 
Roger H. Elton

Its: President

By: 
James J. Page, Jr.

Its: Secretary

"BENEFICIARY"

BANK OF AMERICA NEVADA, a Nevada banking corporation fka Valley Bank of Nevada, successor by merger to Security Pacific Bank Nevada

By: 
Russell J. Browne

Its: Vice President

STATE OF NEVADA)
)
COUNTY OF WASHOE)

SS:

On Nov 5, 19 93, personally appeared before me, Dorothy Hooper, a notary public, duly commissioned and sworn, Roger H. Elton and James J. Page, Jr., personally known or proven to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the foregoing instrument.

Dorothy Hooper

Notary Public
D. HOOPER
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES FEB. 21, 1994

STATE OF NEVADA)
)
COUNTY OF WASHOE)

SS:

On November 10, 19 93, personally appeared before me, Kathy E. Waters, a notary public, duly commissioned and sworn, Russell J. Browne, personally known or proven to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the foregoing instrument.

Kathy E. Waters

Notary Public

NOTARY PUBLIC
STATE OF NEVADA
County of Washoe
Kathy E. Waters
My Appointment Expires Feb. 26, 1995

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Exhibit "A"

PARCEL 1

All that certain lot, piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

Lots 120, 121, 122, 123, 152, 153 and 154, as shown on the map of TOPAZ SUBDIVISION, filed in the office of the County Recorder of Douglas County, Nevada, on August 10, 1954, as File No. 9774.

TOGETHER WITH that real property lying and being in Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, State of Nevada, and more particularly described as follows:

Commencing at a point on the Northwest corner of Lot 123 of the Topaz Subdivision as recorded August 10, 1954, in the Official Records of Douglas County, Nevada, said point being the TRUE POINT OF BEGINNING; thence West, a distance of 60.00 feet; thence South $00^{\circ}04'$ West, a distance of 420.00 feet thence East, a distance of 60.00 feet to the Southwest corner of Lot 120 of aforesaid subdivision; thence North $00^{\circ}04'$ East, a distance of 420.00 feet to the True Point of Beginning.

ALSO TOGETHER WITH all that certain piece or parcel of land situated in the Southwest Quarter of Section 29, Township 10, North, Range 22 East, M.D.B. & M., County of Douglas, State of Nevada, described as follows:

Beginning at the intersection of the West line of Genoa Street and the South line of Topaz Subdivision, as shown on the map thereof, filed in the office of the County Recorder of Douglas County, Nevada, on August 10, 1954; thence North $0^{\circ}04'$ East along said West line of Genoa Street, a distance of 154.86 feet to the true point of beginning; thence continuing North $0^{\circ}04'$ East 265.14 feet to the South line of Kit Carson Avenue, as shown on the map of Topaz Subdivision; thence West 385.87 feet to a point on the Easterly right of way curve of U.S. Highway 395 as described in the conveyance to the State of Nevada, recorded August 31, 1948, in Book Y of Deeds at Page 474, Douglas County, Nevada, records; thence Southeasterly along a curve having a radius of 4575 feet subtending a central angle of $3^{\circ}28'38''$ an arc distance of 277.71 feet to a point; thence leaving said right of way line, East a distance of 303.29 feet to the true point of beginning.

All that certain piece or parcel situate in the Southwest Quarter of Section 29, Township 10 North, Range 22, East, M.D.B. & M., described as follows:

Beginning at a 7/8 inch iron bar at the intersection of the West line of Genoa Street and the South line of Topaz Subdivision, as shown on the map of said subdivision, filed in the Office of the County Recorder of Douglas County, Nevada, on August 10, 1954, under Document No. 9774, Douglas County, Nevada, Records; thence from the point of beginning North $0^{\circ}04'$ East along the West line of Genoa Street a distance of 154.86 feet to a 7/8 inch iron bar, thence West 303.29 feet, to a point in the Easterly Right of Way line of U.S. Highway 395, as described in the conveyance to the State of Nevada, recorded August 31, 1948, in Book Y of Deeds at Page 473, Douglas County, Nevada records, thence along said highway right of way line along a curve to the right having

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a radius of 4575 feet, through an angle of $2^{\circ}00'12''$, for an arc distance of 160.00 feet, to the intersection thereof, with the North line of the parcel conveyed to the M.K. & D. Company, recorded April 1, 1955 in Book B-1 of Deeds at Page 316, Douglas County, Nevada, Records; thence East along the line common to said M.K. & D. Company parcel a distance of 263.06 feet to the point of beginning.

ALSO TOGETHER WITH all that certain piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

A parcel of land being a portion of the Northwest 1/4 of the Southwest 1/4 of Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, Nevada and more particularly described as follows:

COMMENCING at the Southwest corner of Lot 152, TOPAZ SUBDIVISION, filed in the Douglas County Recorder's Office on August 10, 1954, thence West a distance of 60 feet to the true point of beginning;

Thence continuing West a distance of 406.39 feet more or less, to a point in the curve of the Easterly right of way line of U.S. Highway 395, and thence a Radial bearing South $70^{\circ}20'59''$ West, thence Northerly along said right of way line through a curve whose central angle is $3^{\circ}45'26''$ having a radius of 4574.00 feet, an arc length of 300.00 feet to a point; thence South $89^{\circ}57'00''$ East, a distance of 516.88 feet to a point in the Westerly line of Genoa Street. (60 feet in width) thence South $0^{\circ}04'00''$ West along said Westerly line, a distance of 288.50 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH all that real property lying and being in the Southwest 1/4 of Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, State of Nevada, and more particularly described as follows:

Commencing at the Southwest corner of Lot 152 of the Topaz Subdivision (as recorded August 10, 1954) thence West 60.00 feet to the TRUE POINT OF BEGINNING; thence West, a distance of 406.39 feet more or less to a point on the Easterly right-of-way of U.S. Highway 395; thence in a generally Southerly direction along the Easterly right-of-way of U.S. Highway 395 to the Northwest corner of that certain parcel of land as defined on page 4 of Exhibit A as recorded in Book 784 at page 138 of County Records, said point being further defined as lying on the South right-of-way line of Kit Carson Avenue per aforesaid subdivision; thence East, a distance of 385.87 feet more or less to the Southwest corner of Kit Carson Avenue with Genoa Street per aforesaid Subdivision; thence North $00^{\circ}04'$ East, a distance of 60.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH commencing at a point on the Northeast corner of that certain parcel of land as defined in Book 1084 at page 2650 of County Records, said point being the TRUE POINT OF BEGINNING; thence East, 60.00 feet, to the Easterly right-of-way line of Genoa Street as shown on the Topaz Subdivision (as recorded August 10, 1954): thence South $00^{\circ}04'$ West along the Easterly right-of-way line of Genoa Street to the Southwest corner of Lot 152 of the aforesaid Topaz Subdivision; thence East 200 feet to the Southeast corner of aforesaid Lot 152; thence South $00^{\circ}04'$ West, 60 feet to the Northeast corner of Lot 123 of the aforesaid Topaz Subdivision; thence West along the Southerly right-of-way line of Kit Carson Avenue to the Southwest corner at the intersection of Kit Carson Avenue with Genoa Street; thence North $00^{\circ}04'$ East along the Westerly right-of-way of Genoa Street to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM a general Public Utility Easement being a strip of land, ten (10) feet in width, (measured at right angles) lying five (5) feet on both sides of the following described centerline being in portions of the former Kit Carson Avenue right-of-way as

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shown on the Topaz Subdivision (as recorded August 10, 1954); and being more particularly described as follows:

SECTION 1:

Beginning at the Northeast corner of Lot 123 of said Topaz Subdivision; thence North $0^{\circ}04'00''$ East, 5.00 feet to the TRUE POINT OF BEGINNING; thence North $89^{\circ}59'04''$ West, 524.00 feet to an angle point in said centerline; thence South $55^{\circ}14'05''$ West, 5 feet to the end thereof.

SECTION 2:

Beginning at the angle point in the above-described Section 1; thence North $89^{\circ}59'04''$ West, 22.00 feet to the end thereof.

A.P.N. 39-121-08

PARCEL 2

All that certain piece or parcel of land situate in the County of Douglas, State of Nevada, and being a portion of the South 1/2 of the Southwest 1/4 of Section 29, Township 10 North, Range 22 East, M.D.B. & M., more particularly described as follows:

Commencing at the Northwest corner of Lot 20, as shown on the amended map of Topaz Lodge Subdivision filed in the Office of the County Recorder, Douglas County, Nevada, on September 16, 1958, and whose file number is 13594; thence West a distance of 579.13 feet to a point of the Easterly right of way line of Highway No. 395, said point being the true point of beginning; thence East a distance of 519.13 feet to a point on the Westerly right of way line of Eureka street; thence South a distance of 300.00 feet along the Westerly right of way line of Eureka Street to a point; thence West to a point on the Easterly right of way line of Highway No. 395 to a point; thence Northwesterly along the Easterly right of way line of Highway No. 395 to the true point of beginning.

Excepting therefrom that portion conveyed to the State of Nevada for Highway purposes.

TOGETHER WITH a parcel of land on the East side of U.S. Highway 395, occupied by the Topaz Lodge and being in the South 1/2 of the Southwest 1/4 of Section 29, Township 10 North, Range 22 East, M.D.B. & M. in Douglas County, Nevada, more fully described as follows:

BEGINNING at a point which the 1/4 corner on the South boundary of said Section 29 lies East 1070.00 feet and South 225 feet; thence West parallel to the South line of Section 29, 416.84 feet to a point on the East right of way line of Highway 395; thence following the said right of way line Northerly on a curve to the left with a radius of 4,575 feet from a tangent bearing to the left with a radius of 4,575 feet from a tangent East 519.13 feet; thence South 600 feet to the Point of Beginning.

EXCEPTING THEREFROM all that certain lot, piece of parcel of land situate in the County of Douglas, State of Nevada, bounded and described as follows:

COMMENCING at the Northwest corner of Lot 20, as shown on the amended map of Topaz Lodge Subdivision filed in the Office of the County Recorder, Douglas County, Nevada, on September 16, 1958, and whose file number is 13594; thence West a distance of 579.13 feet to a point on the Easterly right of way line of Highway No. 395, said point being the true point of beginning; thence East a distance of 519.13 feet to a point on the Westerly right of way line of Eureka Street; thence South a distance of 300.00 feet along the Westerly

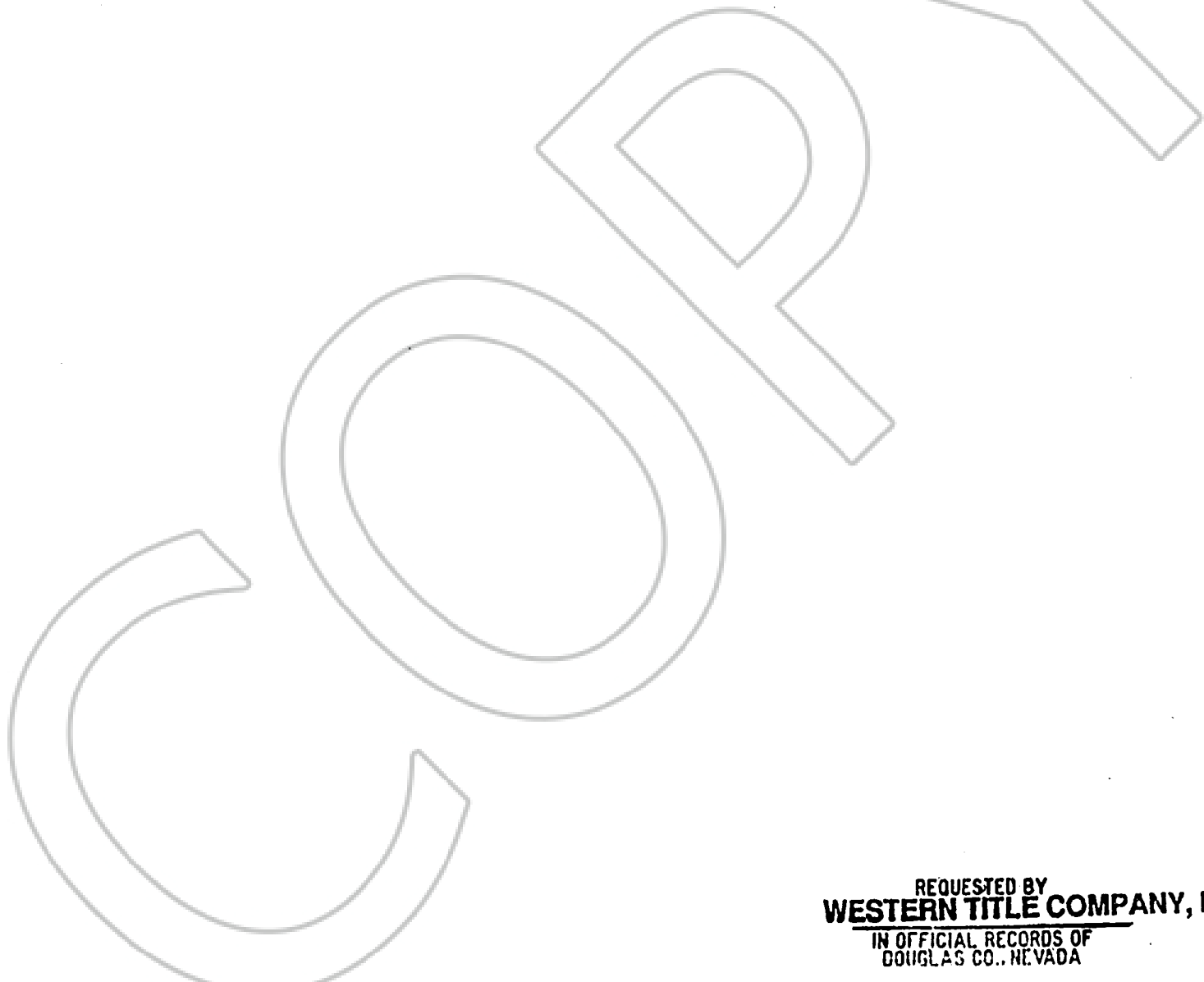
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right of way line of Eureka Street to a point; thence West to a point; thence
Northwesterly along the Easterly right of way line of Highway 395 to the true point of
beginning.

The above excepted parcel was conveyed to Harold L. Roberts and Lois Roberts, his wife, by
Topaz Lodge, Inc., a Nevada corporation, in Deed dated November 8, 1966, recorded January
17, 1967, in Book 47, Page 218, as File No. 35177, Official Records of Douglas County,
Nevada.

A.P.N. 39-142-11



REQUESTED BY
WESTERN TITLE COMPANY, INC.
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

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SUZANNE BEAUDREAU
RECORDER

\$ 15.00 PAID K2 DEPUTY