

36

Assessor's Parcel Number: 1220-09-201-001

Recording Requested By:

Name: Gardneville Ranchos GTO

Address: 931 Mitch Dr

City/State/Zip Gardneville, NV 89460

Real Property Transfer Tax: \_\_\_\_\_

DOC # 0641501  
 04/12/2005 01:14 PM Deputy: BC  
**OFFICIAL RECORD**  
 Requested By:  
 GARDNERVILLE RANCHOS GEN IMP  
 DIST  
 Douglas County - NV  
 Werner Christen - Recorder  
 Page: 1 of 23 Fee: 36.00  
 BK-0405 PG- 4462 RPTT: 0.00



Agreement  
 (Title of Document)

This page added to provide additional information required by NRS 111.312 Sections 1-2. (Additional recording fee applies)

*This cover page must be typed or legibly hand printed.*

ANNEXATION AGREEMENT  
GARDNERVILLE RANCHOS GENERAL IMPROVEMENT DISTRICT

A POLITICAL SUBDIVISION OF THE COUNTY OF DOUGLAS,

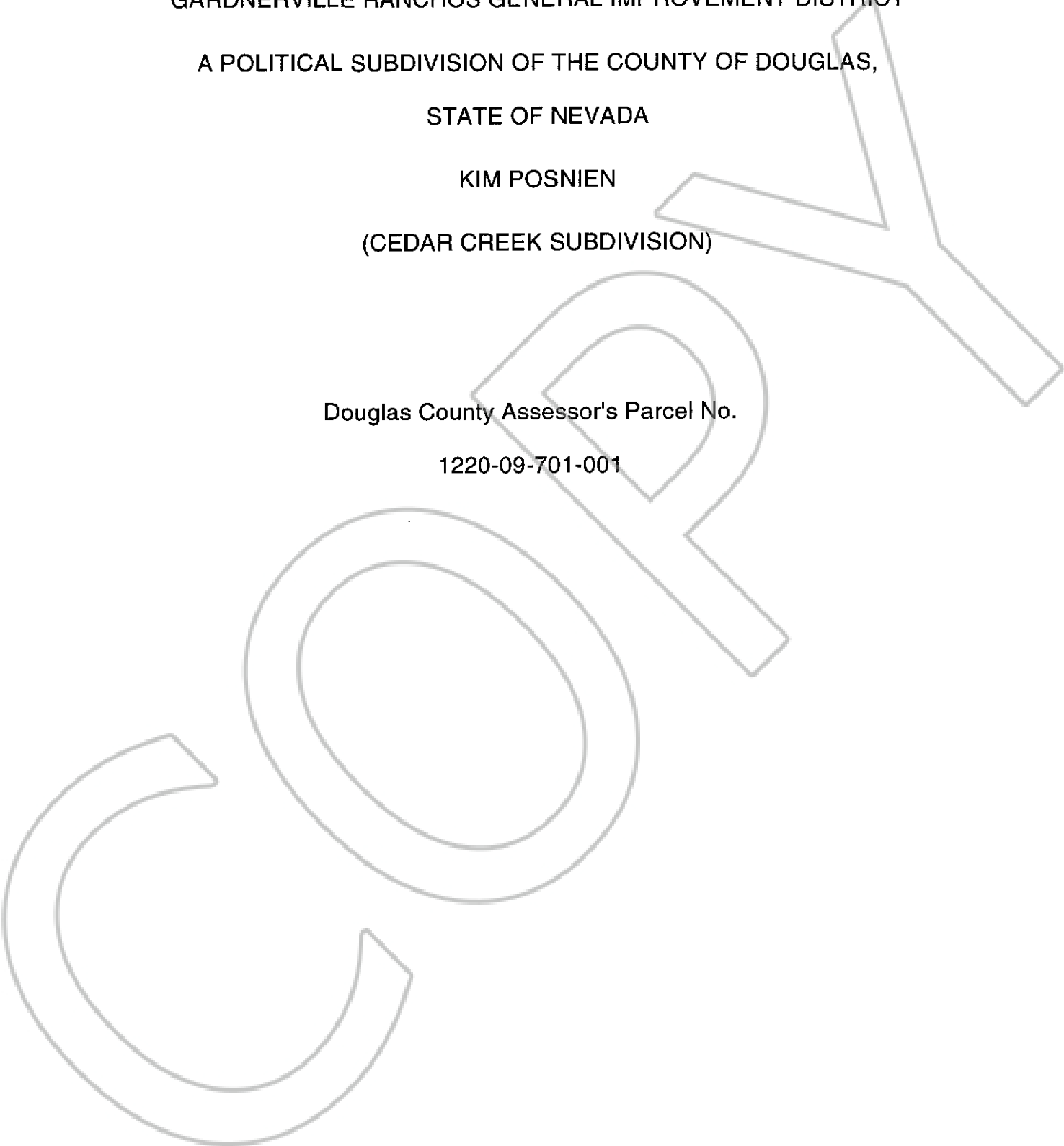
STATE OF NEVADA

KIM POSNIEN

(CEDAR CREEK SUBDIVISION)

Douglas County Assessor's Parcel No.

1220-09-701-001



0641501

Page: 2 of 23

04/12/2005

BK- 0405  
PG- 4463

## ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT ("Agreement") is made and entered into this 2nd Day of March 2005, by and between the Gardnerville Ranchos General Improvement District ("District" or "GRGID"), by and through its Chairman of the Board of Trustees ("Board"), a political subdivision of the County of Douglas, State of Nevada, and Kim Posnien, hereinafter referred to as "Petitioner" or "Posnien," and hereby agree to the annexation of Petitioner's land into the District as follows:

### WITNESSETH

**WHEREAS**, Petitioner petitioned for the inclusion of real property into the District by proper petition submitted to the District and dated October 27, 2004. At the regular general business meeting of the Board and the District on December 1, 2004, the District approved of the annexation, or inclusion, of Petitioner's real property subject to conditions; and

**WHEREAS**, a condition of approval at the December 1, 2004, Board meeting was that an annexation agreement be prepared to encompass the entire area of Petitioner's property to set forth the terms, conditions, provisions and approvals of annexation of Petitioner's property and its inclusion into the District; and

**WHEREAS**, the District and the Petitioner desire to hereinafter refer to this Agreement as containing the provisions of the annexation of Petitioner's property into the District, and this Agreement is intended to govern the developmental activities of the Petitioner's property in the future.

**NOW, THEREFORE**, for and in consideration of the above-stated recitals, and the District's and Petitioner's compliance with each term and provision of this Agreement, and for other good and valuable consideration including the mutual



covenants and promises set forth hereinafter, the parties do hereby agree as follows:

**1. Property Annexed.**

The real property to be annexed into the District, and included into the District upon the due and proper execution of this Agreement and the recordation of an Order of Annexation, is that property which is identified and described in that legal description attached hereto as Exhibit "A" and incorporated herein as if set forth in full. Hereinafter, the property that is annexed into the District, and included by order of the Board, shall be referred to as "the Property".

The Property, described in Exhibit "A" hereto, is annexed into the District subject to the District's Policies and Procedures Manual ("Manual"), as in effect at the time the parties execute this Agreement, and as amended from time to time. Petitioner and the District agree that the District's Manual, including without limitation, "Appendix E - Procedures for Annexation", shall govern the annexation of the property into the District.

**2. Water Rights.**

A. The District acknowledges that it has sufficient underground water rights to serve the proposed development and commits that such water rights are available for sale to Petitioner to serve the Property that is planned to include not more than 67 single-family residences, one (1) community clubhouse and ancillary landscaping improvements, hereinafter "Project." The total estimated annual water right requirement for the Project, including attendant landscaping has been calculated to be 77 acre-feet. Except as provided in this Section, Petitioner agrees to pay the District a sum of \$3,000 per acre-foot of water rights as full compensation and payment for the water rights and that such payment will satisfy the District's general condition of annexation requiring an applicant to supply a sufficient quantity of water rights to the District for the anticipated number of homes and landscaping improvements.



B. Petitioner and the District agree that payment for these water rights shall be made as follows: the entire sum \$231,000 (77 acre-feet x \$3,000/acre-feet) shall be paid to the District by the Petitioner on or before the time of District's approval of improvement plans for Phase I.

C. If Petitioner elects to purchase water rights from the District as provided in Section 2A above, the District shall prepare, execute and record a water right grant deed transferring the full duty of water rights purchased by the Petitioner to the Petitioner and do so within 30 days of written notice to the District by the Petitioner of their intention to purchase water rights from the District. The Petitioner will then prepare and file the requisite Report of Conveyance documenting this ownership change and prepare and file the applications to change both the point of diversion and place of use with the Office of the State Engineer as otherwise provided in this Section 2.

D. In the instance that Petitioner elects to purchase water rights from the District and so receives the recorded water right grant deed as noted in Section 2B, the Petitioner shall, prior to recordation of the Phase 1 final map, prepare, execute and record a water right grant deed in favor of the District transferring the water rights with their new Permit Nos. as issued by the State Engineer back to the District to support the Project. The District shall then be responsible to prepare and file a Report of Conveyance documenting this ownership change with the Office of the State Engineer.

E. Alternatively and in lieu of purchasing water rights from the District, Petitioner, at its sole discretion and election, may purchase and provide to the District underground, non-supplemental water rights from a non-District source. Water rights acquired from a non-District source shall be dedicated by a water right grant deed to the District prior to the recordation of the first phase final subdivision map. In this instance the Petitioner will be responsible to prepare and file a Report of Conveyance documenting this ownership change with the Office of the State Engineer.



F. Should Petitioner seek to develop the property at a greater density than 67 single-family residences, Petitioner shall be required to apply to, and receive approval of, the board of trustees. If such approval is given, an amended annexation agreement will be entered into by the District and Petitioner, to memorialize the District's approval and the conditions that must be met by the Petitioner in consideration of such approval.

G. Petitioner shall be fully responsible for all costs and fees, including retaining a licensed water-right surveyor, for preparing and filing the requisite water-right applications, whether temporary or permanent, necessary to support the change of point of diversion and place of use of the water rights necessary and dedicated to serve the Project from the well constructed by Petitioner. The District agrees to cooperate with the Petitioner in its water right permitting efforts by providing supplemental information currently available to the District. In addition, the District will from time to time, as necessary, prepare will-serve letters acknowledging the District's commitment to serve water for the Project.

H. In the instance that the District elects to participate with the Petitioner in equipping the municipal well to a capacity greater than the Project's requirements, as set forth in Section 3 of this Agreement, the Petitioner shall first file an application to change the point of diversion and place of use of the 77 acre-feet of water required to serve the Project, and the Petitioner shall be responsible for any and all costs thereof. Subsequent to the approval of the Petitioner's application, the District shall file an application to change the point of diversion and place of use of such additional water rights as the District desires to place in the same well, and the District shall be responsible for any and all costs to prepare and file the requisite water right applications to change the point of diversion and place of use of the additional increment of water rights to the site of the municipal well.

I. Petitioner acknowledges that the District has no ability to control and govern the actions of the State Engineer with regard to the water right application and permitting process. Accordingly, Petitioner agrees to hold harmless the District



from any and all losses Petitioner may experience or consequential damages Petitioner may incur that may be caused by any decision of the State Engineer's Office on Petitioner's water right applications.

### **3. Water Production and Water Quality--Municipal Well(s)**

A. Except as otherwise agreed to in the Annexation Agreement, Petitioner shall be wholly responsible for designing, drilling and constructing a municipal well or wells of sufficient pumping capacity and water quality to serve the Property or provide sufficient pumping capacity and water quality from other means as conceptually approved by the District. Other means may include, but shall not be limited to, partnering with another annexed property to oversize their well, and cooperatively work with the District to improve the pumping capacity or the efficiency of the District's current wells, etc. If Petitioner intends to pursue any method other than a new well, Petitioner shall fully disclose its intent to the District in writing and acquire the District's written approval. For the purpose of this Agreement, the total estimated peak day demand for the proposed 67 single-family residences and clubhouse, including landscaping demands, is approximately 170 gallons per minute.

B. The required well or wells shall be designed, constructed and equipped with the equivalent equipment and improvements necessary to provide water service to the real property annexed into the District as now utilized by the District in Well 2A and in conformance with standards of American Water Works Association, AWWA A100, Nevada Revised Statutes Chapter 534 and the adopted regulations of the Nevada Department of Health. If, at the time of construction of the well, the District requests that additional equipment and improvements be added to that equipment and those improvements necessary for construction of a well to serve the annexed property, the District shall pay the cost of such additional equipment and improvements.

C. Upon approval by the State Engineer of the water-right permits, unless otherwise agreed in writing between the parties, the Petitioner shall proceed with diligence to drill and construct the well on the Petitioner provided site. The well shall



be drilled and cased to a depth not less than 400-feet below the existing ground surface and shall have a minimum casing diameter (OD) of not less than 12-inches.

D. Upon recordation of the final subdivision map phase that immediately follows completion of the well, the Petitioner shall deed the well site to the District. The well site shall be not less than 50-feet wide and 75-feet deep with direct access from a public street and easements as required for the well house operations, such as discharge-to-waste infrastructure.

E. Immediately upon completion of the well drilling and casing operations the Petitioner shall cause the well to be fully developed, chlorinated, shall obtain water-quality samples for testing and cause those samples to be tested for compliance with current Federal and State Drinking Water Standards. The District is under no obligation, financially or otherwise, to accept a well whose water quality does not meet the current Federal and State water-quality standards.

F. Well development shall at a minimum include test pumping by a constant-rate pump test and a step-drawdown test of appropriate increments. The combined total duration of the well development and pump testing shall not be less than 48 hours. During the pump testing of the well, as a minimum, Petitioner shall be responsible to collect draw down data from the Sunshine and Rainbows Day Care Center and the Haase Ranch properties, as well as the District's Well 6 and any other domestic well located within 2,000 feet of the test site. Petitioner shall provide to the District for its review and comment the following data obtained during drilling operations; well log data at each 5-foot interval and each change in lithology, E-log, and sieve analysis for preliminary screened zones. This data and a preliminary well design shall be provided to the District for review and acceptance prior to final well development. The District's review and acceptance of this data and the preliminary well design shall be completed and returned to the Petitioner by the District within 48 hours.

G. Notwithstanding the foregoing paragraph, within 60 days of completion of the well development and testing activity, the Petitioner shall submit the pump





test, drawdown and water quality test results to the District for their review and consideration. The District's review shall be for the purpose of ensuring that the improvements necessary to provide water for the annexed property have been constructed to the standards set forth in subparagraph B, above, and for the purpose of ensuring that any added equipment and improvements above that necessary to provide water to the annexed property, requested and paid for by GRGID, have been constructed.

Except for additional equipment and improvements requested by the District to be constructed or installed in the well required of the Petitioner, the Petitioner is under no obligation to equip the well to pump more than its requirements to serve the Project, and Petitioner would therefore be fully and solely responsible to equip the well, including well pump, motor, distribution piping, electrical power service, well house (if necessary), stand-by power systems including automatic transfer switch, telemetry control systems and well site improvements including security fencing of the site, as necessary, to deliver the water to the District's existing water system in a manner consistent with the District's standards. Furthermore, the Petitioner will bear any and all costs to restore water service to any residence relying on a domestic well, for which the State Engineer determines that he will not approve the application(s) to change the point of diversion and place of use at the design capacity required by the Petitioner to serve the Petitioner's subdivision unless the Petitioner restores or supplements water service to any affected adjoining residence as determined by the State Engineer during the permitting process.

H. In the instance the District determines to increase the size of the well after its construction and dedication to the District, the District will be solely responsible for the transfer of water rights to the well, the satisfaction of any conditions attendant to the approval of such water right transfer as set forth by the State Engineer, and any costs of construction. Furthermore, the District will bear any and all costs to restore water service to any residents relying on a domestic well for which the State Engineer determines that he will not approve the application (s) to change the point of diversion and place of use at the increased capacity intended



by the District to serve the District's constituents unless the District restores or supplements water service to any affected adjoining residents as determined by the State Engineer during the permitting process.

I. Upon completion of those water facilities necessary to provide water service to the annexed property, the Petitioner shall dedicate them, together with all available warranties, to the District and the District shall accept them for operation and maintenance purposes including any and all future testing and operational costs.

J. Dedication of these water facilities having a total pumping capacity of at least 170 gallons per minute with water quality characteristics that meet the current Federal and State standards shall fully satisfy the District's general condition of annexation requiring an applicant to supply sufficient quantity and quality of water for the Project, and no other requirements for water production capacity shall be imposed.

K. The District acknowledges that it has sufficient water storage capacity to serve the Project and that Petitioner is not responsible to develop any additional water storage capacity.

#### **4. General Conditions.**

A. Petitioner and the District agree that, in addition to other general and specific conditions set forth within this Agreement and in the Manual, except as otherwise set forth in this Agreement, Petitioner shall be required to pay to the District all applicable annexation fees and charges of the District as set forth in the Manual as in effect at the time of development of the Property.

B. Until such time as Petitioner requests the District to review a development proposal, no annexation fees shall be charged to Petitioner. Annexation fees shall be paid only at the time that Petitioner submits a final subdivision map or improvement plans, whichever is first submitted, on all or a part of the property to the District for its review and recommendations, and for the District's approval of the improvement plans for those facilities necessary to provide



the services delegated to the District pursuant to its enabling ordinance. Petitioner agrees to submit all tentative and final map(s) to the District concurrent with submission of such map(s) to Douglas County or any other regulatory agency having jurisdiction over the property.

C. At such time as an application for approval of improvement plan(s) is submitted, Petitioner, or Petitioner's successors-in-interest, shall remit to the District annexation fees in the amount of \$50,789.75 (\$4,015/net acre x 12.65 acres) for the property encompassed within Exhibit "A".

D. Petitioner will submit to the District for its review and recommendations any proposed designs for the development of the property. The District's review shall be of all aspects of the development, including, without limitation, density of development, public facilities, and all aspects of access to the property (including ingress, egress, road width and construction). G.R.G.I.D. and Petitioner agree that the District will review such proposed development pursuant to the then existing requirements set forth in the District's Manual, and Petitioner agrees to comply with all applicable provisions of the District's Manual as in effect at the time of the application for development of the property, or any portion of the Property.

E. Nothing contained within this Agreement shall relieve Petitioner, or its (their) successors-in-interest, from complying with all of the requirements of the District to apply and pay for any other service(s) provided by the District before such service(s) is provided, including, without limitation, streets, sewer, sidewalks, storm drainage and the like.

## **5. Phasing**

A. Petitioner and the District agree that the property included within the District may be developed in a number of separate phases. Any of the tentative or final map phases undertaken by Petitioner, or their successors-in-interest, may proceed concurrently with any other project undertaken by Petitioner, or Petitioner's successors-in-interest, and may proceed concurrently with any other project review and approval to expedite the time frame for approval and recordation. Nothing herein



shall restrict the overlapping of phasing and concurrent development so long as all of the terms of this Agreement are complied with by the Petitioner and the District.

B. Petitioner and the District agree that the Project's initial final subdivision map phase, consisting of not more than 20 single-family lots, may be recorded prior to the municipal well or wells contemplated under Section 3 of this Agreement being completed, or on-line, so long as the other terms of this Agreement are being timely complied with

## **6. Final Map Assurance**

A. After review and recommendations regarding the design elements of the property, and approval of the proposed plans and method for providing District Services to the property by the District, and after review and approval by the Douglas County Community Development Department of the tentative map(s) filed by the Petitioner, the approval of the final map(s) on each phase of the project may require posting a letter-of-credit or other financial assurance with Douglas County to ensure completion of all or any portion of the public improvements within such phase(s) equal to one hundred fifty percent (150%) of the estimated construction costs for such improvement(s). Petitioner agrees that the letter-of-credit or other financial assurance, if any, shall also name the District as a beneficiary of the letter-of-credit or assurance. Any assurance provided shall be periodically reduced in accordance with County and District approval(s) in order that the entire assurance will be exonerated on final completion of improvement construction.

B. Alternatively, Petitioner, at Petitioner's discretion and option, may install any such public improvements within any phase prior to the recordation of that phase's final map in lieu of posting such letter-of-credit or other financial assurance. Public improvements include streets, curbs, sewer systems, water systems, storm drain systems, streetlights, and access roadways, whether the same are dedicated to the District or to Douglas County, as applicable.

## **7. Further Covenants**



0641501

Page: 12 Of 23

BK- 0405  
PG- 4473  
04/12/2005

Upon compliance with all of the District's conditions of approval of the tentative map(s), and upon compliance with those conditions prior to recordation of a final map(s), the District shall not require any further payments, contributions or economic concessions as a condition for subsequent approvals, authorizations or permits contemplated within, or by, this Agreement, other than as provided for herein or in the District's Manual, excepted for taxes, fees or other charges applied on a uniform basis by the District to all similarly situated development projects.

## **8. Service/Improvements**

**A. District Service.** On recordation of a final subdivision map(s), the District shall provide to the property, or the portion of the property, all services typically provided by the District to areas within the District including, but not limited to, water service, sewer service, street maintenance, street lighting and storm water drainage. The District shall provide such services upon satisfactory compliance with all conditions of approval of a tentative map(s) and/or of a final map(s) for all or a portion of the property. Except as otherwise agreed in writing by the Petitioner and the District, Petitioner, or Petitioner's successors-in-interest, shall be responsible for any connection fees (hook-up fees) and for all monthly user fees for any service provided by the District to the property that are in effect at the time that such service(s) is required for the property.

**B. Sewer Capacity.** Petitioner acknowledges that it shall be required to acquire capacity for sewer service from the District. Petitioner also acknowledges that the District must request additional sewer capacity from the Minden-Gardnerville Sanitation District prior to its availability to the Petitioner. Unless Petitioner elects to purchase the sewer capacity necessary to serve all of the annexed property at one time, Petitioner may be delayed in the acquisition of sewer capacity for the annexed property until such time as the District requests such capacity, and such capacity is then approved by MGSD. The Petitioner, or Petitioner's successors-in-interest, shall pay to the District all costs of the acquisition of such sewer capacity, which the District incurs in acquiring capacity for sewer service from the Minden-Gardnerville Sanitation District. As final maps are recorded, Petitioner agrees to acquire capacity as



necessary to serve the lots contemplated for development in the final map(s) for the property. Except as otherwise set forth in this Agreement or as set forth in a subsequent agreement between the Petitioner and the District, the Petitioner will be responsible for and pay all necessary and reasonable capacity charges to the District, connection charges, and any other sewer service fees reasonably required by the Manual at the time of an application for sewer service for each lot, if capacity is reasonably available to the District.

**C. Developer Improvements.** Except as otherwise set forth in this Agreement or as otherwise agreed in writing by the Petitioner and the District, Petitioner shall provide and construct infrastructure for each phase of the project, at its sole expense, and will construct and provide to District standards, and as operational, a water distribution system with improvements including pipelines and valves as necessary to connect into the District's existing system and to provide water service to the property or a portion of the property being developed; a sewer collection system with improvements necessary to connect into the Minden-Gardnerville Sanitation District (MGSD) existing sewer collection system to provide sewer service to the property or a portion of the property being developed; a system of streets constructed to District standards to provide access to and within the property or a portion of the property being developed; satisfactory ingress and egress on such streets or highways as are approved by the District or Douglas County; and a storm sewer/drainage system to District standards, as necessary to provide storm water drainage to the property or a portion of the property being developed. Such developer improvements shall be constructed for each phase of development of the property as reasonably required by Douglas County and by the District. Upon construction to District standards, the District shall accept dedication of and shall maintain all public utility improvements (street system excluded) upon completion, acceptance and delivery of asbuilt or record drawings.

**D. Water Capacity.** Except as otherwise agreed in writing between the District and the Petitioner, the Petitioner shall be required to pay to the District a fixed capacity fee pursuant to the District's Policy and Procedures Manual for each single

family residence prior to the issuance of a building permit by Douglas County through the life of the project as the necessary and reasonable capacity and connection charge and do hereby further agree that such fees shall be paid prior to obtaining a building permit for each respective single-family residence.

### **9. Public Works Construction**

All public works construction within the project shall be performed in accordance with the Standard Specifications and Standard Details for Public Works Construction (Orange Book) as adopted by Douglas County and the District, and all other applicable state and local codes, ordinances and statutes.

### **10. Improvement Plans**

The Petitioner shall provide improvement plans for each phase of the project to the District or its representative(s) for review and approval prior to commencing construction, and Petitioner agrees to reimburse the District for any reasonable expenses the District incurs in review of said plans, which may include expenses related to design review, to review of any tentative map(s) for any phase(s); review of any final map(s) for any phase(s); full-time on-site inspections; and legal and engineering expenses. Petitioner also agrees to reimburse the District for any administrative expenses incurred by the District in the plan review process. Petitioner shall provide as-built improvement plan drawings (two mylar reproducible copies; two bond copies and one copy on electronic media and in AutoCAD format) to the District upon completion of improvements.

### **11. Water Meter**

Meters shall be supplied and installed by the District upon Petitioner's payment of the hookup fees which are in effect at the time of the request for service, and Petitioner's payment of the cost of the meter(s) and related parts necessary for installation.

### **12. Default, Remedies, Termination**

**A. General Provisions.** Subject to extensions of time by mutual consent in writing, failure or unreasonable delay in performing any material term or provision of this Annexation Agreement shall constitute a default. In the event of an alleged default or breach of any of the terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than 30 days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such 30-day period, the party charged shall not be considered in default for the purpose of termination of this Agreement or institution of any legal or equitable proceedings. After written notice and expiration of 30 days from the date of notice of default, the non-defaulting party to this Annexation Agreement may, at its option, institute legal, equitable or administrative proceedings to enforce its rights pursuant to this Agreement. Evidence of default may also arise in the course of periodic review of this Agreement. If either party determines that the other party is in default following the completion of the periodic review, either party may give written notice of default of this Agreement as set forth in this section specifying in the notice the alleged nature of the default and potential actions to cure the default where appropriate. Following a notice of default of this Agreement, the District Board at its next regularly scheduled meeting shall schedule the matter for consideration and review. If the default is not cured within 30 days or within such longer periods as agreed upon between the District and Petitioner, or if the defaulting party waives its rights to cure such alleged default, then the defaulting party shall be required to pay the non-defaulting party all costs and expenses suffered by the non-defaulting party resulting from the default. Any mutually agreed upon extension of the time within which either party may perform the conditions and requirements of this Agreement shall not be defined as an incident of default of the terms of this Agreement.

**B. Bi-annual Agreement Review.** Petitioner and the District agree that, for the purposes of the District's review of this Agreement, the Agreement shall be considered as an agreement for development of land





pursuant to the provisions of NRS 278.0205. This Agreement may be amended or cancelled, in whole or in part, by mutual consent of the parties to the Agreement or their successors-in-interest, except that if the District determines, upon a review of the development of the land held at least once every 24 months, that the terms or conditions of the Agreement are not being complied with by either party, or their successors-in-interest, either party may provide notice of default to the non-performing party.

**C. Notice.** Notice of intention to declare a default of any portion of the Agreement must be given by publication in a newspaper of general circulation in Douglas County, Nevada, and by certified mail to the defaulting party.

**D. Termination not to Affect Final Map(s).** It is hereby acknowledged by Petitioner and the District that any portion of the property which is the subject of a final map recorded at the time of a default shall not be affected by or jeopardized in any respect by any subsequent default affecting the balance of the property.

### **13. Miscellaneous**

**A. Notice.** Any notices provided concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail and sent to the respective address of each party as set forth herein:

If to: G. R. G. I. D.  
To: **Bob Spellberg, District Manager**  
**931 Mitch Drive**  
**Gardnerville, NV 89460**

**And to: Michael Smiley Rowe, Esq.**

**General Counsel, G.R.G.I.D.**

**Rowe & Hales, LLP**

**P. O. Box 2080**

**Minden, NV 89423**

**If to:**

**Petitioner**

**Kim Posnien**

**440 Foothill Road**

**Gardnerville, NV 89410**

**B. Governing Law.** It is agreed that this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada as amended from time to time.

**C. Modification.** Any modification of this Agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party, or an authorized representative of each party.

**D. Indemnification/Hold Harmless.**

1. Petitioner hereby agrees to, and shall hold the District and its elected and appointed Board, Commissions, Officers, agents, attorneys and employees harmless from any liability for personal injury or death or claims for property damage which may arise from Petitioner's conduct, or the conduct of Petitioner's agents or successors, including contractors and sub-contractors, or by any one or more persons directly or indirectly employed by or acting as the agent for Petitioner during the course of project construction and until final approval and acceptance of the project and the public improvements contained within it. Petitioner agrees to and shall defend the District from any all suits or



actions at law or in equity for damage caused or alleged to have been caused by reason of the Petitioner's construction operations until final District approval of the improvements within the phase(s) of the project. Petitioner shall, at Petitioner's sole expense and cost, repair any existing streets, sidewalks, storm drains, sewer lines, water lines, street lights or other public improvement(s) which may be damaged during the course of construction of improvements on the property during Petitioner's development of the property.

2. Petitioner reserves its right to make any claim it may have against the District for any incident of default or act of negligence on the part of the District, its employees, agents, or assigns, consistent with the provisions of chapter 41 of NRS.

**E. Private Undertaking.** Petitioner and the District specifically understand and agree that the property and the development of the property by the Petitioner, or Petitioner's successors-in-interest, is purely a private development, and no partnership, joint venture or other association or entity of any kind is formed by this Agreement. The Petitioner and the District agree that the only relationship between the District and Petitioner is that of governmental entity regulating or providing services to the development of private property within the parameters of applicable law, ordinance, and policy as they relate to the owner of such private property.

**F. Effect of the Agreement.** This Agreement is intended to contain, define, delineate, modify and expand upon the entire conditions attendant to the District's annexation of the property upon Petitioner's Petition for Inclusion of Real Property into the District. This Agreement supersedes all previous written and oral communication between the District and Petitioner. There shall be no modification of this Agreement unless it is in writing and signed by the Petitioner, or Petitioner's successors-in-interest, and the District. This Agreement shall be binding upon, and inure to the benefit of the heirs, successors and assigns of the parties.



**G. Memorandum of Agreement.** This Agreement, or a memorandum of short form of this Agreement containing its essential terms, may be recorded upon the request of either party. This Agreement's terms, conditions, obligations, duties, and responsibilities shall be binding upon and inure to the benefit of the Property, and the requirements of this Agreement are obligations intended by the parties to be covenants running with, and applying to, the Property.

**H. Assignment.** Neither this Agreement, nor any part hereof, or performance pursuant to the terms of this Agreement, may be assigned by either party without the prior written consent of the other party first received in hand. The consent to an assignment of all or a portion of the duties, rights, covenants and conditions of this Agreement shall not be unreasonably withheld by either party. Petitioner, or the assignee of Petitioner, is required to notify the District within ten (10) days of the assignee's name, address, contact telephone number and representative in the case of an assignee that is an entity.

**I. Attorney's Fees.** The parties retain all legal and equitable remedies in the event of any breach of the provisions of this Agreement. The party prevailing in any legal action initiated to enforce the terms of this Agreement shall be entitled to an award of reasonable attorney's fees and court costs.







**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

APN 1220-09-701-001, ADJUSTED PARCEL 1 PER A RECORD OF SURVEY  
MAP FILED AS DOCUMENT No. 358621 DOUGLAS COUNTY RECORDS.

