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Recording requested by and when recorded, mail to:

✓ Kingsbury GID  
P.O. Box 2220  
Stateline, NV 89449

Douglas County - NV  
Werner Christen - Recorder  
Page: 1 of 6 Fee: 19.00  
BK-0707 PG- 1337 RPTT: 0.00



SPACE ABOVE THIS LINE FOR RECORDER'S USE

**ENCROACHMENT PERMIT AGREEMENT**

This Encroachment Permit Agreement ("Agreement") is made this 5<sup>TH</sup> day of JULY 2007, by and between KINGSBURY GENERAL IMPROVEMENT DISTRICT, a Nevada General Improvement District formed and existing pursuant to NRS Chapter 318 (the "KGID"), and MICHAEL HUGHES ("Owner").

WHEREAS, Owner is the owner of certain real property located at 349 BARRETT AVE, Stateline, Douglas County, Nevada, commonly known as Assessor's Parcel No. 1319-18-413-002, and more particularly described in the attached Exhibit "A" (the "Property"); and,

WHEREAS, Owner is required to install and maintain certain improvements in connection with its property according to the requirements of Douglas County and Tahoe Regional Planning Agency (TRPA) which are commonly referred to as Best Management Practice improvements (BMP improvements); and,

WHEREAS, the BMP improvements need to be located in the right-of-way for 349 BARRETT AVE which is a public street maintained by KGID; and,

WHEREAS, KGID is willing to allow this construction and maintenance of such BMP improvements within the street right-of-way, subject to the terms and conditions set forth herein:

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Owner and KGID agree as follows:

1. Approval of the Encroachment. KGID hereby grants and conveys to Owner a permanent and non-exclusive permit appurtenant to the Property (the "Permit") for the placement and maintenance of BMP improvements within the right-of-way, as described and depicted in Exhibit "B" attached hereto and incorporated herein by this reference. It is the sole responsibility of

Owner to determine property boundaries to ensure that the improvements do not encroach on adjacent private property. The Permit granted herein includes incidental rights and obligations of construction, maintenance, repair, and replacement, necessary for Owner's use and enjoyment of the Permit.

2. Construction of Improvements: Owner shall be solely responsible for the construction of the BMP improvements, and shall commence construction by JULY 10<sup>th</sup> 2007 and complete construction by 9/15/2007. Prior to commencement of construction, Owner shall provide KGID with a set of approved construction plans, and shall not proceed prior to obtaining KGID's written consent.

Owner shall have the sole responsibility for the maintenance, and repair or replacement of the BMP improvements, provided however that Owner shall first obtain the written consent of KGID prior to undertaking any work on the improvement which will in any way affect or impact the condition or use of the KGID right-of-way.

3. Conditional Permit: This Permit is conditional, and may be revoked by KGID in the event that Owner does not maintain the BMP improvements as required, or otherwise fails to perform or comply with the conditions and terms of the Permit. Revocation by KGID will be only after the written notice of such an intent provided by KGID to the Owner by registered mail, and a public hearing. In the event that the Permit is revoked, KGID may remove the BMP improvements from the right-of-way and the cost thereof will be the obligation of Owner, and shall be the subject of a lien in KGID's favor, under Nevada law, and against Owner and Owner's property. This Permit is revocable by KGID in the event that the Encroaching Improvements are removed from or are no longer in the right-of-way.

4. Benefit and Burden. The Permit shall run with and benefit and burden the Property. All obligations, terms, conditions, and restrictions imposed herein shall be deemed to be covenants and restrictions running with the land, and shall bind the parties, and their successors, personal representatives, and assigns.

5. Liability and Indemnity. Permittee hereby releases and agrees to hold KGID harmless, and waives all right to recourse against KGID, including the right to contribution or indemnification, and agrees to defend KGID as to any and all claims, demands, costs, reasonable expense, liability, and losses arising from the Permit, or arising from any encroachment improvement or modification allowed by the Permit. Included, without limitation, is any matter or any damage to the Encroaching Improvements from any cause reasonably related to the existence of the Encroaching Improvements within the right-of-way, and any damage or injury to any person or property related to the Permit. Also included is any claim of encroachment onto adjoining private property. Permittee agrees to indemnify, defend, and hold KGID and its agents harmless from any all claims, demands, costs, reasonable expenses, liabilities, and losses arising out of any damage or injury to any person or property from any cause related to the existence of the Encroaching Improvements within the right-of-way, except for matters arising out of the sole negligence of KGID.

The location of the right-of-way is presumed unless Owner has caused a survey to be completed identifying property lines and right-of-way. It is the sole responsibility of Owner to ensure that improvements permitted under this Agreement are not encroaching onto adjacent private property. Owner shall assume any and all liability and agrees to indemnify, defend and hold KGID and its agents hold KGID harmless and to indemnify and defend KGID for any potential encroachment onto another private property due to KGID's approval of an encroachment into the right-of-way.

6. Entire Agreement. This instrument contains the entire agreement between the parties hereto relating to the rights granted and the obligations assumed herein. Any oral representations or modifications of the instrument shall be of no force and effect unless embodied in a subsequent modification in writing signed by the party to be charged.

7. Binding Effect: This agreement is binding on, and shall inure to the benefit and burden of the parties, their heirs, grantees, successors and assigns.

8. Cost of Enforcement: In the event that any action is filed by any party in relation to the rights and obligations under this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, all costs incurred and a reasonable sum for the successful party's attorneys' fees.

IN WITNESS WHEREOF, this instrument has been executed by the parties hereto on the date first set forth above.

KINGSBURY GENERAL IMPROVEMENT DISTRICT

By: Michelle Kentel

Print Name: Michelle Kentel

Its: Business: contracts mgr

Michael J. Hughes  
(Owner)

MICHAEL J. HUGHES  
(Owner)

STATE OF Nevada )  
 ) ss.  
COUNTY OF County )

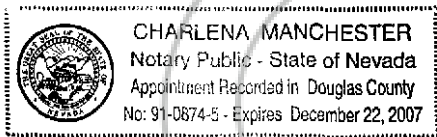
On July 5<sup>th</sup>, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared, Michael Hylton, personally known (or proved) to me to be the person whose name is subscribed to the above Encroachment Permit Agreement and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the person(s) or entity on behalf of which he/she acted, executed the instrument.



Michelle Runtzel  
NOTARY PUBLIC

STATE OF Nevada )  
 ) ss.  
COUNTY OF Douglas )

On July 5, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared, Michelle Runtzel, personally known (or proved) to me to be the person whose name is subscribed to the above Encroachment Permit Agreement and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the person(s) or entity on behalf of which he/she acted, executed the instrument.



Charlena Manchester  
NOTARY PUBLIC

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared, \_\_\_\_\_, personally known (or proved) to me to be the person whose name is subscribed to the above Encroachment Permit Agreement and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the person(s) or entity on behalf of which he/she acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

EXHIBIT A  
LEGAL DESCRIPTION

All that real property situate in the County of Douglas, State of Nevada, described as follows:

Lot 32, as shown on the map of KINGBURY VILLAGE, UNIT NO. 5, filed for record in the Office of the County Recorder of Douglas County, State of Nevada, on September 7, 1966, as Document No. 33786.



